Northern Ireland Assembly

Committee for the Office of the First Minister and deputy First Minister

Report on the Legislative Consent Motion:

Childcare Payments Bill

Wednesday 1 October 2014

NIA 189/11-15

Powers

The Committee for the Office of the First Minister and deputy First Minister is a Statutory Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Assembly Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Office of the First Minister and deputy First Minister and has a role in the initiation of legislation.

The Committee has power to:

- Consider and advise on Departmental Budgets and Annual Plans in the context of the overall budget allocation;
- Approve relevant secondary legislation and take the Committee stage of relevant primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on matters brought to the Committee by the First Minister and deputy First Minister.

Background to the Bill

1. The Childcare Payments Bill was introduced in the House of Commons on 5 June 2014 by Mr George Osborne, Chancellor of the Exchequer and had its second reading on 14 July 2014. The Bill has now been sent to the Public Bill Committee, which is expected to report to the House on 28 October 2014.[1]

2. The Bill introduces a new tax-free childcare scheme to support eligible parents with childcare costs. Proposals relating to tax-free childcare were the subject of a Treasury consultation in August 2013, and OFMDFM submitted a response to that consultation. However, the Committee first became aware of the proposals at its meeting on 11 June when Members considered correspondence from the Department providing advance notice of its intention to lay a Legislative Consent Memorandum in relation to the Childcare Payments Bill.

3. Under the proposed scheme the Government would provide 20% support on costs up to £10,000 per year for each child via an online account. In practice the Government would top up any payments made into the account, capped at a maximum Government contribution of £2,000 a year for each child. Unlike the current Childcare Voucher scheme, those who are self-employed will be eligible for support under the tax-free childcare proposals.

4. Those claiming tax-free childcare will be required to meet a number of eligibility criteria including:

    i. They must be 16 or over;
    ii. They must be responsible for the child;
    iii. They must be in the UK;

[1] http://services.parliament.uk/bills/2014-15/childcarepayments.html

iv. They and their partner must be in qualifying paid work (the self-employed are included). They must be earning more than a certain minimum - likely to be set at 8 hours at the national minimum wage;
v. Their incomes must not exceed a certain limit (£150,000 pa);
vi. They must not be claiming universal credit;
vii. They must not be in a relevant childcare scheme;
viii. They must not be receiving other childcare support.

Purpose of the Legislative Consent Motion

5. The laying of the Legislative Consent Motion is in relation to Clause 67 of the Bill which amends Schedule 2 (excepted matters) to the Northern Ireland Act 1998 to include the "operation of the Childcare Payments Act 2014"; while Clause 73 extends the provisions of the Bill to Northern Ireland.

6. In general, matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the 1998 Act. However, as the current childcare scheme is neither a tax nor a duty, it is a transferred matter in relation to Northern Ireland. As the proposed scheme will be administered by HMRC and financed centrally by the UK Government, it is considered appropriate that the scheme should operate on a UK–wide basis and its operation made an excepted matter. The scheme will apply uniformly across all UK jurisdictions and the power to change, for instance, eligibility and entitlement criteria or the amount of Government top-up payments to parents, will rest solely with the UK Government.

7. The full text of the Legislative Consent Memorandum is available at Appendix 1.

Committee Consideration

8. At its meeting on 25 June the Committee considered correspondence from the Committee for Finance and Personnel (CFP) which had received a request from Employers for Childcare to brief that Committee on the Childcare Payments Bill. As the matter would fall to the OFMDFM Committee for scrutiny the CFP deemed it appropriate to pass this request on. At its meeting on 25 June the OFMDFM Committee agreed to invite Employers for Childcare to brief Members at its meeting on 2 July..

9. The Committee considered the Legislative Consent Memorandum at its meeting on 2 July 2014, including an Assembly Research paper which is available at Appendix 2.

10. Representatives of Employers for Childcare briefed Members at this meeting and raised a number of questions with regard to the legislation including:
    - The potential impact for parents employed through zero hours contracts;
    - The potential impact for families where one parent becomes unemployed during an eligible period;
    - Apparent lack of support for those in training or education;
    - Lack of clarity regarding the position of Northern Ireland with regard to the introduction of Universal Credit;

- Concerns that a 'qualifying child' will be a child aged under 12, when currently support is provided until the 1st September after the child's 15th birthday;
- The potential for users of the scheme to be charged fees

The briefing paper from Employers for Childcare and a further submission received on Monday 8 September are available at Appendix 3. The Official Report of the evidence session is available here.

11. The Committee also took evidence from Departmental officials Mr Martin Tyrell and Dr David McGowan at its meeting on 2 July 2014. Officials gave a brief overview and explained to Members the need for a Legislative Consent Motion. Officials also responded to some of the concerns raised by Employers for Childcare in the preceding briefing. The Official Report of the evidence session is available here.

12. During the briefing, officials agreed to provide further information on a number of issues including:

    - The Department's response to the 2013 Treasury consultation on tax-free childcare;
    - A list of stakeholders who were consulted by the Department on the 2013 Treasury consultation on tax-free childcare; the number of responses; including copies of the responses; and
    - An assessment of the impact the proposed legislation may have on parents who are on zero hours contracts.

    The Committee also asked the Department to provide comment on the issues raised by Employers for Childcare; and on Clause 30 of the Bill which refers to Universal Credit and, as drafted, appears to expect that the Universal Credit will be in operation in Northern Ireland by the time these proposals are implemented.

13. OFMDFM wrote to the Committee on 5 August 2014 addressing the issues raised in the briefing paper provided by Employers for Childcare. The Departmental response is available at Appendix 5.

14. OFMDFM wrote to the Committee again on 8 September expressing its regret that the Committee had not been notified about the HM Treasury/HMRC consultation in autumn 2013, and of the Department's response to that consultation. The Department also provided:
    - a copy of the comments sent to HMRC in October 2013 on the initial consultation;
    - a list of stakeholders contacted by OFMDFM;
    - a list of all respondents to the HM Treasury/HMRC consultation; and
    - a copy of the two local consultation responses received by OFMDFM.

    A copy of this correspondence is also available at Appendix 5.

15. Following the evidence sessions on 2 July the Committee agreed to forward the Employers for Childcare briefing paper to the Committee for Employment and Learning for information. In response, on 10 September 2014, that Committee forwarded correspondence from the Department for Employment and Learning (DEL) which provided comment on the Employers for Childcare policy paper. DEL advised that “the Bill should create an improved level of available support, which will be welcome as childcare is a significant barrier to many people’s participation in the labour market”. The Department went on to advise that the “proposed approach would complement its existing provision, which offers financial assistance towards the cost of childcare incurred by certain eligible participants while on its programmes”. A copy of this correspondence is available at Appendix 6.

16. At the meeting on 10 September 2014 Members agreed to postpone consideration of the report on the Legislative Consent Motion for one week, and agreed to invite the relevant officials to appear before the Committee on 17 September 2014 to respond to queries.

17. Prior to the Committee meeting on 17 September the Chair, Deputy Chair and some other Members met informally with Employers for Childcare who again presented their concerns regarding the proposed legislation. Whilst Employers for Childcare acknowledged that a number of parents would benefit from the proposed tax-free childcare scheme, they remained concerned that some parents would lose out under the new arrangements. For example, the current scheme is open to parents with children up to the age of 16, while the new scheme is only open to parents with children up to the age of 12. Employers for Childcare presented Members with options for supporting parents who may be disadvantaged under the new scheme, and this paper is available at Appendix 4c.

18. The Committee again considered the LCM at its meeting of 17 September, and noted that a technical consultation relating to aspects of the proposed legislation was being undertaken by HMRC (Appendix 5c). Departmental officials appeared before the Committee to address the questions and concerns of Members. Of particular concern to some Members was how the needs of those parents who may be disadvantaged under the new scheme would be addressed. Officials advised that options in this regard would be considered in the development of the Department’s full childcare strategy. The Committee also considered correspondence from the Irish Congress of Trade Unions which urged the Assembly to devise a local solution to the issues presented by the proposed legislation. This correspondence is available at Appendix 7. The Official Report of the briefing is available here.

19. Following the briefing the Committee agreed to request further information on the current uptake of the Childcare Voucher Scheme, including: an assessment of the number of parents who may be worse off under the new proposed arrangements; the number of parent with children aged 12 years to 16 years who currently avail of the Childcare Voucher Scheme; and any further thinking on what additional protections can be put in place for those who may be disadvantaged by the new proposed scheme as part of a wider childcare

strategy. The Committee also agreed to forward the ICTU correspondence to the Department.

20. Members also agreed to seek an urgent meeting with Ministers regarding the Committee's concerns about the impact of the Childcare Payments Bill, and whether any further thinking had been given to additional protections that may be put in place within a wider Childcare Strategy for those who may be disadvantaged by the new scheme.

21. Members agreed to consider its report on the Legislative Consent Motion again at its meeting on 1 October, in advance of the LCM being tabled by the OFMDFM for debate in plenary.

22. A delegation from the Committee met with junior Minister Bell and junior Minister McCann on Monday 29 September. Members heard that the current voucher scheme is complicated and take up is low, with only one in ten of those eligible drawing down childcare vouchers. While Members were advised that it is not possible at this time to quantify how many will benefit or otherwise from the new scheme, it will be available to parents who cannot avail of the current voucher scheme. It was highlighted by junior Ministers that all entrants to the new scheme will be on an equal footing with regard to tax relief, whereas one of the groups that is better off in the current scheme are those in the higher tax bracket. The junior Ministers also advised that figures regarding the number of parents with children aged 12-16 receiving vouchers through the current scheme are not available; however, it was accepted that this age group will need to be specifically considered within the wider childcare strategy.

23. At its meeting on 1 October, the Committee considered correspondence from the Federation of Small Businesses and the CBI. Both advised that the closure of the Childcare Voucher Scheme to new entrants will also affect employers who benefit from savings from the current scheme, and asked that additional support is considered for both businesses and employees who will be affected as a result of the changes. The Committee also noted additional information from Employers for Childcare.

Committee Decision

24. The Committee recognises that, should the provisions in the Childcare Payments Bill not be extended to Northern Ireland, families will lose out on support with childcare costs when the current scheme closes to new entrants. In addition, a number of parents who had been excluded from previous schemes (e.g. those who are self-employed) will now be able to take advantage of relief for childcare costs. **The Committee therefore agreed at its meeting on 1 October to support the Legislative Consent Motion to extend the provision of the Childcare Payments Bill to Northern Ireland. However, the Committee strongly recommends that the Department undertakes a scoping exercise to identify the categories of people who will be disadvantaged under the new scheme and, where appropriate, ensures that their needs are addressed within the wider childcare strategy.**

Appendices

1. Legislative Consent Memorandum

2. Assembly Research Paper

3. Correspondence from Committee for Finance and Personnel - June 2014

4a. Employers for Childcare Briefing Paper - July 2014

4b. Employers for Childcare - further correspondence 8 September 2014

4c. Employers for Childcare options paper - 17 September 2014

4d. Employers for Childcare - additional information - 29 September 2014

5a. OFMDFM response to Employers for Childcare Briefing Paper - August 2014

5b. OFMDFM response to other Committee queries - September 2014

5c. OFMDFM notification regarding technical consultation - September 2014

6. Committee for Employment and Learning correspondence - September 2014

7a. ICTU correspondence - September 2014

7b. FSB correspondence - September 2014

7c. CBI correspondence - September 2014

Minutes of Evidence

1. Official Report – Committee Meeting of 2 July 2014: Employers for Childcare

2. Official Report - Committee Meeting of 2 July 2014: OFMDFM officials

3. Official Report - Committee Meeting of 17 September 2014: OFMDFM officials

4. Official Report - Committee Meeting of 1 October 2014

Minutes of Proceedings

The Committee discussed matters relating to the Legislative Consent Motion on the Childcare Payments Bill at the following meetings:

11 June 2014

25 June 2014

2 July 2014

10 September 2014

17 September 2014

1 October 2014

To the Assembly Business Office

LEGISLATIVE CONSENT MEMORANDUM – CHILDCARE PAYMENTS BILL

I have been asked by the First Minister and deputy First Minister to provide the Business Office with the attached 25 copies of a Legislative Consent Memorandum in relation to the Childcare Payments Bill for the purpose of laying before the Assembly under paragraph (2) of standing order 42A.

Should you have any queries on the content of the Memorandum, please contact David McGowan, Equality, Human Rights & Social Change Division in OFMDFM (ext. 23456).

Colette Kerr
OFMDFM Departmental Assembly Liaison Officer
23 June 2014

LEGISLATIVE CONSENT MEMORANDUM

CHILDCARE PAYMENTS BILL

Draft legislative Consent Motion

1. The draft motion, which will be tabled by the First Minister and deputy First Minister, is:

    "That this Assembly endorses the principle of the extension to Northern Ireland of the Childcare Payments Bill and that its operation be made an excepted matter under the Northern Ireland Act 1998"

Background

2. This memorandum has been laid before the Assembly by the First Minister and deputy First Minister under Standing Order 42A(2). The Childcare Payments Bill was introduced in the House of Commons on 5 June 2014. The latest version of the Bill can be found at:

    http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/cbill_2014-20150007_en_htm

Summary of the Bill and its policy objectives

3. The Childcare Payments Bill will introduce a new scheme to provide financial support to help working families with the costs of childcare. The purpose of the scheme is to enable those with responsibility for children to take up paid work, or work for longer, where they may be deterred from doing so because of the need to meet childcare costs.

4. When the new scheme is implemented, Government will make a top-up payment of £2 for every £8 which a parent pays towards childcare costs. Government support will be capped at a maximum of £2,000 per child each year. There will be no restriction on the number of children for whom support is available. The scheme will be managed by HM Revenue and Customs (HMRC) and, subject to enactment of the Bill, it is intended to introduce the scheme in autumn 2015.

5. The introduction of the scheme was announced by the Chancellor of the Exchequer at Budget 2013 when it was described as "tax-free childcare".

The use of that term reflected the fact that the 20% Government top-up payments in effect represent the basic rate tax relief which would apply to income used by the individual to fund their childcare costs.

6. The new scheme will replace existing income tax and National Insurance Contributions (NICs) reliefs which are provided for childcare, namely Employer-Supported Childcare, which includes childcare vouchers and childcare which the employers provides by an agreement with a childcare provider (known as directly-contracted childcare). Tax and NICs reliefs will be withdrawn from employees and employers where the employee enters a childcare voucher or directly-contracted childcare scheme after the new tax-free childcare scheme has come into operation. However, those employees who are in such a scheme at that date can continue to receive the reliefs for as long as they remain eligible, provided their employer continues to operate it.

7. Clause 67 of the Childcare Payments Bill amends Schedule 2 (excepted matters) to the Northern Ireland Act 1998 ("the 1998 Act") to include the "operation of the Childcare Payments Act 2014". Clause 73 extends the provisions of the Bill to Northern Ireland.

Provisions which deal with a Devolution Matter

8. In general, matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the 1998 Act. However, as the childcare scheme is neither a tax nor a duty, it is a transferred matter in relation to Northern Ireland. As the scheme will be administered by HMRC and financed centrally by the UK Government, it is appropriate that the scheme should operate on a UK-wide basis and its operation made an excepted matter. The scheme will apply uniformly across all UK jurisdictions and the power to change, for instance, eligibility and entitlement criteria or the amount of Government top- up payments payable to parents, will rest solely with the UK Government.

Reasons for making the Provisions

9. The Childcare Payments Bill makes provision for a new scheme intended to to provide financial support to all eligible working familes across the UK. If the Bill did not extend to Northern Ireland, eligible working families here would be disadvantaged by not being able to claim financial support from Government with their childcare costs in the same way as those living elsewhere in the UK.

Reasons for utilizing the Bill rather than an Act of the Assembly

10. The Northern Ireland administration does not have the financial resources to fund and administer a separate or simliar scheme. Parents who live here will only enjoy the benefits of the scheme if the Bill is extended to Northern Ireland.

11. As the scheme will apply across the UK, it is important that the scheme is applied in a consistent manner across all administrations. The scheme will be administered by HMRC and as such there is no scope to introduce regional variations.

12. Clause 67 of the Childcare Payments Bill amends Schedule 2 to the 1998 Act to make the operation of the Bill an excepted matter. Amendment of the 1998 Act falls outside the legislative competence of the Assembly and can only be amended by a Westminster Act.

Consultation

13. As part of Budget 2013, the Chancellor of the Exchequer announced the UK Governments intention to introduce a new tax-fee childcare scheme. HM Treasury and HMRC launched a public consultation on the design and operation of the proposals for the scheme on 5 August 2013. In order to ensure that local opinion was represented as fully as possible in this consultation process, OFMDFM wrote to all Departments and key local childcare stakeholders to make them aware of the consultation and to encourage them to contribute to the consultation process.

14. The UK Government published its response to public consultation on 18 March 2014 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300297/PU1607_Tax_free_Childcare_response.pdf

Human Rights and Equality

15. The UK Minister in charge of the Childcare Payments Bill has declared that the provisions of the Bill are compatible with the Human Rights Convention and has signed a compatibility statement under section 19(1)(a) of the Human Rights Act 1998.

16. The new scheme will have a positive impact on those eligible working parents with dependent children under the age of 12. The new support will help to reduce the costs of childcare so that parents who want to work, can

work. The support will benefit women: households which benefit are mainly couples, but lone parents will also benefit and the majority of lone parents are women.

Financial Implications

17. The new scheme will have no financial implications for the Northern Ireland devolved administration. The cost of the scheme will be met centrally by the UK Government.

Summary of Regulatory Impact

18. The policy objective of the new scheme is to provide financial support to working families with the costs of childcare. The cost of the scheme will therefore fall to Government in making top-up payments to eligible parents.

19. Employers currently offering an Employer Supported Childcare Scheme will gradually see their current National Insurance Contribution savings reduce when the Employer Supported Childcare is closed to new entrants once the tax-free childcare scheme is introduced.

Engagement to date with the Committee for the Office of the First Minister and deputy First Minister

20. The Departmental Assembly Liaison Officer wrote to the OFMDFM Committee on 10 June 2014 to advise the Committee of an intention, subject to Exective agreement, to promote a Legislative Consent Motion in relation to the Childcare Payments Bill.

Conclusion

21. The First Minister and deputy First Minister are of the view that while the Childcare Payments Bill deals with a devolution matter, in the interests of good government it should be considered by the UK Parliament and extend to Northern Ireland.

22. The First Minister and deputy First Minister are also of the view that as the new tax-free childcare scheme is to be managed by HMRC to ensure uniform application throughout the UK, Schedule 2 to the 1998 Act should be amended to include the operation of the Childcare Payments Bill as an excepted matter.

Office of the First Minister and deputy First Minister
23 June 2014

Research and Information Service
Briefing Note

Paper 000/00 | 02 July 2014 | NIAR 407-14

Jane Campbell

The Childcare Payments Bill 2014-15: Legislative Consent Motion

1 Introduction

The UK Government announced in the Queen's Speech on 5 June 2014 its intention to introduce a Childcare Payments Bill[1] which would create a new scheme to give working families a proportion of their childcare costs. The scheme will be financed centrally by the UK Government and administered by HMRC. The UK Government will be seeking the Assembly's approval of a Legislative Consent Motion (LCM) in respect of some of the provisions of the Bill. The LCM and Bill are brought to this Committee as OFMdFM is the lead department on strategy for childcare. This paper outlines the purpose of the Bill and the Legislative Consent Motion.

2 What will the Childcare Payments Bill do?

The Childcare Payments Bill (hereafter "the Bill") will create a new scheme to provide financial support for working families with the cost of childcare. It is also anticipated that the scheme will assist parents to take up paid work or work longer hours where they may have been deterred from doing so because of the high costs of childcare. The government intends the scheme to be "as accessible and user-friendly as possible." It views the current scheme to support parents with the cost of childcare - Employer Supported Childcare (ESC) as

[1] http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/cbill_2014-20150007_en_1.htm

"neither effective nor fair" as half of employees as well as self-employed parents cannot access it. ESC is also considered to disadvantage lone parents by basing support on the number of eligible parents rather than the number of children[2]. ESC will be withdrawn after the new scheme comes into operation, however those employees who are in a scheme at that date can continue in it.

Through the new scheme, the Government will provide £2 for every £8 which a person pays for childcare. This support will be capped at an annual maximum of £2000 per child. There will be no restrictions on the number of children for which parents can claim support. The Government intends to introduce the HMRC managed scheme throughout the UK by the autumn of 2015.

Consultation

HM Treasury and HMRC ran a consultation on the design and operation of "tax-free childcare" between 5 August and 14 October 2013[3]. It also ran a series of short online surveys for parents, childcare providers and employers which received over 35,000 responses[4]. OFMdFM wrote to all NI Departments and key local stakeholders to draw their attention to the consultation and the opportunity to make a submission.[5] A list of respondents and a summary of responses can be found in *Delivering Tax-free childcare: the government's response to the consultation on the design and operation 18 March 2014.*[6] The Executive Summary states:

> Stakeholders – particularly parents – welcome Tax-Free Childcare. This is especially so for those who will have access to support with childcare costs for the first time, such as the self-employed and those working for employers who do not offer the existing scheme, Employer-Supported Childcare. Indeed their most consistent message was that they want the support to be rolled out as quickly as possible.[7]

Reaction to the Bill

Following the announcement in the Queens's Speech, there was a mixed reaction to the Bill. Some of the views reported in the press at the time included:

- It's a welcome extra investment in childcare support by Government.
- It's the first scheme to help self-employed parents.

[2] Page 1 *Childcare Payments Bill Impact Assessment (IA) Summary: Intervention and Options* HMRC HM Treasury 9 June 2014 http://www.parliament.uk/documents/impact-assessments/IA14-09.pdf

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318952/tax-free_childcare_consultation_on_design_and_operation.pdf

[4] See *Tax-Free Childcare Surveys : Introduction and Summary of Responses* 18 March 2014 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293081/TFC_online_questionnaires_summary_of_responses.pdf

[5] See paragraph 13 *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014

[6] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318953/PU1607_Tax_free_Childcare_response.pdf

[7] Ibid. page 5

- It's easy to administer as it doesn't rely on employers agreeing to take part.
- Removal of the current Childcare Voucher scheme will be detrimental to parents, children and employers.
- More help is required for parents with a disabled child for whom childcare costs are much higher.
- More help is required for the poorest families.
- It may cause rapid childcare price rises – quickly wiping out any value of this financial support for parents.
- It is subsidising childcare for very high-earning families.
- There will be cuts elsewhere in the welfare budget to pay for this.
- There is still the question of whether existing government spending could be used more effectively.
- It doesn't address the quality deficit in childcare.

3 How will the scheme operate?

Parents will apply to HMRC to open an online childcare account[8] into which they will pay money; the government will then pay in top-up payments at a rate of 20%. Parents will then be able to allocate this money to the qualifying childcare provider(s) of their choice. Parents will have to satisfy eligibility requirements for example[9];

- They must be 16 or over
- They must be responsible for the child
- They must be in the UK
- They and their partner must be in qualifying paid work (the self-employed are included). They must be earning more than a certain minimum - likely to be set at 8 hours at the national minimum wage.
- Their incomes must not exceed a certain limit (£150,000 pa[10])
- They must not be claiming universal credit[11]

[8] Alternative access routes will be offered to people unable to make claims online.

[9] Anyone who has responsibility for a child will qualify as a 'parent'. Lone parents who are in work are entitled to make a claim although they lose this right if they start living with a partner who is out of work.

[10] The additional rate of tax is currently set at 45% and is payable by people whose income in a tax year exceeds £150,000. The amount of income, and how it should be calculated, will be specified in regulations. See the Explanatory Notes to the Bill for Clause 10. http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/en/15007en.pdf

[11] The Impact Assessment document, states "Families on lower incomes generally receive more generous support under the tax credit and Universal Credit regimes and will therefore not be entitled to receive support

- They must not be in a relevant childcare scheme[12]
- They must not be receiving other childcare support

The scheme applies to children under 12, or in the case of a disabled child, under 17. Separate childcare accounts must be opened for additional children. Parents must reconfirm their eligibility every three months. A series of compliance rules will be introduced. This is to ensure that support is only provided where it is rightly due and to counter cases of carelessness, deliberate error and fraud. Gateways for the exchange of information between HMRC and other public bodies will be used to ensure parents do not claim Government support from multiple sources.

4 Is there any potential impact on the implementation of the Bright Start Programme?

The current Programme for Government contains a commitment to publish and implement a childcare strategy for Northern Ireland which will provide integrated and affordable childcare.[13] Additional expenditure of £12 million has been allocated to support the strategy. A "strategic framework" for the new strategy, known as Bright Start was announced in September 2013.[14] Bright Start acknowledges that current childcare provision in Northern Ireland (particularly for school age and rural children) is inadequate and that many parents are unable to afford childcare costs. Bright Start's Key First Actions will, amongst other things[15],

- Sustain or create up to 8,000 registered childcare places by assisting current and prospective childcare providers
- Up to 7,000 of these will be school age childcare places within day care settings
- Up to 1,000 will be child minding places in rural areas
- The school age childcare places will be delivered through a grant scheme for childcare providers, which will run until 2017. It was launched on 27 March 2014 and is being administered by the Health and Social Care Board.

under the new scheme. As working lone parents are more likely to have lower income levels than working couples, more lone parents will receive this generally more generous support through tax credits or Universal Credit."

Page 12, *Childcare Payments Bill Impact Assessment (IA) Summary: Intervention and Options* HMRC HM Treasury 9 June 2014
http://www.parliament.uk/documents/impact-assessments/IA14-09.pdf

[12] A relevant childcare scheme is one in which an employer provides their employees with either childcare vouchers or directly-contracted childcare under Employer-Supported Childcare.

[13] Page 38 *Northern Ireland Executive Programme for Government 2011-2015*
http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf

[14] *Bright Start : The NI Executive's Programme for Affordable and Integrated Childcare Strategic Framework and Key First Actions* Northern Ireland Executive
http://www.ofmdfmni.gov.uk/bright-start-strategic-framework-key-actions.pdf

[15] 15 Key First Actions will be put in place. These include a workforce development programme and better access to information on childcare and financial support.

It is difficult to anticipate the Childcare Payments scheme having a *negative* impact on the implementation of the Bright Start Programme. The Key First Actions of this locally financed initiative are intended to benefit parents through the creation of more childcare places. The Childcare Payments scheme, funded and administered by the UK government, aims to help all working families with the cost of childcare. This money may well be used by some parents in NI to help pay for childcare places that were *created through* the Bright Start Programme. OFMdFM states that failure to extend the Bill to Northern Ireland would be a disadvantage for eligible working families living here as they would unable to claim the financial support along with the rest of the UK provided through the new Childcare Payments Scheme . It stresses that "*the NI administration does not have the financial resources to fund and administer a separate or similar scheme*".[16]

5 Why is a Legislative Consent Motion required?

The draft motion, which will be tabled by the First Minister and deputy First Minister, is:

> *"That this Assembly endorses the principle of the extension to Northern Ireland of the Childcare Payments Bill and that its operation be made an excepted matter under the Northern Ireland Act 1998"*

A Memorandum accompanying the draft motion explains why a LCM is required. It states:

> In general, matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the 1998 Act. However, as the childcare scheme is neither a tax nor a duty, it is a transferred matter in relation to Northern Ireland. As the scheme will be administered by HMRC and financed centrally by the UK Government, it is appropriate that the scheme should operate on a UK–wide basis and its operation made an excepted matter. The scheme will apply uniformly across all UK jurisdictions and the power to change, for instance, eligibility and entitlement criteria or the amount of Government top-up payments to parents, will rest solely with the UK Government[17].

Clause 67 of the Bill therefore amends Schedule 2 to the Northern Ireland Act 1998 to make the operation of the Scheme an excepted matter.

It would appear that no Legislative Consent Motions have been sought from the Scottish or Welsh Governments, as the matters covered in the Bill do not appear to be devolved in these jurisdictions. The Committee may wish to ask the Department to confirm that this is the case. In response to the Queen's Speech, the Scottish Government Minister for Parliamentary Business Joe Fitzpatrick, did, however, comment on the proposal to introduce the Childcare Payments Bill, stating that:

> Once again, we are seeing UK Government policies that are skewed to help those that are better off, leaving the poorest families struggling to make ends meet. Westminster's proposal

[16] Paragraphs 9 and 10, *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014
[17] Paragraph 8 *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014

> on childcare is designed to save the best-off families up to £2,000 a year; this is in stark contrast with our universal plans under independence, which would deliver 1,140 hours of funded childcare for every family with a pre-school child aged one to five in Scotland, saving families up to £4,600 per child, per annum.
>
> The UK's plan will save wealthier families the most since they currently spend the most on childcare and will be more likely to receive the maximum rebate possible under the scheme. Whereas our priority is to help workless households and those working families most struggling to make ends meet, to reach those most economically disadvantaged and provide routes out of poverty.[18]

6 References to the Welfare Reform Act 2012 and universal credit in the Childcare Payments Bill 2014-15

Although the Welfare Reform Act 2012[19] extends only to Great Britain, the Bill makes reference to the Act and universal credit in several places. It would appear that the Bill, as currently drafted, expects the universal credit system to be in operation in Northern Ireland. The Committee may wish to ask the Department to provide clarification on this matter. Sections 144 and 145 of the Explanatory Notes state:

> **Clause 30: Power to provide for automatic termination of universal credit**
>
> 144. Clause 30 allows regulations to be made to terminate a person's or their partner's universal credit award or entitlement to payments related to universal credit, where the person has made a valid declaration of eligibility under the new scheme. This is to prevent anyone from receiving universal credit or related payments at the same time as claiming childcare support under the new scheme.
>
> 145. Subsection (2) gives the Treasury power to amend the Bill by regulations in order to provide that entitlement to universal credit ceases when a person has made a valid declaration of eligibility under the new scheme, and to amend or repeal the eligibility criteria in clause 11. This would mean that a universal credit award made to person who moved to the new scheme would simply terminate when they moved across. The subsection also enables the Secretary of State or a Northern Ireland department to be given power to make regulations to ensure that a person's or their partner's entitlement to universal credit is calculated correctly where an award is terminated under this clause.

[18] Scottish Government, News, Queen's Speech 4 June 2014 http://news.scotland.gov.uk/News/Queen-s-Speech-d40.aspx

[19] http://www.legislation.gov.uk/ukpga/2012/5/contents/enacted/data.htm

For further reading

Tax-free childcare website (HM Treasury and HMRC)

Tax-free childcare: consultation on design and operation August 2013

Delivering Tax-free childcare: the government's response to the consultation on the design and operation 18 March 2014

Tax-free Childcare Surveys: introduction and summary of responses 18 March 2014

Your detailed questions about tax free childcare answered 18 March 2014

Tax-free childcare consultation on childcare account provision 23 May 2014

Northern Ireland Assembly

Committee for Finance and Personnel

Room 144
Parliament Buildings
Tel: 028 9052 1843

From: **Shane McAteer**

Clerk to the Committee for Finance and Personnel

Date: **19 June 2014**

To: **Karen Jardine, Senior Assistant Clerk to the Committee for the Office of the First Minister and deputy First Minister**

Childcare Payments Bill

At its meeting on 18 June 2014, the Committee for Finance and Personnel considered the attached correspondence from Employers for Childcare in respect of the Childcare Payments Bill.

Given that the matter appears to fall within the remit of the Office of the First Minister and deputy First Minister, the Committee agreed to forward it to you for consideration.

SHANE MCATEER
☎ 21843

Mr Daithí McKay MLA
Chair of the Committee for Finance and Personnel
Via email: committee.financepersonnel@niassembly.gov.uk

Monday 9 June 2014

Dear Chair

Re: Childcare Payments Bill: Proposal to introduce a Legislative Consent Motion

I am writing to you, on behalf of Employers For Childcare Charitable Group, to express our concern at the potential extension to Northern Ireland of the Childcare Payments Bill, introduced at Westminster on 5 June 2014. Despite our best efforts, it has not been possible for us to establish which Northern Ireland Department was consulted in advance of this introduction, and our understanding is that notice of a Legislative Consent Memorandum has not yet been received by the Northern Ireland Assembly, to facilitate a Legislative Consent Motion in due course. I am, therefore, writing in similar terms to the Chair of the Committee for Social Development, and have written to both the Minister of Finance and Personnel and for Social Development.

The Childcare Payments Bill will introduce the much heralded "Tax Free Childcare" scheme, which will provide a supplement from the Government of £2 for every £8 that a person pays towards childcare, up to a maximum of £2,000 per child per year. As with any such scheme there will be winners and losers and whilst we welcome its extension to self-employed people we are concerned, for instance, that one of the eligibility criteria for the scheme is that both parents must be in employment in order to qualify.

Our fundamental concern, however, relates to clauses 62 and 63, which will repeal the legislative basis for tax relief to be provided in respect of Employer-Supported Childcare, more commonly known as the Childcare Voucher Scheme. At present, approximately 10,000 parents across Northern Ireland are utilising this scheme which, according to the draft legislation, will close to new entrants from autumn 2015. Setting aside those who would not be eligible for the proposed "Tax Free Childcare" scheme, we know that many families, who are currently in receipt of Childcare Vouchers, will actually be worse off as a result of this change. Whilst the application of the criteria is complex and will depend on individual circumstances, the following example illustrates the potential impact of the removal of the Childcare Voucher scheme:

The Smith Family
Mr and Mrs Smith are both currently in full time employment, are basic rate taxpayers and have one child. Their childcare costs are currently £450 per month.

The Smith Family and the Childcare Voucher Scheme
Mr and Mrs Smith each sacrifice £225 per month which represents a saving of £72 each. Over the course of a year, **the Smith Family will save £1,728 using Childcare Vouchers**.

The Smith Family and Tax Free Childcare
Mr and Mrs Smith pay £360 into their account, with the remaining £90 being supplemented by the Government. Over the course of a year, **the Smith Family will save £1,080 using Tax Free Childcare.**

The Smith Family will be £648 per annum worse off under the Tax Free Childcare scheme.

This example simply serves to illustrate that not all families will actually be better off using the Tax Free Childcare Scheme, and the proposal to close the market for Employer-Supported Childcare schemes is not only anti-competitive, but will also be hugely detrimental to families across Northern Ireland. Whilst we are supportive of the principle of introducing a "Tax Free Childcare" scheme, we

Employers For Childcare Charitable Group, Blaris Industrial Estate, 11 Altona Road, Lisburn, BT27 5QB
+44 (0) 28 9267 8200 info@employersforchildcare.org www.employersforchildcare.org
Company Registration Number: NI43041 Charity Registration Number: XR57249

are fundamentally opposed to the repeal of Employer-Supported Childcare scheme, and believe that consideration should be given to enabling parents to avail of whichever is the most beneficial in their own particular circumstances.

Given that the procedure for the introduction of a Legislative Consent Motion indicates that this should be done within 10 working days of the Bill's introduction in Westminster, we are extremely keen to determine which Northern Ireland Department will be in the lead on this matter, to ensure that we can secure an early opportunity to meet with them to discuss the impact of this legislation on parents across Northern Ireland. We know that tackling economic inactivity, expanding access to affordable childcare and reducing child poverty are key drivers within the current Programme for Government, and feel it is, therefore, essential that the impact of this proposed legislative change on parents and children is fully explored before it is extended to Northern Ireland. We hope that our experience of working to ensure that parents of dependent children are able not only to secure employment but also to sustain it will be of interest and value to you on this issue, and would welcome any opportunity to discuss this further with you as a matter of some urgency. We would be grateful for your earliest reply, and indication of where lead responsibility for this matter will lie.

Yours faithfully

Marie Marin
Chief Executive Officer
Employers For Childcare Charitable Group

Childcare Payments Bill 2014

Policy Briefing

Prepared by Mairaid McMahon

Director of Charity Services

e: mairaid.mcmahon@employersforchildcare.org

t: 028 9262 5753 or m: 077 1100 4717

Contents

Introduction

1. The Childcare Payments Bill was introduced in the House of Commons on 5 June 2014. Its aim, as stated in the accompanying explanatory notes, is to introduce

   > “a new scheme which provides financial support to help working families with the cost of childcare and help those with responsibility for children to take up paid work, or to work for longer, where they may be deterred from doing so because of the need to meet childcare costs.”.

2. At Employers For Childcare Charitable Group, our mission is to make it easier for parents of dependent children to get in to work, and to stay in work, and we therefore welcome any measures which aim to support their ability to do so. However, we have a number of significant concerns regarding the potential impact of this legislative change on parents, which we do not believe will serve the interests of enhancing access to, or sustaining, employment. They relate mainly to the proposed operation of the Tax Free Childcare (TFC) Scheme, including its scope and criteria for eligibility, as well as the proposed penalties for mistakes made in applications. However, our fundamental concern relates to the proposed removal of Employer-Supported Childcare, more commonly known as Childcare Vouchers (CCVs), which will have a detrimental affect not only on parents and children across Northern Ireland, but also on employers. These concerns are outlined in more detail throughout this document.

3. Whilst we understand the importance of parity in relation to these matters, we also believe in the primacy of the Northern Ireland Assembly in legislating for the interests of people in Northern Ireland. We do not have the expertise to undertake a detailed economic impact assessment of this piece of legislation, but would be extremely concerned if others failed to do so. We know that arguments will be made that any deviation from Westminster’s agenda will have to be paid for locally, but given that the CCV Scheme will be “grandfathered” and, therefore, remain open for existing customers for up to 16 years, and no parent will be able to avail of both types of support, we believe that the overall cost of such deviation could in fact be minimal.

4. Our hope is that the Assembly and Executive will consider the points we are raising regarding the translation of this piece of legislation, and work to deliver an alternative model which protects the interests of both employers and parents across Northern Ireland. We are deeply concerned at the prospect that this legislation could be extended here without a clear business case or economic impact assessment; without a clear understanding of how many parents will actually suffer a detriment as a result; and without due consideration being given to the impact of the TFC Scheme on other measures to reduce economic inactivity or tackle disadvantage. Whilst the stated aim of this scheme is to support working parents, we believe that without this evidence, we cannot be sure that the Childcare Payments Bill will actually achieve that end.

Section 1: Context

5. The **lack of affordable childcare is the single biggest barrier to securing and sustaining employment for parents of dependent children**, especially mothers, in Northern Ireland. With the highest overall rate of economic inactivity within the UK, and working families facing childcare bills that consume an average of 44% of their average weekly earnings paying for just one full time daycare place, there is a growing need to increase the support available to help parents get into work, and to stay there. Government figures show that Northern Ireland also has the lowest level of tax credit and childcare voucher recipients in the UK, and that there could be **in excess of 210,000 families with dependent children who are not claiming the help to which they are entitled**.

6. We know that the reasons why many of those parents who are failing to claim the childcare element of Working Tax Credit, for example, often relate to the complexity of the bureaucratic application processes, concern that submitting an application for this benefit will affect their entitlement to others (in particular Housing Benefit which is considered to be of greater value to them) and a real fear that mistakes in payments will lead to overpayments and drawn out proceedings for their recovery over many years. Given all of this, many parents are simply too afraid of what might go wrong to risk applying for these benefits. Any new system designed to support parents to enter into or sustain a place in employment must, therefore, be easy to understand, simple to administer and as non-threatening as possible in circumstances where something goes wrong.

7. There is also significant evidence to suggest that many parents simply aren't aware of the support available to them, or understand how it will apply to them in their own particular circumstances. Our Family Benefits Advisory Service provided advice to approximately 4,500 parents in the last year, many of whom were failing to claim their full entitlement for support with childcare costs. A critical element in the introduction of any new scheme for parents will be a properly resourced communication strategy, for which we are unaware of any current plans.

8. The interests of a range of government departments will, therefore, be affected by the introduction of this piece of legislation and we are concerned to ensure that the Departments for Employment and Learning and Social Development, in particular, are provided with an opportunity to outline how it will impact on efforts to reduce economic inactivity and tackle disadvantage across Northern Ireland. A further concern relates to the lack of clear guidance, or "calculator" facility, to enable parents to understand which scheme (CCV, TFC, Tax Credits or Universal Credit in the future) would be of greatest benefit to them.

Section 2: The Schemes

Which is better – the Childcare Voucher Scheme or Tax Free Childcare?

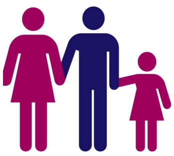
9. The short answer to this question is that it depends entirely on the parents' circumstances, and those of their children. The Childcare Voucher (CCV) Scheme enables parents to sacrifice up to £243 per month from their salary, before deductions, towards the cost of registered childcare for children up to the age of 16[1]. The Tax Free Childcare (TFC) Scheme will provide a supplement from the Government of £2 for every £8 that an eligible person pays towards childcare for the purposes of enabling them to work, up to a maximum of £2,000 per child per year, for children up to the age of 12. The following examples illustrate how this works in practice:

Childcare Vouchers

If both parents are Basic Rate Tax Payers and sacrificing £486 between them, the maximum annual saving is £1,866.24.

Basically you make a 32% saving on the amount you sacrifice.

For example: Mr and Mrs Jones pay **£450** for childcare each month for their daughter.



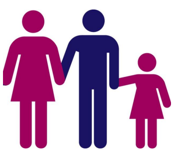
Both of their employers offer the Childcare Voucher scheme.

They each sacrifice £225 per month each and make a 32% saving of £72 each. Their joint annual saving is **£1,728**.

Tax-Free Childcare

Parents can receive help with 20% of their childcare costs up to a maximum of £2,000 per year per child.

Parents receive a 20% top up on the value of sums they put into their Tax-Free Childcare account.



For example: Mr and Mrs Jones pay **£450** for childcare each month for their daughter.

They only need to pay 80% of their childcare costs and therefore add £360 to their Tax-Free Childcare account each month. The Government tops the account up by £90. Their joint annual saving is **£1,080**.

[1] The Scheme is open to children until the 1st September after their 15th birthday, or 1st September after their 16th birthday if the child has a disability.

Childcare Vouchers

If both parents are Basic Rate Tax Payers and sacrificing £486 between them, the maximum annual saving is £1,866.24.

Basically you make a 32% saving on the amount you sacrifice.

For example: Mr and Mrs Jones pay **£833** for childcare each month for their daughter up to the age of 5, and £546 per month up to the age of 16.

Both of their employers offer the Childcare Voucher scheme.

They each sacrifice £243 per month each and make a 32% saving of £78 each.

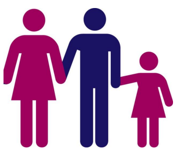
Their joint annual saving is **£1,866**.

These savings continue for 15 years, resulting in a total saving of **£27,994**.

Tax-Free Childcare

Parents can receive help with 20% of their childcare costs up to a maximum of £2,000 per year per child.

Parents receive a 20% top up on the value of sums they put into their Tax-Free Childcare account.



For example: Mr and Mrs Jones pay **£833** for childcare each month for their daughter up to the age of 5, and **£546** per month up to the age of 12.

In the first 5 years, they only need to pay 80% of their childcare costs and therefore add £666 to their Tax-Free Childcare account each month. The Government tops the account up by £167.

They will make a saving of **£1999** during those first 5 years.

In the next 6 years, their childcare costs reduce to £546. They only need to pay £437 into their Tax-Free Childcare account each month. The Government tops the account up by £109.

They will make a saving of **£1308** during these 6 years.

These savings are only available for 11 years, resulting in a total saving of **£17,844**.

10. These examples demonstrate that for some parents, TFC will be beneficial in the first 4 years of their need for childcare, but worth substantially less in later years as costs reduce, whilst the support provided through the CCV scheme remains static, and therefore more beneficial, over the longer term. Given that parents are likely to choose the option that provides the greatest benefits most quickly, many will choose to use the TFC Scheme at the outset, without realising that it will deliver less value to them in the longer term and result in them being unable to opt-in to CCV schemes in the future. The TFC Scheme is likely to be superficially attractive to many families who may not even be in a position to predict future costs of childcare provision at a time when they will be forced to make a decision to opt into or out of employer-supported schemes.

11. There are many parents, however, for whom TFC will be a considerable benefit, as they are unable to access CCV Schemes at present. This includes parents who are self-employed and those whose employers don't currently offer such benefits. One of the ways to rectify this would be by using this piece of legislation to enable self-employed people to access CCV Schemes, and by introducing a right for all employees to request childcare vouchers from their employers (akin to the right to request flexible working).

Protecting Parental Choice

12. For those parents who will remain better off on the TFC Scheme, we welcome its introduction, subject to the concerns highlighted in the questions below. For those parents who will actually be worse off on the TFC Scheme, we oppose the closure of CCV Schemes and strongly recommend that families be given the right to determine which scheme provides the greatest benefit to them in their particular circumstances at the time. We know that restricting parental choice by removing the CCV Scheme will be detrimental to many families, as well as employers who currently benefit both from the savings it delivers for them, and its value as a tool for attracting, retaining and rewarding employees with dependent children.

13. However, in reality, many parents will find themselves in a virtually impossible position when the TFC Scheme is introduced, as they will have to make a choice whether to opt out of existing CCV Schemes in favour of TFC, without being able to accurately predict their future circumstances. This will not only include those who have yet to secure appropriate childcare, but will most acutely impact on parents who are faced with any period of unemployment. Those parents will not only lose out by exclusion from TFC, but will also be prevented from joining any CCV Scheme which could have offered them support in their changed circumstances. The same principle applies at times of increased childcare cost, such as summer holidays, when parents might benefit from choosing an alternative scheme to support them with the additional costs of full time childcare places.

14. We are, therefore, strongly opposed to Clauses 62 and 63 of the Childcare Payments Bill, which in effect close the CCV Scheme to new entries from autumn 2015, and phase out the support available to existing members over subsequent years. Given that arrangements can be made for both TFC and CCV systems to run in parallel to facilitate this transition period, we would argue strongly that such **arrangements could be extended permanently, to enable parents to choose which type of support is most appropriate for their circumstances, and to move between them as and when suits their needs. We do not believe that restricting parental choice, or reducing the help available, will help to support any parent to secure or sustain employment.**

Section 3: The Legislation

Tax Free Childcare

15. The 'Tax Free Childcare' (TFC) Scheme will provide a supplement from the Government of £2 for every £8 that an eligible person pays towards childcare for the purposes of enabling them to work, up to a maximum of £2,000 per child per year. Clauses 1-25 of the draft legislation **define who is eligible to hold an account, what constitutes qualifying children and childcare, and how payments will be made into and out of accounts.** Our questions around the impact and extent of these criteria are outlined below on a clause-by-clause basis.

Qualifying Childcare and Work

16. The legislation outlines what constitutes qualifying childcare and what will be covered by the TFC Scheme as follows:

> **"2 Qualifying childcare**
>
> (1) In this Act "childcare" means any form of care or supervised activity for a child that is not provided in the course of the child's compulsory education.
>
> (2) Childcare that is provided for a person is "qualifying childcare" for the purposes of this Act if—
>
> (a) it is registered or approved childcare, and
>
> (b) the main reason, or one of the main reasons, for incurring the costs of the childcare is—
>
> (i) to enable the person to work, or
>
> (ii) where the person has a partner, to enable both the person and the person's partner to work."

Questions and Concerns

i. Under the current CCV Scheme, the relevant voucher company is responsible for checking that childcare providers are appropriately registered – who will be responsible for conducting these checks under this system? There is no reference within the legislation to any checking mechanism.

ii. The Explanatory Notes go further in detailing that the effect of 2(2)(b)(i) will be that only childcare provided for the hours worked by a parent (including an element for travel time) will be covered by the TFC Scheme – how will this be calculated in the case of agency workers, people on zero hours contracts or shift workers? Will they be required to submit evidence of actual hours worked? Or will HMRC utilise the Real Time Information they can access from employers to facilitate these calculations?

iii. Allowing the TFC Scheme to apply only to the actual hours worked by parents also demonstrates a fundamental failure to understand the operation of childcare providers in practice. Many parents have to pay for full time places even if they only use a portion of this service, and significant numbers pay 'retainer fees' to secure places over summer holidays. To suggest that these elements of parental childcare costs won't be covered by this scheme fails to recognise the reality that costs are not always directly correlated with working hours.

Qualifying parents and partners

17. In order to be eligible for TFC, a person and their partner must both be in work. Clause 3(5) indicates that the definition of "partner" will be provided through Regulations, which means that one of the key criteria for accessing the scheme remains unclear at present.

Questions and Concerns

i. Further to the definition of "partner", how will this impact on parents who are separated in reality but not legally separated or divorced?

ii. Why should a parent be penalised by exclusion from the TFC Scheme if their partner is unfortunate enough to become unemployed during an eligible period? How will removing them from the scheme, which will undoubtedly result in the child being removed from their childcare place, support that parent to return to work? Has consideration been given to how difficult it is to secure appropriate childcare places in the first instance, and how unlikely it is that childcare providers could hold places open for children who are removed at any point during the year?

Entitlement periods

18. Clause 5(1) stipulates that "the length of an entitlement period is 3 months", which in practice will mean that parents must make fresh applications for support with childcare costs every quarter. The Explanatory Notes suggest that once eligibility is established, "the person will be entitled to top-up payments for the full entitlement period, even if they cease to meet one or more of the eligibility conditions before the end of that entitlement period."

Questions and Concerns

i. Why has this arbitrary entitlement period of 3 months been introduced – what is the rationale for it?

ii. Why should parents have to continually make new claims when their circumstances are unlikely to change significantly – shouldn't the onus be on people to notify if there are any changes rather than continuously confirming that their circumstances remain the same?

iii. What if the parents' childcare requirements increase during the eligibility period – will they be able to benefit from a revision of their claim to ensure they receive their full entitlement?

Qualifying paid work

19. Clause 9 outlines the conditions that must be met in order for both parents to be considered to be in qualifying paid work, which will be set out in more detail through Regulations. One of the main advantages of the TFC Scheme compared to the current CCV Scheme is that self-employed people will be able to avail of support for childcare costs. However, the Explanatory Notes indicate that the process for ensuring that they will meet the minimum qualifying income will be extremely complex:

> "For self-employed people it [*calculation of income*] would be the receipts the person expects to derive from their trade, profession or vocation less the amount of expenses (other than capital expenses) the person expects to incur wholly and exclusively for the purposes of that trade, profession or vocation. Where a person is both employed and self-employed, the minimum expected income rule will apply to the aggregate of their expected income from their employment and their self-employment."

Questions and Concerns

i. Given that the eligibility period for TFC is only 3 months, self employed people will have to make these calculations throughout the year, which will not only be extremely time consuming and complex, but may also vary considerably whilst their childcare costs will remain static – would an annual projection of income not be sufficient?

ii. Given everything we know about the necessity of appropriate support for education and training to enhance an individual's employability, we recommend that the definition of "work" is expanded to include those in training or education who also require support with childcare costs.

iii. Whilst people who are on annual, sick or parenting leave from paid work will still be considered to be eligible for TFC, there appears to be a grey area in respect of those who are fit for work but returning on a phased basis – will they be entitled to claim their full entitlement to support with childcare costs during that period, or will their actual working hours be assessed?

Universal Credit

20. Clause 11 provides that a parent whose partner is in receipt of Universal Credit will not be entitled to join the TFC Scheme.

Questions and Concerns

i. Given the current uncertainty over the introduction of the Welfare Reform Bill at the Northern Ireland Assembly, how will this impact on parents in Northern Ireland?

Other childcare schemes

21. Clause 12 introduces a requirement that a parent who is eligible for an employer-supported childcare scheme must opt out by providing a

"childcare account notice" in writing to their employer before they will be eligible for TFC.

Questions and Concerns

i. Rather than requiring an active "opt-out", would a written declaration that parents are not in receipt of any other assistance with childcare costs (regardless of their eligibility for such support) not be sufficient?
ii. Furthermore, why should parents be forced to opt-out of employer supported childcare schemes, which they will be unable to re-join at a later date, just to avail of the support offered through TFC?

Qualifying children

22. Clause 14 indicates that the definition of a "qualifying child" for the purposes of TFC will be provided in Regulations. The Explanatory Notes suggest that "The Government intends to make regulations providing that a qualifying child is one aged under 12 (or, in the case of a disabled child, under 17)". This represents a huge reduction in the level of support currently available to parents through the CCV Scheme, which remains open until the 1st September after their 15th (or 16th) birthday.

Questions and Concerns

i. Why have the Government sought to reduce the help available to working parents by placing a cap of 12 years on the provision of TFC, when the costs of breakfast clubs and afterschool care often continue right up until the end of compulsory education?

ii. Would a more consistent position not be to align the ages at which children are considered to be eligible to have some of their childcare costs covered with the age at which they qualify for Child Benefit (i.e. up to their 16th birthday, or up to 19 if they have a disability)?

Fees

23. Clause 15(8) states that, in certain circumstances, "fees may be charged in connection with a childcare account by the account provider." As outlined in the Explanatory Notes, this would allow "an account provider, for example, to charge a person a fee for using a credit card to pay money into a childcare account".

Questions and Concerns

i. As a matter of principle, why should parents have to pay any fees to access this scheme? Our Childcare Vouchers Scheme is subsidised through the savings made by employers who pay lower National Insurance contributions in respect of employees on the scheme – and our profits are used entirely for social good to fund our charitable activities.

Payments into childcare accounts

24. One of the benefits of TFC accounts is that contributions towards childcare costs can be made by anyone – once the child's account has been established in the names of the eligible parent(s) then other people can make payments which will attract "top-up" premiums at the rate of £2 for every £8 deposited. However, Clause 19(9) requires account holders (in most cases the designated parent) to "notify HMRC of any qualifying payments made into a childcare account".

Questions and Concerns

i. Why should parents be responsible for notifying HMRC every 3 months of the payments made into TFC accounts? Given that these accounts will only be operated by government-registered providers, could an automated process not be introduced to inform HMRC on a given date of the balance of the account, to enable them to calculate top-up premiums accordingly?

Permitted payments

21. Clause 20 outlines the circumstances in which payments from childcare accounts will considered to be either permitted or prohibited. Permitted payments are those for registered childcare for the child in whose account the name is held. So, for example, if a parent has more than one child, they must have more than one account, and ensure all payments for each child's care remain separate at all times. The Explanatory Notes include the following example:

> "a person with responsibility for two children but with a childcare account for only one of them might place both children with a childcare provider and make a single payment for the childcare from the account. In such a case, half of that payment would be a permitted payment and half would be a prohibited payment."

Questions and Concerns

i. The requirement to ensure that each child's care is calculated and administered separately simply adds to an already considerable administrative burden on parents who are seeking to avail of TFC. It again fails to recognise the reality that many childcare providers offer multi-child discounts which are unlikely to continue if they are required to invoice and process payment for each child's care separately, and will probably result in increased costs for both parties. Why should parents not be enabled to have their eligibility assessed and empowered to manage their finances in the most suitable way for them?

Penalties

22. Clauses 41-47 outline a range of penalties available to HMRC in managing the TFC system. These include reductions of 25-50% for mistakes made in declarations of eligibility, penalties of up to £300 for failure to comply with an information notice and penalties of up to £3,000 (equivalent to 150% of the maximum support available in a full year) for providing inaccurate information or documents. The reasons for which penalties can be imposed include mistakes which are deemed to be "careless or deliberate", and the periods that HMRC have to take enforcement action against an individual range from 4 years to 20 years in some cases. However, an individual has only 30 days to appeal for a review of a decision taken to impose a penalty, and 30 days to pay it in full once that penalty is finalised.

Questions and Concerns

i. Why should parents be penalised for making mistakes in complex applications that must be reviewed every 3 months?

ii. Will HMRC provide bonuses to those affected whenever they make mistakes in the processing of any application?

iii. What steps will be taken to ensure the application process is as straightforward as possible to reduce the potential for errors?

iv. Who will determine whether a mistake was "careless or deliberate"? What will the burden of proof be? What will the process for submitting evidence be?

v. Would it not be more appropriate to suspend top-up payments into an account until compliance with an information notice or rectification of a mistake, rather imposing such massive fines that must be payable within 30 days?

vi. The maximum period during which an inaccurate claim should be active would be 3 months – should the penalties not be limited to the equivalent top-up payment provided within the relevant period (e.g. for parents eligible for the maximum support of £2,000 per child per year, this would equate to £500 per child in any 3 month period)?

vii. Why should HMRC be able to take action against individuals for anything up to 20 years for mistakes made in their applications, when applicants have only 30 days to apply for a decision to be reviewed?

23. Given everything we know about parents' failure to access the financial support available to them because of the complexity of application

processes, these types of penalties could be a very real chill factor for parents who are fearful that providing inaccurate information may result in massive, and unaffordable, fines.

Disqualification orders

24. Clause 48 allows HMRC to close any accounts to which a person who is subject to a disqualification order makes payments. A disqualification order will be imposed on someone who has been issued with more than one penalty within a 4 year period, or someone who has been convicted of one of a range of offences relating to fraudulent activity.

Questions and Concerns

i. Why should HMRC be allowed to close any account to which someone issued with a disqualification order has made payments, which will constitute a real disadvantage to the other parent(s) whose eligibility for such support remains unchanged? Should the disqualified person's contribution not be disregarded, and the other parent(s) eligibility be considered completely separately?

Interest charges

25. Clause 50 provides HMRC with the power to charge interest to people for late payment of penalties or repayment of relevant debts.

Questions and Concerns

i. What consideration will be given to a person's means to repay such amounts or penalties before imposing additional charges?

ii. What steps will HMRC take to ensure that people are supported to facilitate repayments over a suitable period – i.e. not 30 days as currently proposed?

iv. Will interest be payable to claimants whose payments are delayed for reasons which lie within HMRC's competence?

Childcare Payments Bill 2014 – Consideration of Legislative Consent Motion
Committee of the Office of the First and deputy First Minister

1. You may recall that we provided evidence on the Childcare Payments Bill at your last meeting before the summer recess on 2 July 2014. As additional information has come to light over the summer recess, and in order to ensure you are provided with a balanced picture regarding the potential impact of this piece of legislation on parents in Northern Ireland, we would ask you to give consideration to the following points, before reaching a final decision on this matter. Once again, we reiterate that **we are supportive of the introduction of tax-free childcare for those parents who will be better off under this scheme, but urge you to consider the implications of closing employer supported childcare schemes, which are delivering significant benefits for working families across Northern Ireland**.

2. At the Committee hearing, Members were keen to get a better understanding of the potential cost of any deviation from the Westminster scheme. The details of our calculations of the cost of extending the Childcare Voucher Scheme to new entrants beyond Autumn 2015 are at **Annex A.**

3. However, in order to reach a decision as to whether the childcare voucher scheme should be extended, one would need a clear understanding of the impact of the new tax free childcare scheme on parents. To decide which option is better for parents in Northern Ireland, the fundamental question that we believe must be considered when examining assessments of the impact of introducing tax free childcare is:

   In what circumstances will parents be able to get that type of support?

4. All of the savings available through tax-free childcare schemes are dependent on parental spend on childcare. We believe that OFMdFM are being overly optimistic in measuring the potential impact of the tax-free childcare scheme by considering the **maximum** savings it could deliver in any set of circumstances. We have added some information to tables that OFMdFM had been working from, and they now look quite different. We have highlighted the points at which employer supported childcare will deliver more to parents than tax-free childcare, which we believe provides clear evidence in support of our call to enable **both schemes to run in parallel and allow parents to make decisions about which delivered greater benefits in their particular circumstances**. This additional information in the tables show us that:
   i. in all scenarios based on real life experiences of parents in Northern Ireland, families with one child in childcare will be better off on employer supported childcare schemes;
   ii. in all families in which one parent is not employed, employer supported childcare will continue to offer support with childcare costs, whereas tax-free childcare will not; and
   iii. there is simply no way of knowing whether families in which one parent works part time will be better or worse off, as this will depend entirely on the amount of childcare that HM Treasury deem to be necessary to enable them to work.

5. On a simple comparison of Childcare Vouchers and Tax-Free Childcare, adding in the crucial detail of the childcare costs required to achieve the savings, we find a significant difference between the amounts that parents would have to spend to avail of the maximum savings under each scheme:

Scenario	No of children under 12	Childcare costs to achieve max saving ESC	Max Annual support under ESC	Childcare costs to achieve max saving TFC	Maximum annual support under TFC
Single parent/working couple one basic rate taxpayer in receipt of ESC	1	£2,916	£933	£10,000	£2,000
	2	£2,916	£933	£20,000	£4,000
	3	£2,916	£933	£30,000	£6,000
Working couple, both basic rate taxpayers in receipt of ESC	1	£5,832	£1,866	£10,000	£2,000
	2	£5,832	£1,866	£20,000	£4,000
	3	£5,832	£1,866	£30,000	£6,000
Single parent/working couple with one higher rate taxpayer in receipt of ESC	1	£1,488	£625	£10,000	£2,000
	2	£1,488	£625	£20,000	£4,000
	3	£1,488	£625	£30,000	£6,000
Working couple, both higher rate taxpayers in receipt of ESC	1	£2,976	£1,250	£10,000	£2,000
	2	£2,976	£1,250	£20,000	£4,000
	3	£2,976	£1,250	£30,000	£6,000
Working couple, one basic rate taxpayer, one higher rate taxpayer in receipt of ESC	1	£4,404	£1,558	£10,000	£2,000
	2	£4,404	£1,558	£20,000	£4,000
	3	£4,404	£1,558	£30,000	£6,000
Couple, one working basic rate taxpayer and one not working	1	£2,916	**£933**	£0	£0
	2	£2,916	**£933**	£0	£0
	3	£2,916	**£933**	£0	£0
Working couple, both basic rate taxpayers, one full time and the other part time in receipt of ESC	1	£5,832	**£1,866**	?	?
	2	£5,832	**£1,866**	?	?
	3	£5,832	**£1,866**	?	?

6. As HM Treasury have now revised their estimated savings to £600 per child per year, that changes the picture again, as we compare actual savings under employer supported childcare to these new estimates:

Scenario	No of children under 12	Childcare costs to achieve max saving ESC	Max Annual support under ESC	Revised HM Treasury TFC savings estimate
Single parent/working couple one basic rate taxpayer in receipt of ESC	1	£2,916	**£933**	£600
	2	£2,916	£933	£1,200
	3	£2,916	£933	£1,800
Working couple, both basic rate taxpayers in receipt of ESC	1	£5,832	**£1,866**	£600
	2	£5,832	**£1,866**	£1,200
	3	£5,832	£1,866	£1,800
Single parent/working couple with one higher rate taxpayer in receipt of ESC	1	£1,488	**£625**	£600
	2	£1,488	£625	£1,200
	3	£1,488	£625	£1,800
Working couple, both higher rate taxpayers in receipt of ESC	1	£2,976	**£1,250**	£600
	2	£2,976	**£1,250**	£1,200
	3	£2,976	£1,250	£1,800
Working couple, one basic rate taxpayer, one higher rate taxpayer in receipt of ESC	1	£4,404	**£1,558**	£600
	2	£4,404	**£1,558**	£1,200
	3	£4,404	£1,558	£1,800

7. And if we look at what parents are currently spending on childcare to avail of the maximum savings available through employer-supported childcare, and what they would, therefore, be eligible for under tax-free childcare if their costs didn't change, we find the following:

Scenario	No of children under 12	Childcare costs to achieve max saving ESC	Max Annual support under ESC	TFC saving based on costs required to achieve max ESC saving
Single parent/working couple one basic rate taxpayer in receipt of ESC	1	£2,916	**£933**	£583
	2	£2,916	£933	£1,166
	3	£2,916	£933	£1,750
Working couple, both basic rate taxpayers in receipt of ESC	1	£5,832	**£1,866**	£1,166
	2	£5,832	£1,866	£2,333
	3	£5,832	£1,866	£3,499
Single parent/working couple with one higher rate taxpayer in receipt of ESC	1	£1,488	**£625**	£298
	2	£1,488	**£625**	£595
	3	£1,488	£625	£893
Working couple, both higher rate taxpayers in receipt of ESC	1	£2,976	**£1,250**	£595
	2	£2,976	**£1,250**	£1,190
	3	£2,976	£1,250	£1,786
Working couple, one basic rate taxpayer, one higher rate taxpayer in receipt of ESC	1	£4,404	**£1,558**	£881
	2	£4,404	£1,558	£1,762
	3	£4,404	£1,558	£2,642

8. Based on this additional information, we would ask you to consider the following:

a. The savings that parents can make under tax free childcare are entirely dependent on the amount they spend, and some estimates show that a single parent with 3 children could be eligible for savings of £6,000 per year. That is of course true – if they are spending £30,000 on childcare in the first place. How many single parents do you know who spend that amount on childcare?

b. In most scenarios, parents who are paying for more than one childcare place will be better off under tax-free childcare. However, most families have one child before they have two or three, and in every other scenario they will be better off on employer supported childcare, but will be prevented from joining when the scheme closes to new entrants next year.

c. HM Treasury now acknowledge that the average saving for a family would be £600 per year (which is based on childcare costs of £3,000 per year). In Northern Ireland, the average cost for a full time childcare place is £8,216. Only parents who are paying significantly above the average costs will receive anything close to £2,000 per year.

d. The cost of a full time place is not based on the hours worked by the parent. That cost won't change, but under tax-free childcare the support that family can receive will, as it reduces from £1,866 under employer-supported childcare, to as little as £1,166 for two working parents with one child in childcare.

9. In addition, considering the legislative process, we would ask you to consider:

   a. **Timescales -** Is there an urgent need to reach a final decision on this Legislative Consent Motion today? Could this decision be postponed to enable more detailed consideration of alternative models? The Bill is only at Committee stage at Westminster and as such could be amended (potentially significantly) – will Northern Ireland find itself tied in to a piece of legislation without fully understanding its shape or scope?

   b. **OFMdFM's role** - What response did OFMdFM make to the HM Treasury consultation exercises leading up to the introduction of this legislation? What representations were made to HM Treasury regarding the impact of this legislation on parents and employers in Northern Ireland?

   c. **Bright Start Strategy -** We have heard that the Bright Start Strategy "may" contain additional support for parents with the costs of childcare, but have no evidence for that claim at present – will it or won't it?

   d. **Supporting People into Employment?** - Under the tax-free childcare scheme, parents will have to reconfirm their eligibility every 3 months, because they will only remain eligible for support with childcare costs for the number of hours HM Treasury consider they need to enable them to work. This will be straightforward for parents in steady, full time employment, but for those in low paid, short term work who will work different hours each week, their eligibility will be constantly shifting, whilst their childcare needs will remain consistent. There will be periods when they will fall foul of the eligibility criteria, because their employer can't offer them work, and they are likely to lose their childcare place in a local nursery, day care centre, etc. This will actually reduce their chances of being able to access employment in the future, acting as an inhibitor when support with childcare costs ought to be an enabler. Allowing parents to remain eligible for at least 12 months at a time, and placing the onus on them to report a change in circumstances, would provide them with greater stability and confidence in the availability of support with their childcare costs. Could this aspect of the legislation be amended to support local parents in this way?

e. **Fees -** OFMdFM have repeatedly told us that administration fees will not be charged to parents for their childcare accounts to manage their tax free childcare payments. The legislation makes clear and unambiguous provision for childcare account providers to charge fees of parents in certain circumstances, and we are fundamentally opposed to that principle. If the government is so confident that this won't be necessary, they should remove that clause entirely. However, we would suggest that this is unlikely, as the ability to charge fees is the only possible incentive for any company to manage these accounts, which according to HM Treasury estimates will be available to more than 1 million working families.

10. In conclusion, we are grateful for your consideration of this additional material, and re-iterate our call to you to prioritise the interests of working parents in Northern Ireland in your consideration of this legislation. We hope we have demonstrated that the potential range of benefits available through the tax free childcare scheme is by no means clear in much of the publicity around its introduction, and hope that you will consider protecting parental choice by enabling both the tax free childcare and employer supported childcare schemes to run in parallel.

Annex A

Cost of extending the Childcare Voucher Scheme beyond Autumn 2015

1. As the extension of the Childcare Voucher Scheme to new entrants beyond Autumn 2015 would be a departure from practice elsewhere, it would come at a cost. Whilst we are not in a position to estimate this on a UK-wide basis, we have estimated the impact for parents in Northern Ireland.

2. The Childcare Voucher Scheme is currently funded through the savings derived by HM Treasury allowing both employers' and employees' Voucher contributions to be exempt from Tax or National Insurance contributions. The maximum employer saving is £402pa per parent on the scheme. A small proportion of this subsidises the cost of the Voucher Scheme, meaning that both parties benefit. The maximum employee saving is £933 per year. In a typical year, this represents a **saving of £13m for parents and employers in Northern Ireland – which is £13m that goes into the local economy, rather than back to the Exchequer directly.**

3. Given that the proposed Childcare Payments Bill protects the right of parents who are already using the Scheme to remain eligible for this support, the only circumstances in which it would "cost" us here in Northern Ireland to differentiate would be by requiring us to fund the Tax and National Insurance disregards for those new employers and their employees. Existing Voucher users retain their right to access the savings funded by HM Treasury and, along with those parents who join the HM Treasury funded Tax Free Childcare Scheme, will represent no additional cost to the Northern Ireland block grant.

4. **The maximum cost of any additional joiners to the Voucher Scheme will be £1,335pa per person.** This small amount would need to be subsidised through the Northern Ireland block grant to enable parents to retain the ability to join the Childcare Voucher Scheme. Based on our assessments, we anticipate approximately 1,000 parents would join the Scheme in a typical year, **resulting in £1.34m that would need to be paid locally to fund them**. Whilst we appreciate that breaking parity is both complex and controversial, we believe that this "subsidy" could be delivered as follows:
   - i. OFMDFM could agree to apportion a small percentage of their unspent childcare budget to funding this benefit for working parents; and/or
   - ii. it is our understanding that any additional monies provided through the Barnett Formula when the Tax Free Childcare Scheme is introduced will be unhypothecated, meaning that the Northern Ireland Assembly could make a decision to spend some of that money on funding an alternative scheme, such as the extension of Childcare Vouchers.

Don’t Throw The Baby Out With The Bathwater

Since 4.30pm on Thursday 11 September 2014, 2,010 people have signed our petition, calling on the Northern Ireland Assembly to use their powers to:

- ensure that working families do not lose critical support with their childcare costs;
- protect local employers from the additional costs that will arise from the loss of Childcare Vouchers; and
- support working parents to stay in work at this crucial time for the stability of the local economy

by allowing parents to choose which type of support suits their family's needs.

They all want you to ensure that parents and employers continue to be able to avail of the support of the Childcare Voucher Scheme, beyond its planned closure to new entrants in Autumn 2015. They told us that:

“These vouchers enable me to work and keep my child minder in work” (Averil, Ballynahinch)

“I currently received childcare vouchers and I know my savings will be cut if the new scheme is implemented” (Karen, Killyleagh)

“As a provider of childcare, the current scheme streamlines the payment procedure for providers thus keeping costs down, but also benefits my clients and their employers with the tax relief.” (Joan, Belfast)

“At a time where Gov are trying to get people out to work, introducing this scheme is financial suicide for my family. We would be £600/yr worse off.” (Colm, Belfast)

“My family will be financially better off remaining in the current childcare voucher scheme. Both options should be available to parents.” (Catherine, Belfast)

“This is a barrier to private sector growth, more skilled people will have to stay at home to look after their children.” (Rich, Belfast)

So we are asking you please to consider our proposals to protect these families and their employers.

How You Can Support Working Parents and Local Employers

In order to ensure that no working families or local employers suffer as a result of the implementation of the Childcare Payments Bill, we have devised a series of options that the Committee, and ultimately the Assembly and Executive, could introduce. Crucially, we believe that these alternatives will:

- ensure the principle of parity is protected;
- not need any additional approval from HM Treasury;
- be deliverable within existing departmental resources; and
- demonstrate the Assembly's commitment to protecting the interests of hard working parents and local employers.

These options are entirely consistent with existing Programme for Government priorities, and will support the achievement of objectives including:

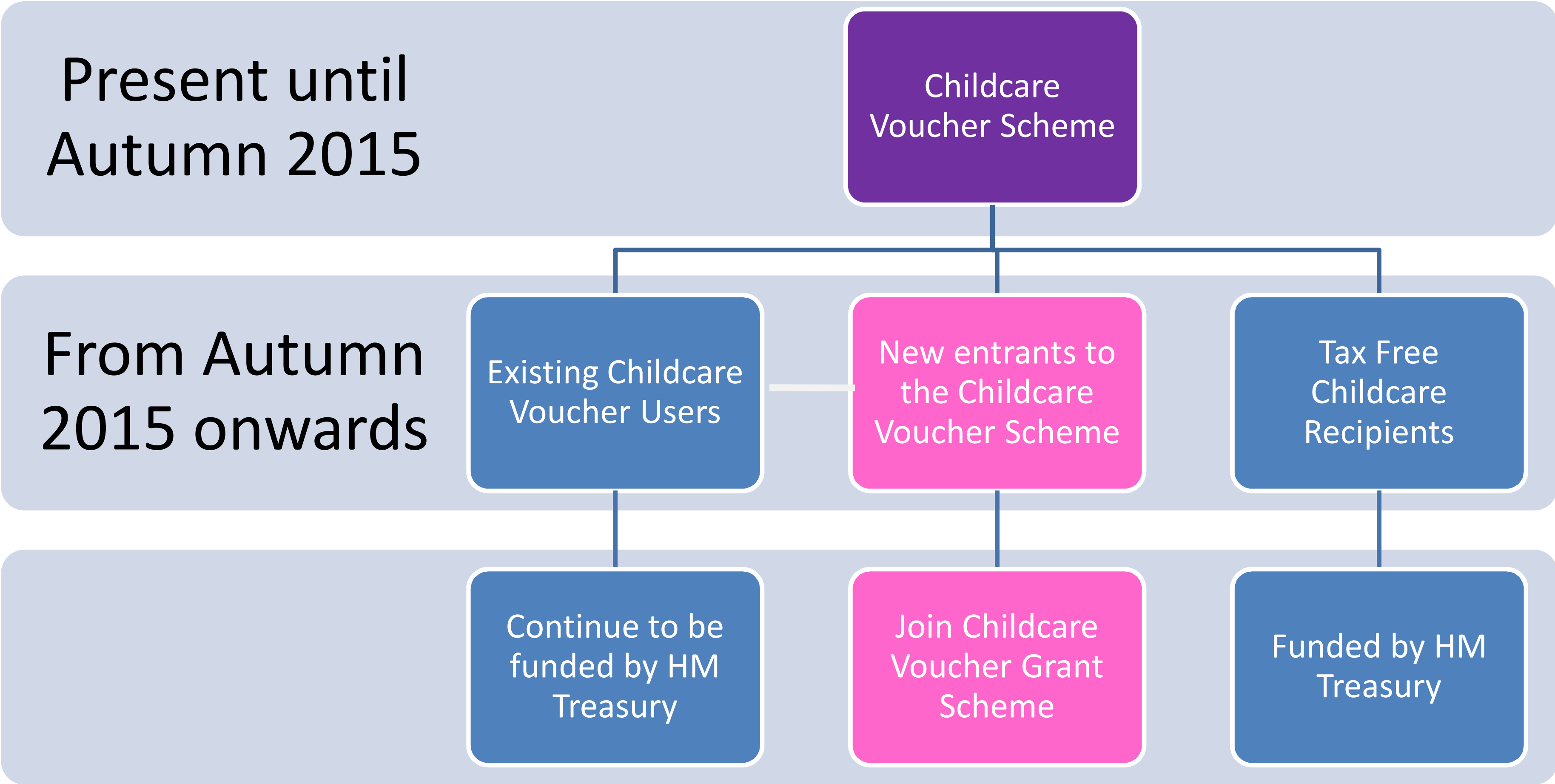
- enabling people to access employment opportunities;
- addressing child poverty;
- promoting and protecting the interests of children;
- preventing future rises in the claimant count for unemployment benefits; and
- tackling disadvantage and promoting equality of opportunity.

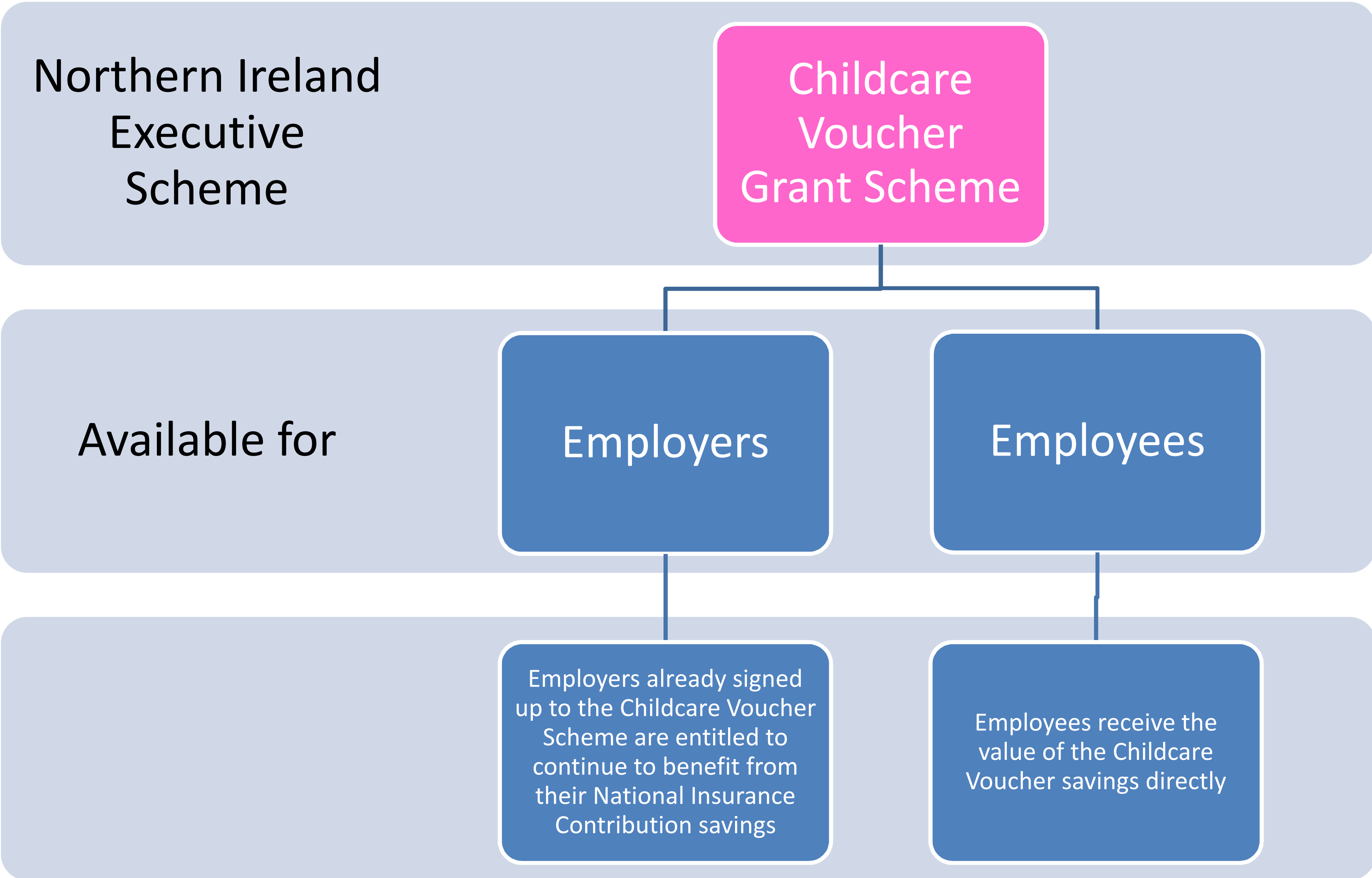
Option 1 is the Childcare Voucher Grant Scheme, which would enable parents and their employers to continue to receive the same amount of support with their childcare costs as they would have under the existing Voucher Scheme. The money would be payable as a direct grant to each party. We estimate an annual cost of c.£1.34m.

Option 2 is the Childcare Voucher Top Up Scheme, which would be payable to parents and their employers who are worse off under the new tax-free childcare scheme, and would ensure that their savings are protected at the same levels as they would be under the existing Voucher Scheme. The money would be payable as direct payments to each party.

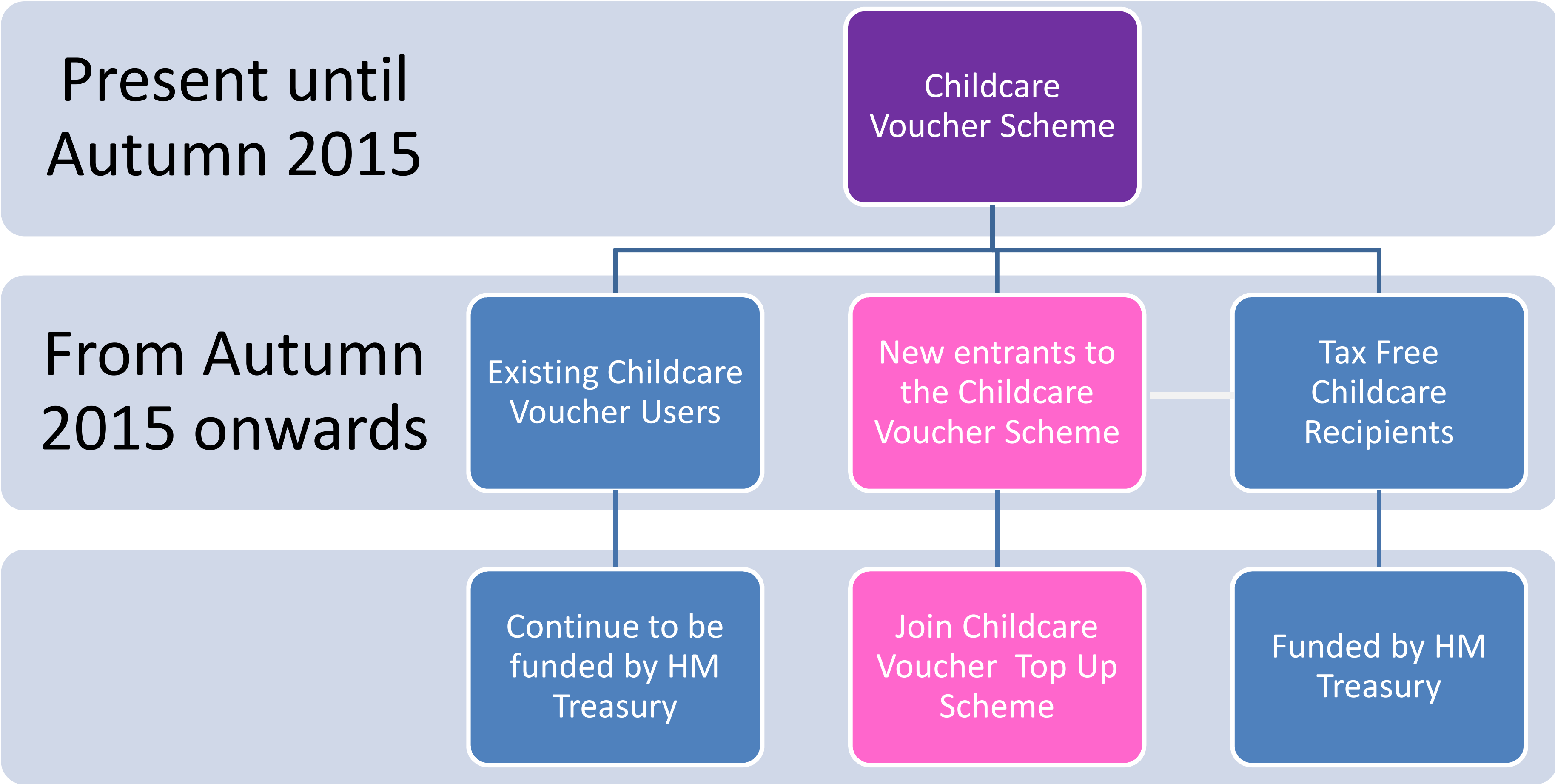
Option 3 is, of course, that you do nothing. But given that you know that a significant proportion of working parents and employers would suffer as a result of this inaction, we would urge you not to choose this option. Please help our local businesses remain profitable, and support parents to get in to work, and to stay there.

Option 1


Present until Autumn 2015
Childcare Voucher Scheme
From Autumn 2015 onwards
Existing Childcare Voucher Users
New entrants to the Childcare Voucher Scheme
Tax Free Childcare Recipients
Continue to be funded by HM Treasury
Join Childcare Voucher Grant Scheme
Funded by HM Treasury


Northern Ireland Executive Scheme
Childcare Voucher Grant Scheme
Available for
Employers
Employees
Employers already signed up to the Childcare Voucher Scheme are entitled to continue to benefit from their National Insurance Contribution savings
Employees receive the value of the Childcare Voucher savings directly

Option 2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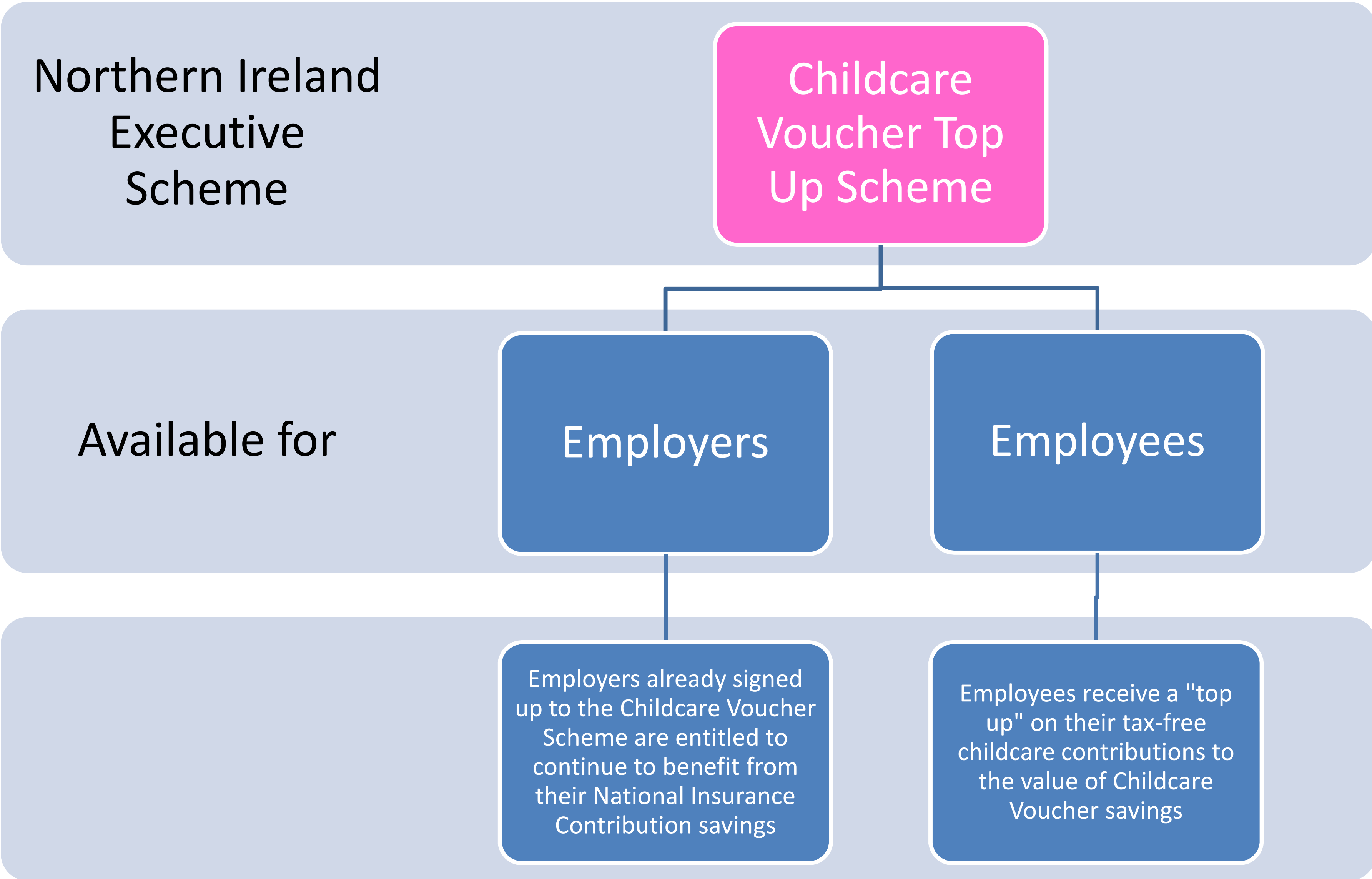
Northern Ireland Executive Scheme
Childcare Voucher Top Up Scheme
Available for
Employers
Employees
Employers already signed up to the Childcare Voucher Scheme are entitled to continue to benefit from their National Insurance Contribution savings
Employees receive a "top up" on their tax-free childcare contributions to the value of Childcare Voucher savings

Childcare Payments Bill – Impact on Northern Ireland

1. The impact of the Childcare Payments Bill on Northern Ireland will not be limited to parents or even their children: it will go much further beyond that, directly affecting employers, the labour market and the local economy. Although OFMdFM are in the lead on this legislation, its effects will cut across the interests of a number of departments and we believe they should, therefore, be considered carefully in advance of implementation.
2. In Northern Ireland today, we estimate that around 11,000 parents and 1,000 local employers are making savings of around £13m per year through the Childcare Voucher (CCV) Scheme. Whilst not all will have eligible registered childcare costs at any given moment, we estimate that the right to enter a CCV Scheme is currently enjoyed by around 1 million employees whose employers have signed up to offer it in Northern Ireland. If the CCV Scheme is closed to new entrants from Autumn 2015, a substantial proportion of the working population will have the right to access such a scheme removed. Given that HM Treasury estimate that around 1 million families across the UK will be better off as a result of the introduction of the Tax-Free Childcare (TFC) Scheme, we can assume from those figures that a relatively smaller proportion of people in Northern Ireland will be entitled to support under TFC than had previously been the case with CCV.
3. There are two main groups of people whose circumstances will not be improved as a result of the introduction of the Childcare Payments Bill:
    i. those who will be **worse off** on the Tax-Free Childcare Scheme than they would have been on the Childcare Voucher Scheme; and
    ii. those who will **not be eligible** for support under the new Tax-Free Childcare Scheme and who will not, therefore, be enabled to progress into employment.
4. It is particularly important to understand that there is also a significant proportion of people who might end up falling into either of these categories as a result of changes to their childcare requirements during the course of a family's life. As the Bill will prevent parents from switching back in to the CCV Scheme if they opt for TFC at the outset, many families could find themselves unable to avail of any financial support with the cost of childcare.

Who will be worse off?

5. The simple answer to this question is that it depends entirely on the family's circumstances at any given time. We have, however, constructed the following table to illustrate the childcare costs 'tipping point' at which parents will be entitled to exactly the same support under both the Tax-Free Childcare Scheme (TFC) than the Childcare Voucher Scheme (CCV):

Families	Childcare Costs Less Than Tipping Point	Childcare Costs Tipping Point	Childcare Costs More Than Tipping Point
Single parent, basic rate tax	Better on CCV	£4,666	Better on TFC
Single parent, higher rate tax	Better on CCV	£3,123	Better on TFC
Two parents, basic rate tax	Better on CCV	£9,330	Better on TFC
Two parents, 1 higher and 1 basic rate tax	Better on CCV	£7,788	Better on TFC
Two parents, 2 higher rate tax	Better on CCV	£6,250	Better on TFC
Two parents, 1 basic rate tax payer and 1 unemployed	Better on CCV	*	Better on CCV

* as families in these circumstances will not be eligible for TFC, they will always be better off on CCV.

6. To put this in context, we calculated the average cost of four types of childcare place, and plotted them against these tipping points. If families are paying the average costs for each of these types of childcare, we find that the answer as to who will be better or worse off in each scheme varies widely. The red boxes below show families who will be better off on TFC and the yellow boxes show those families who will be better off on CCV:

Childcare type	Average costs	Single parent, basic rate tax	Single parent, higher rate tax	Two parents, basic rate tax	Two parents, 1 higher and 1 basic rate tax	Two parents, 2 higher rate tax	Two parents, 1 basic rate tax and 1 unemployed
Full time (50 hrs)	8,216	TFC	TFC	CCV	TFC	TFC	CCV
Part time (25 hrs)	6,084	TFC	TFC	CCV	CCV	CCV	CCV
Breakfast club	1,768	CCV	CCV	CCV	CCV	CCV	CCV
After school club	4,368	CCV	TFC	CCV	CCV	CCV	CCV

7. We are keen, therefore, to explore what additional support might be available to ensure those families who would be better off on CCV do not lose out under this new scheme.

Could the CCV Scheme remain open?

8. Given that many families will remain better off on the CCV Scheme, we believe there is a real need to explore whether sufficient flexibility might be negotiated in the Bill at Westminster to enable parents to continue to join after Autumn 2015. The CCV Scheme itself will remain open for up to 16 years, as those parents who join before next Autumn retain their rights to benefit from it for as long as they are eligible. Coupled with an amendment to allow movement between the two schemes within certain parameters, amending the legislation to allow the CCV Scheme to remain open would ensure that families retain the right to choose the most appropriate type of support with their childcare costs on the basis of their own circumstances.

What would this cost?

9. We estimate that around 1,000 parents each year join the CCV Scheme. The savings delivered directly to each parent equate to a maximum of £933 each per year. This can vary, dependent upon their status in relation to tax and their childcare costs, but most parents avail of savings around this level. To fund 1,000 parents to join the CCV Scheme beyond its closure in Autumn 2015 would, therefore, cost up to £933,000. Whether this would be administered directly through an NI Executive Grant Scheme, or indirectly by HM Treasury continuing to operate the Scheme for these new entrants and charging the NI Executive indirectly, what is clear is that for less than £1 million, the Executive could ensure that no parent will be worse off as a result of this legislative change.

Are there any other options?

10. If such amendments to the legislation could not be delivered, the NI Executive could consider developing a direct payment scheme, to the same value and effect as outlined above. Such a scheme would be based on the same eligibility criteria as the current CCV Scheme, and whilst it would not have the same basis, would result in the same levels of savings for families. Alternatively, the Executive could consider devising a "top-up" scheme for parents who find themselves worse off as a result of their right to join the CCV Scheme being removed. This would provide supplementary payments to those parents whose savings under the TFC Scheme are less than they would have been under the CCV Scheme, and would ensure that employees within the same organisation are enabled to avail of the same standard of support with their childcare costs in the future.

What about those who are not receiving CCV?

11. We know that around 11,000 parents are currently benefiting from CCV in Northern Ireland, and we would urge the NI Executive to ensure that none of these parents end up worse off as a result of the introduction of this legislation. We are also very conscious of the fact that only around 25,500 of the 238,129 families with dependent children in Northern Ireland are currently receiving any form of financial support through the childcare element of Working Tax Credit or the Childcare Voucher Scheme. This means that there are significant numbers of parents who are potentially failing to claim the support that may be available to them. As one of these options will be removed from them next Autumn, and the landscape will become increasingly complex with the introduction of TFC, we strongly urge the NI Executive to support a campaign to raise awareness of the support available for working parents, to increase their uptake of the most appropriate type of support in their own circumstances. Furthermore, we know that if more parents are signed up to the CCV Scheme before it closes next year, not only will they have their right to choose the most appropriate scheme protected, but they will also be receiving support with their childcare costs directly from HM Treasury, which will be a net gain for the local economy.

What about those who are not eligible for TFC?

12. The first group of people who will no longer be eligible for support with their childcare costs are those with children aged over 12, who would previously have received financial assistance with the costs of breakfast and after school clubs which can be crucial in enabling parents to stay in work. According to the latest census statistics there are 99,679 children aged 13-16 in Northern Ireland. Whilst we know that not all of these will require registered childcare, an indication of how many might can be found in the DHSSPS figures which show that there were a total of 275 out of school clubs were registered with HSC Trusts at 31 March 2013, providing 6,327 places. This figure doesn't include the number of places provided by childminders or other forms of registered childcare for this age group, none of which would be supported under the TFC Scheme. We also know that OFMdFM have acknowledged the pressure on parents of children aged 5 to 14, by supporting this group with an additional 7,000 childcare places through the Bright Start Strategy. Whilst this is a welcome development, it is entirely possible that places for 13 and 14 year olds will be under-utilised if parents cannot afford to access them.
13. We are, however, extremely concerned about the as yet unquantified number of parents in Northern Ireland who will fall foul of the criteria for TFC, and will therefore receive absolutely no financial support with the costs of their childcare. Any family in which one parent is unemployed for any period will be excluded for receiving support through TFC. Parents will have

to reconfirm their eligibility for TFC every 3 months, because they will only remain eligible for support with childcare costs for the number of hours HM Treasury consider they need to enable them to work. This will be straightforward for parents in steady, full time employment, but for those in low paid, short term work who will work different hours each week, their eligibility will be constantly shifting, whilst their childcare needs will remain consistent. There will be periods when they will fall foul of the eligibility criteria, because their employer can't offer them work, and they are likely to lose their childcare place in a local nursery, day care centre, etc. This will actually reduce their chances of being able to access employment in the future, acting as an inhibitor when support with childcare costs ought to be an enabler. These parents will not be able to avail of the childcare element of working tax credit. The only possible form of support with their childcare costs would be the CCV Scheme, which will have closed to new entrants if this legislation is introduced as drafted.

14. Parents and children need to have stability in terms of their childcare and confidence in the availability of support with the associated costs, and should not be forced to reconsider this every 3 months. Allowing parents to retain their eligibility for support with childcare costs for at least 12 months at a time would enhance their confidence and capacity to continue to seek and accept any offers of employment that they can get. This could be achieved either by legislative amendment or by introducing an NI Executive subsidy scheme which would provide additional support for those who fall foul of the TFC criteria for a temporary period to enable them to secure their childcare place.

What about employers?

15. With over 1,000 local employers currently participating in the CCV Scheme, we know that this generates savings of £4 million for the Northern Ireland economy. Closing the CCV Scheme in Autumn 2015 will have a direct impact on these businesses, whose paybills will increase as they will no longer be able to avail of the National Insurance Contributions disregard. To give one small example, the Northern Ireland Civil Service currently save approximately £32,000 per month through this Scheme, which will gradually reduce and ultimately disappear as children age and parents leave the CCV Scheme. To offset these losses, the NI Executive could again consider introducing a subsidy scheme to extend the benefits of the CCV Scheme to employers who continue to offer support to working parents within their organisation.
16. In addition to the direct financial costs of the closure of the CCV Scheme for employers, there will be numerous consequential effects, including parents being forced to reduce their working hours or leave work altogether as a result of their inability to access support with childcare costs, which will reduce both the quality and quantity of the available workforce. This will

increase the rates of economic inactivity and do nothing to tackle child poverty.

Policy Concerns

17. In addition to the issues we have outlined above, we are also concerned about:
    a. the requirement for parents to reconfirm their eligibility for TFC on a quarterly basis;
    b. the exclusion of those in receipt of tax credits or universal credit, regardless of whether this includes an element of support with childcare costs, from the TFC Scheme;
    c. the complexities of the reconfirmation process for parents working on temporary contracts, agency work or zero hours contracts;
    d. the expectation on TFC account providers (as yet unidentified) to confirm whether childcare providers are appropriately registered and eligible for TFC payments – as well as the lack of centralised registration for this purpose; and
    e. the levels at which penalties for errors or omissions in TFC applications have been set, which we believe will be incurred frequently during this complex process, and are excessive.

Office of the
First Minister and
Deputy First Minister
www.ofmdfmni.gov.uk

Karen Jardine
Senior Assistant Clerk
Committee for OFMDFM
Room 285
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

04 August 2014

Dear Karen,

LEGISLATIVE CONSENT MEMORANDUM – CHILDCARE PAYMENTS BILL

I refer to your letter of 3 July 2014 forwarding a copy of a policy briefing paper submitted to the Committee by Employers for Childcare on the Childcare Payments Bill.

The Committee asked the Department to comment on the issues raised in the policy briefing paper. I attach, therefore, a response by the Department to the issues raised in the Employers for Childcare briefing paper.

Yours sincerely

Signed Colette Kerr

Colette Kerr
Departmental Assembly Liaison Officer

EMPLOYERS FOR CHILDCARE

THE CHILDCARE PAYMENTS BILL - POLICY BRIEFING PAPER

Employers for Childcare provided the OFMDFM Committee with a briefing paper on the Coalition Government's proposed new Tax-Free Childcare Scheme. The Childcare Payments Bill will provide the statutory basis for the new Tax-Free Childcare Scheme.

The Committee forwarded the briefing paper to the Department asking it to comment on the issues raised in the paper. The Department's response to the issues raised in the briefing paper is set out below. For ease of reference, the response follows the structure and format of the briefing paper.

Introduction

The briefing paper suggests the Executive should work to deliver an alternative model (paragraph 4)

At Budget 2013, the Coalition Government announced its intention to introduce Tax-Free Childcare, a new scheme designed to provide financial support to help working families. The Childcare Payments Bill, which was introduced at Westminster on 5 June 2014, will provide the statutory basis for the new scheme. The Bill had its Second Reading on 14 July 2014 and it has now been referred to a Public Bill Committee for detailed scrutiny. The Committee Stage is expected to be concluded by 28 October 2014.

The new Tax Free Childcare scheme will be based on a system of childcare accounts whereby eligible parents will open an online account into which they will pay money towards their childcare costs and Government will automatically top-up amounts in the account at a rate of 20p for every 80p paid in by the parent. The amounts held in the accounts will have to be used to pay for qualifying childcare. Government support will be up to a maximum of £2,000 per child per year, although there will be no restriction on the number of qualifying children for whom support will be available. The new scheme is scheduled to open from Autumn 2015.

The Coalition Government has offered to fund the introduction of the Tax-Free Childcare scheme here. As a consequence, a Legislative Consent Motion is required to extend the provisions of the Childcare Payments Bill, and by extension, the new Tax-Free Childcare scheme, to the region. This will enable parents who live here to claim support from Government with their childcare costs in the same way as those living in England, Scotland or Wales.

The Assembly has no authority over the phasing out of the current Employer Supported Childcare voucher scheme, nor has it any authority over the National Insurance Contribution disregard for Employer Supported Childcare. Agreement to extend the provisions of the Childcare Payments Bill will ensure that parents here will receive the funding available from central government. In addition, OFMDFM will continue to develop the final Bright Start Childcare Strategy which may offer additional support to parents to help support their childcare costs in the future.

Section 1: Context

The briefing paper refers to the lack of affordable childcare as being the single largest barrier to securing and sustaining employment for parents of dependent children (paragraph 5).

The Programme for Government 2011-15 commits the Executive to *"publish and implement a Childcare Strategy with key actions to provide integrated and affordable childcare"*. The first phase of the "*Bright Start*" – the Executive's Programme for Affordable and Integrated Childcare was published on 25 September 2013. The Strategic Framework document sets out a strategic direction for the Childcare Strategy along with 15 key first actions to address the main childcare priorities identified during consultation and research.

All 15 Key First Actions are now being taken forward. Key First Actions 1, 2 and 5 will be delivered through the *Bright Start* School Age Childcare (SAC) Grant Scheme which was launched on 27 March 2014. The SAC Grant Scheme will assist childcare settings serving disadvantaged and rural communities, and settings based on the schools estate. The first round of applications to the Grant Scheme is currently being assessed and it is envisaged that the first awards will be made in Autumn 2014. Childcare providers who are assisted under the proposed new SAC Grant Scheme will be required to demonstrate that they are delivering an affordable and quality childcare service.

The briefing paper indicates that the new scheme must be easy to understand and simple to administer (paragraph 6)

Simplicity will be at the heart of Tax-Free Childcare. For example:

- Tax-Free Childcare will be easily accessible via online accounts, with assisted approaches for those without access to the internet;
- The scheme will allow multiple people to pay into childcare accounts. This will enable all parents to make contributions, as well as giving other family members and other parties the opportunity to contribute;
- Parents will be able to build up balances in their childcare accounts, for example to use over the summer holidays;
- Quarterly reconfirmation will be done via a light touch process, with no need for parents to enter all of their personal details again;

- The reconfirmation window will last around three weeks, enabling parents to reconfirm at a time that suits them. Where a parent misses the reconfirmation deadline, they can easily restart entitlement at any time by notifying continuing (or renewed) eligibility;

- The scheme will align entitlement period for siblings s that parents will only need to log-in once to reconfirm eligibility of all children;

- Each childcare account will have a unique identifier. All transactions between Government and childcare providers will include this reference. This will avoid problems frequently experienced by Employer Supported Childcare where childcare providers often cannot easily identify for which child the payments from a voucher provider relate;

- Government will allow parents to withdraw money from their childcare account, should they wish to do so, with parents' contributions returned to them and Government top-up payments returned to Government.

The briefing paper states that a critical element of the introduction of any new scheme for parents must be a properly resourced communications strategy (paragraph 7)

Tax-Free Childcare will only be effective if parents are aware of the scheme and know how to register for it, make payments into their accounts and receive Government top-ups. Similarly childcare providers will need to know how to operate Tax-Free Childcare and employers must know about the changes which are being introduced to allow them to make the necessary preparations and communicate with their employees. As parents start to plan their childcare needs from Autumn 2015, HM Revenue & Customs (HMRC) will deliver targeted communications to parents and their representative groups, childcare providers and employers.

The briefing paper expresses concern at a lack of clear guidance to enable parents to understand which scheme will be of greatest benefit to them (paragraph 8)

HMRC recognises the importance of providing information and support to help parents make an informed choice about which scheme to access. HMRC will provide clear guidance and communications tools to help parents make informed decisions on which scheme is best for them.

Section 2: The Schemes

The briefing paper asks "Which is better – the Childcare Voucher Scheme or Tax-Free Childcare?" (paragraph 9)

The introduction of Tax-Free Childcare represents a major improvement on the current system, Employer Supported Childcare (ESC). Unlike that scheme, 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 will be extended to the self-employed and all employees whose employer does not offer ESC. In addition, the level of support under Tax-Free Childcare will be linked to the child rather than the parent. This is a fairer approach than ESC, which pays no regard to the number of children in each family.

All working families which are eligible for the new scheme will be able to receive 20% support towards their childcare costs, up to an annual limit of £2,000 Government support per child. The amount they actually receive will vary from family to family, dependent on their childcare costs and how much they pay into a childcare account.

For those who are not able to receive support through ESC – for example, because they work for an employer which does not offer the scheme, or are self-employed – their "gain" from introduction of the new scheme will be the entire support available. For those who are also eligible for ESC but better off in the new scheme, their gain will be the increase in support received. Some families will be better off in ESC than switching to Tax-Free Childcare, and they will be able to remain in ESC for as long as they have eligible children, providing their employer continues to offer the scheme and they remain with the same employer.

The table below summarises the support available under Tax-Free Childcare and ESC for different family groups. It shows the maximum level of support available under ESC and the maximum support available for families under the new scheme.

Comparison of Employer-Supported Childcare (ESC) and Tax-Free Childcare (TFC)

Scenario	No of children under 12	Maximum annual support under ESC	Maximum annual support under TFC
Single parent or working couple one basic rate taxpayer in receipt of ESC	1	£933	£2,000
	2	£933	£4,000
	3	£933	£6,000
Working couple, both basic rate taxpayers in receipt of ESC	1	£1,866	£2,000
	2	£1,866	£4,000
	3	£1,866	£6,000
Single parent or working couple with one higher rate taxpayer in receipt of ESC	1	£625	£2,000
	2	£625	£4,000
	3	£625	£6,000
Working couple, both higher rate taxpayers in receipt of ESC	1	£1,250	£2,000
	2	£1,250	£4,000
	3	£1,250	£6,000
Working couple, one basic rate taxpayer, one higher rate taxpayer in receipt of ESC	1	£1,558	£2,000
	2	£1,558	£4,000
	3	£1,558	£6,000

The briefing paper suggests that the Childcare Payments Bill could be used to introduce a right for all employees to request childcare vouchers from their employers (paragraph 11)

The Coalition Government considered mandating employers to offer ESC, but this option was rejected on the grounds that it would place an unacceptable burden on business, particularly small and medium sized businesses with low numbers of staff. It would also have done nothing to support the self-employed.

The briefing paper recommends that families be given the right to determine which scheme provides them with the greatest benefit (paragraph 12)

When the new Tax-Free Childcare scheme is introduced, current members of Employer Supported Childcare (ESC) 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. HMRC recognises the importance of providing information and support to help parents make an informed choice about which scheme to access. Alongside wider guidance and information, HMRC will provide support to parents making a decision on whether to leave ESC and start claiming Tax-Free Childcare instead.

The briefing paper recommends that families should be given the right to determine which scheme provides them with the greatest benefit. The Coalition Government wants to avoid creating a complex, and unfair, two tier system with those who would have qualified for ESC receiving a different level of support. However, to ensure that existing members of an ESC scheme do not lose out on support, those within ESC schemes will be able to continue receiving support through that scheme for as long as they remain eligible and their employer continues to offer the scheme. This should ensure no family ends up being worse off with the introduction of Tax-Free Childcare.

The briefing paper is opposed to Clauses 62 and 63 of the Childcare Payments Bill (paragraph 14)

Clauses 62 and 63 of the Childcare Payments Bill amend the Income Tax (Earnings and Pensions) Act 2003 to restrict the availability of the existing tax exemptions for childcare vouchers and directly contracted childcare to those who are in such schemes on the date on which Tax-Free Childcare comes into operation. This means that support under such schemes will be unavailable to those not already in a scheme on that day.

The current ESC scheme is effectively a tax based system. As such, it is not a devolved matter. Its phasing out as the new scheme is introduced is, therefore, not within the legislative competence of the Assembly. As a consequence, failure to secure a Legislative Consent Motion in relation to the Childcare Payments Bill would mean that parents here would lose access to support under ESC without anything to replace it, whilst those living in England, Scotland and Wales would have access to the new scheme.

Section 3 – The Legislation

Section 3 of the briefing paper contains a number of specific questions and concerns regarding provisions in the Childcare Payments Bill. These questions and concerns are shown in the shaded boxes.

Paragraph 16 - Qualifying childcare and work

Questions and Concerns

i. Under the current CCV Scheme, the relevant voucher company is responsible for checking that childcare providers are appropriately registered – who will be responsible for conducting these checks under this system? There is no reference within the legislation to any checking mechanism.

ii. The Explanatory Notes go further in detailing that the effect of 2(2)(b)(i) will be that only childcare provided for the hours worked by a parent (including an element for travel time) will be covered by the TFC Scheme – how will this be calculated in the case of agency workers, people on zero hours contracts or shift workers? Will they be required to submit evidence of actual hours worked? Or will HMRC utilise the Real Time Information they can access from employers to facilitate these calculations?

iii. Allowing the TFC Scheme to apply only to the actual hours worked by parents also demonstrates a fundamental failure to understand the operation of childcare providers in practice. Many parents have to pay for full time places even if they only use a portion of this service, and significant numbers pay ‘retainer fees’ to secure places over summer holidays. To suggest that these elements of parental childcare costs won’t be covered by this scheme fails to recognise the reality that costs are not always directly correlated with working hours.

Paragraph 16(i) – It will be the responsibility of the childcare account provider to check that the childcare provider is registered with the relevant registration body. Clause 16 of the Bill provides the rules about who may be an account provider for the purposes of the scheme.

Paragraph 16(ii) – Parents who are agency workers, shift workers or on zero contracts will be eligible for new tax-free childcare scheme in the same way as anyone else, providing they meet the eligibility criteria, including rules around qualifying employment

<u>Paragraph 16(iii)</u> – The Childcare Payments Bill provides that for childcare to qualify for the new scheme, the costs of that childcare must be incurred where the main reason, or one of the main reasons, for doing so is to enable the person to work and, if they have a partner, to enable both the person and their partner to work. The rules will not strictly tie the amount of childcare used to the number of hours worked by the parent. Parents will be free, for example, to use their childcare accounts to pay for childcare used while they are travelling to work, or to pay for childcare in blocks of time or sessions, as long as the reason for doing so is to put them in a position to work.

Paragraph 17 - Qualifying parents and partners

Questions and concerns

i. Further to the definition of "partner", how will this impact on parents who are separated in reality but not legally separated or divorced?

ii. Why should a parent be penalised by exclusion from the TFC Scheme if their partner is unfortunate enough to become unemployed during an eligible period? How will removing them from the scheme, which will undoubtedly result in the child being removed from their childcare place, support that parent to return to work? Has consideration been given to how difficult it is to secure appropriate childcare places in the first instance, and how unlikely it is that childcare providers could hold places open for children who are removed at any point during the year?

<u>Paragraph 17(i)</u> – Regulation 3 of the draft Childcare Payments (Eligibility) Regulations provides that two people are regarded as partners if they are both over 16 and are either married or in a civil partnership and sharing a household or living together as a married couple or as civil partners. Parents who are separated will not, by definition, be living together and therefore not treated as a couple.

<u>Paragraph 17(ii)</u> – Where parents circumstances change within the quarterly entitlement period so that they are eligible for and start claiming tax credits, the parent will continue to be entitled to receive tax-free childcare top-up payments until the end of their current entitlement period. Where parents lose eligibility for tax-free childcare they will be able to use saved up credit to pay for qualifying childcare as below:

- Where the child has reached the upper age limit, the childcare account will remain open for 12 months, after which parents' contributions will be returned to parents and Government top-ups to Government; and

- In all other situations, where a parent becomes ineligible, the childcare account will remain open for two years, after which parents' contributions will be returned to parents and Government top-ups to Government.

Paragraph 18 - Entitlement periods

Questions and Concerns	
i.	Why has this arbitrary entitlement period of 3 months been introduced – what is the rationale for it?
ii.	Why should parents have to continually make new claims when their circumstances are unlikely to change significantly – shouldn't the onus be on people to notify if there are any changes rather than continuously confirming that their circumstances remain the same?
iii.	What if the parents' childcare requirements increase during the eligibility period – will they be able to benefit from a revision of their claim to ensure they receive their full entitlement?

Paragraph 18(i) – People's circumstances can change and this is likely to mean that some parents will fall in and out of eligibility for tax-free childcare. As a consequence, entitlement to tax-free childcare will be based on quarterly periods. This means that parents will be able to receive top-up payments for 3 months at a time and will not need to report any change of circumstances in real time. The fact that entitlement will be guaranteed for 3 months will provide parents with added certainty that even when a change of circumstances occurs, they will still continue to be able to receive tax-free childcare for the remainder of the entitlement period.

In creating quarterly entitlement periods, the Coalition Government has tried to balance trying to avoid creating debt (by paying people money which they are not entitled to) while keeping the need to engage with HMRC to a minimum. The Coalition Government settled on 3 months as the most reasonable period to do this.

The quarterly reconfirmation process will mean that payments to ineligible parents will be significantly reduced, diminishing the need for parents to subsequently pay back money. It will also eliminate the need for parents to report changes in circumstances as a separate requirement. Instead this will be done as part of the reconfirmation process.

Paragraph 18(ii) – Tax-free childcare will require a parent to reconfirm their ongoing eligibility via quarterly declarations towards the end of each entitlement period. Quarterly reconfirmation will be done via a light touch process, with no need for parents to enter all of their personal details again. Instead they will make a declaration that they still meet all of the schemes eligibility conditions.

If the new tax-free childcare scheme required people to tell HMRC when their circumstances changed, it would be inevitable that some people would tend to forget to do so or to do so on time. As a result, Government would end up having to claw back money from parents because the money paid to them was not theirs. This is a big issue in relation to tax credits and HMRC wishes to ensure that this does not happen with the new tax-free childcare scheme.

Paragraph 18(iii) – This question misunderstands how childcare accounts will work. In the first instance, a parent does not "claim" support under the scheme. They simply pay money into their account which then attracts a top-up payment from Government. Eligible parents can pay as little or as much as they want (up to a maximum of £2,000 per quarter), depending on their childcare needs. As a consequence, there will be no need to revise anything during an entitlement period.

Paragraph 19 - Qualifying paid work

Questions and Concerns

i. Given that the eligibility period for TFC is only 3 months, self employed people will have to make these calculations throughout the year, which will not only be extremely time consuming and complex, but may also vary considerably whilst their childcare costs will remain static – would an annual projection of income not be sufficient?

ii. Given everything we know about the necessity of appropriate support for education and training to enhance an individual's employability, we recommend that the definition of "work" is expanded to include those in training or education who also require support with childcare costs.

iii. Whilst people who are on annual, sick or parenting leave from paid work will still be considered to be eligible for TFC, there appears to be a grey area in respect of those who are fit for work but returning on a phased basis – will they be entitled to claim their full entitlement to support with childcare costs during that period, or will their actual working hours be assessed?

Paragraph 19(i) – Calculating expected income should not be complex or time consuming. The definition of self-employed income is set out in Regulation 10 of the draft Childcare Payments (Eligibility) Regulations. For self-employed people, their expected income will be the receipts the person expects to derive from their trade, profession or vocation less the amount of expenses (other than capital expenses) that the person expects to incur for the same purposes. Regulation 11 of the draft Childcare Payments (Eligibility) Regulations provides that a newly self-employed person will not have to meet the minimum income requirement for their first four entitlement periods if their first entitlement period falls within the first 12 months of the start of their business. A self-employed person will be allowed one start-up period every five years.

Paragraph 19(ii) – Government already provides support to parents in recognised full-time higher education courses, through the childcare grant, which enables them to claim 85% of their childcare costs (up to a maximum limit) depending on household income.

Paragraph 19(iii) – As regards people returning to work on a phased basis, provided they meet the qualifying paid work test (Regulation 9 of the draft Childcare Payments (Eligibility) Regulations) they will qualify for support under the scheme. There will be no need to assess their working hours. Regulation 9(2) of Eligibility Regulations provides that a person who has accepted an offer of paid work on or before the date of declaration and is due to start work within seven days will be regarded as being in work. This will support parents in the transition to the workplace and allow parents to arrange and settle their child(ren) into childcare in advance.

Paragraph 20 - Universal credit

Questions and Concerns

i. Given the current uncertainty over the introduction of the Welfare Reform Bill at the Northern Ireland Assembly, how will this impact on parents in Northern Ireland?

Paragraph 20(i) - Clause 11 of the Childcare Payments Bill does not expect that Universal Credit will be in operation in Northern Ireland, either by the date when the new tax-free childcare scheme comes into force or at any other time. All it does is cater for the possibility that Northern Ireland might have Universal Credit in the future.

Paragraph 21 - Other childcare schemes

Questions and Concerns	
i.	Rather than requiring an active "opt-out", would a written declaration that parents are not in receipt of any other assistance with childcare costs (regardless of their eligibility for such support) not be sufficient?
ii.	Furthermore, why should parents be forced to opt-out of employer supported childcare schemes, which they will be unable to re-join at a later date, just to avail of the support offered through TFC?

Paragraph 21(i) – Requiring an employee to give their employer a "childcare account notice" will ensure that the employer is aware that the employee has made a claim for tax-free childcare and, if eligible, will formally leave its Employer Supported Childcare scheme. Such a notice will also help to reduce fraud and error.

Paragraph 21(ii) – At Budget 2013, it was announced that the tax exemption and national insurance contribution disregard for Employers Supported Childcare (ESC) would be gradually phased out from Autumn 2015. As a consequence, ESC will be closed to new entrants when the new tax-free childcare scheme is introduced.

Parents who are in an ESC scheme when the scheme is closed to new entrants will be able to continue benefitting from the tax exemption and national insurance contribution disregard for as long as they have eligible children and their employer continues to offer the scheme. Such parents will have the option of remaining in ESC or switching to the new scheme if it provides them with a higher level of Government support, but they cannot (except during a limited transition period when moving to the new scheme) simultaneously be in receipt of support through both schemes. Where a family receives support through ESC and wishes to move to the new scheme, they must leave the ESC scheme by the end of their first entitlement period in the new tax-free childcare scheme. This will allow a limited period (around 3 months) of dual provision to ensure there is a smooth transition to the new scheme. This will avoid requiring families to leave an ESC scheme before applying for support in the new scheme.

Paragraph 22 - Qualifying children

Questions and Concerns	
i.	Why have the Government sought to reduce the help available to working parents by placing a cap of 12 years on the provision of TFC, when the costs of breakfast clubs and afterschool care often continue right up until the end of compulsory education?
ii.	Would a more consistent position not be to align the ages at which children are considered to be eligible to have some of their childcare costs covered with the age at which they qualify for Child Benefit (i.e. up to their 16th birthday, or up to 19 if they have a disability)?

Paragraph 22(i) – Support under the new tax-free childcare scheme will be focused on those children under 12, where childcare costs are often the highest. How the age cut-off rules operate for those parents already in an Employers Supported Childcare scheme will be an important factor for parents who wish to understand when their child will benefit from tax-free childcare. Children with disabilities under the age of 17 will be eligible for tax-free childcare in line with existing rules under Employer Supported Childcare in recognition of the fact that childcare costs for this group can remain high throughout their teenage years.

Paragraph 22(ii) – Government is focusing its limited resources on those children with the highest childcare costs.

Paragraph 23 – Fees

Questions and Concerns	
i.	As a matter of principle, why should parents have to pay any fees to access this scheme? Our Childcare Vouchers Scheme is subsidised through the savings made by employers who pay lower National Insurance contributions in respect of employees on the scheme – and our profits are used entirely for social good to fund our charitable activities.

Paragraph 23(i) – While clause 15(8) of the Childcare Payments Bill enables an account provider to charge fees in connection with childcare accounts, this provision is subject to subsection (9) of that clause. Subsection (9) prevents an account provider from charging fees for providing and operating an account. In effect, there will be no administration fees.

Paragraph 24 - Payments into childcare accounts

Questions and Concerns	
i.	Why should parents be responsible for notifying HMRC every 3 months of the payments made into TFC accounts? Given that these accounts will only be operated by government-registered providers, could an automated process not be introduced to inform HMRC on a given date of the balance of the account, to enable them to calculate top-up premiums accordingly?

Paragraph 24(i) – Clause 19(9) of the Childcare Payments Bill requires the account provider (not the account holder) to notify HMRC of any qualifying payments made into a childcare account to enable HMRC to make associated top-up payments. Parents are not, therefore, responsible for notifying HMRC of qualifying payments made into a childcare account.

Paragraph 25 - Permitted payments

Questions and Concerns	
i.	The requirement to ensure that each child's care is calculated and administered separately simply adds to an already considerable administrative burden on parents who are seeking to avail of TFC. It again fails to recognise the reality that many childcare providers offer multi-child discounts which are unlikely to continue if they are required to invoice and process payment for each child's care separately, and will probably result in increased costs for both parties. Why should parents not be enabled to have their eligibility assessed and empowered to manage their finances in the most suitable way for them?

Paragraph 25(i) – There will be a simple process for parents making payments to qualifying childcare providers under tax-free childcare. Parents will log into their childcare account and set up either one-off or regular payments to the qualifying childcare provider(s) of their choice. Childcare providers will receive the funds with a unique identifier so that they can easily identify for which child the payment relates.

Paragraph 26 - Penalties

Questions and Concerns

i. Why should parents be penalised for making mistakes in complex applications that must be reviewed every 3 months?

ii. Will HMRC provide bonuses to those affected whenever they make mistakes in the processing of any application?

iii. What steps will be taken to ensure the application process is as straightforward as possible to reduce the potential for errors?

iv. Who will determine whether a mistake was "careless or deliberate"? What will the burden of proof be? What will the process for submitting evidence be?

v. Would it not be more appropriate to suspend top-up payments into an account until compliance with an information notice or rectification of a mistake, rather imposing such massive fines that must be payable within 30 days?

vi. The maximum period during which an inaccurate claim should be active would be 3 months – should the penalties not be limited to the equivalent top-up payment provided within the relevant period (e.g. for parents eligible for the maximum support of £2,000 per child per year, this would equate to £500 per child in any 3 month period)?

vii. Why should HMRC be able to take action against individuals for anything up to 20 years for mistakes made in their applications, when applicants have only 30 days to apply for a decision to be reviewed?

Paragraph 26(i) and (iii) – Whilst the new tax-free childcare scheme needs to be user-friendly it also needs to remain closed to wide-scale error and/or abuse. The registration process has been designed to keep parent burdens to a minimum, whilst ensuring proactive checks are made to prove parents eligibility to use the scheme.

Parents will provide the necessary evidence to verify their own identity and their overall eligibility to use the scheme before any childcare account is opened for them. Further checks will be undertaken to verify parent's quarterly declarations. The proactive nature of these upfront checks should ensure the tax-free childcare scheme does not experience high levels of fraud, error and/or debt. The sanctions being taken to penalise cases where individuals have committed fraud in tax-free childcare mirror those taken in relation to tax credits.

Paragraph 26(ii) – Clause 61 of the Childcare Payments Bill requires HMRC to make a compensatory payment to a person in certain circumstances. The purpose is to provide compensation for any top-up payments which a person has, through no fault of their, not received.

Paragraph 26(iv) – Government will not look to penalise honest mistakes. It will be the responsibility of HMRC to determine whether there has been carelessness and/or deliberate dishonesty. An inaccuracy will be careless if the person making the declaration of eligibility failed to take reasonable care.

Paragraph 26(v) and (vii) – HMRC will have the power to charge additional penalties on top of overpaid amounts. This is intended to encourage compliance and reassure those who do comply that they are not being disadvantaged.

Paragraph 26 (vi) and (vii) – HMRC have replicated the rules and time limits which already exist elsewhere in the tax and tax credits systems. There is no justification for any other inconsistent approach.

Paragraph 27 - Disqualification orders

Questions and Concerns

i. Why should HMRC be allowed to close any account to which someone issued with a disqualification order has made payments, which will constitute a real disadvantage to the other parent(s) whose eligibility for such support remains unchanged? Should the disqualified person's contribution not be disregarded, and the other parent(s) eligibility be considered completely separately?

Paragraph 27(i) – A disqualification order will only be made in the most serious of cases where prolific and persistent false claims are made under the scheme. A disqualification order is a proportionate, but suitably powerful sanction to tackle cases of parental non-compliance in claiming Government top-up payments. To allow the other parents eligibility to be considered separately would negate the impact of this sanction.

Paragraph 28 - Interest charges

Questions and Concerns	
i.	What consideration will be given to a person's means to repay such amounts or penalties before imposing additional charges?
ii.	What steps will HMRC take to ensure that people are supported to facilitate repayments over a suitable period – i.e. not 30 days as currently proposed?
iii.	Will interest be payable to claimants whose payments are delayed for reasons which lie within HMRC's competence?

Paragraph 28 (i) and (ii) – as the Tax-Free Childcare Scheme will be administered by HMRC, any amounts due to HMRC will be collected in line with its existing debt management and recovery arrangements. See link to guidance below:
http://www.hmrc.gov.uk/payinghmrc/problems/cantpay.htm

Paragraph 28(iii) – Clause 61 of the Childcare Payments Bill requires HMRC to make a compensatory payment to a person in certain circumstances. The purpose is to provide compensation for any top-up payments which a person has, through no fault of their, not received.

Office of the First Minister and Deputy First Minister
www.ofmdfmni.gov.uk

Kathy O'Hanlon
Clerk
Committee for OFMDFM
Room 285
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

08 September 2014

Dear Kathy

LEGISLATIVE CONSENT MEMORANDUM – CHILDCARE PAYMENTS BILL

Thank you for your letter of 3 July regarding the oral briefing by Departmental officials on the Legislative Consent Memorandum in relation to the Westminster Childcare Payments Bill.

During the oral briefing, officials agreed to provide the Committee with the following information:

- a copy of the Department's response to the 2013 HM Treasury/HM Revenue and Customs (HMRC) consultation on tax-free childcare;
- a list of the local stakeholders who were consulted on the 2013 HM Treasury/HMRC consultation; and
- the number of responses received by the Department, including copies of those responses.

A copy of the comments sent to HMRC in October 2013 is attached at Tab A. A list of local stakeholders who were contacted about the HM Treasury/HMRC consultation is attached at Tab B. Also included at Tab B is a list of all respondents to the HM Treasury/HMRC consultation. As regards the number of local stakeholder responses received, only two organisations copied OFMDFM into their response to HMRC. These responses can be found at Tab C.

The Committee also asked the Department:

- for an assessment of the impact the Childcare Payments Bill may have on parents who work zero-hours contracts; and
- to comment on Clause 30 of the Bill (which refers to Universal Credit and appears to expect that the Universal Credit system will be in operation here by the time the Bill is implemented).

Regarding zero hours contracts, the contractual position of parents will not determine whether they are eligible for the new tax-free childcare scheme. Parents on zero-hours contracts will be eligible for the new scheme in the same way as anyone else, provided that they meet eligibility criteria, including the rules around qualifying employment. Parents have to earn a little over £50 a week, on average, across a quarter to meet the minimum income level. This income level supports parents who are gradually moving into the workplace and those whose incomes fluctuate across this period. This should also cater for those on zero-hours contracts.

As regards Clause 30 of the Bill, the clause does not expect that Universal Credit will be in operation in Northern Ireland either by the date the new scheme comes into force or at any other time. All it does is cater for the possibility that Northern Ireland might have Universal Credit in the future.

The Committee forwarded a copy of the Employers for Childcare briefing paper on the Childcare Payments Bill to the Department for comment on the issues raised in the document. A response to the briefing paper was sent to the Committee on 4 August.

Finally, the Committee has written to express disappointment that it was not afforded the courtesy of notification of the 2013 HM Treasury/HMRC consultation on tax-free childcare and of the Department's response to that consultation. The Department regrets that the Committee was not notified about the existence of HM Treasury/HMRC consultation and the Department's response to that consultation. At that time, it was thought that the proposed new tax-free childcare scheme, like the current Employer Supported Childcare scheme, was an excepted matter. When it became clear that the proposed scheme was neither a tax nor duty (and therefore a transferred matter) the Committee was engaged after OFMDFM Ministers agreed to support the Coalition Government's policy and to promote a Legislative Consent Motion to extend the provisions of the Westminster Bill to here.

Yours sincerely

Signed Colette Kerr

Colette Kerr
Departmental Assembly Liaison Officer

TAB A

HM TREASURY/HMRC CONSULTATION ON TAX FREE CHILDCARE (August to October 2013)

Comments from NI Government Departments sent to HMRC 25 October 2013

Department	**Response**
Department of Enterprise Trade and Investment (DETI)	DETI welcomes these proposals which are aimed at helping parents fulfil their career ambitions, and to mitigate against the scenario where they are prevented from working, by the high cost of childcare. DETI recognises that, as an employer, it will in future have staff who will wish to avail of the arrangements being proposed.
Department of Finance and Personnel (DFP)	The proposals appear to improve the options for support for childcare. In the current financial climate, any proposal to assist employees is to be welcomed and would be fully supported from a human resource perspective. DFP notes that the proposal would necessitate changes at the Corporate HR level. These would take time to implement and carry costs. It will not be possible to estimate the implementation timescale or cost until further details of any new arrangements are available.
Department of Health, Social Services and Public Safety (DHSSPS)	Parents of children with disability • Parents of children with disability often experience additional childcare costs compared with non disabled children's parents. Increased costs can relate to additional or specialist care requirements or a reduction in their child places to accommodate disabled children's needs. This may disincentivise providers to take on children with disabilities. • Registration of childcare providers in NI is to age 12, the outworking of the requirement for registration of providers with children with disabilities up to age 17 will need to be considered in NI. Online registration • The accessibility of online systems would need consideration both from parental assistance in completion and employer access to networks. Rural areas in NI have more limited access to broadband and mobile broadband.

	Registration of Childcare Providers Uptake • The proposals would be an effective method for encouraging the uptake of registration by non registered childcare providers.
Department for Social Development (DSD)	Tackling poverty and disadvantage is a Programme for Government priority and is the focus of much of DSD's work. Paid work is recognised as one of the key routes out of poverty and, as such, many DSD interventions are targeted at eradicating or reducing the obstacles that individuals and families face in obtaining and sustaining employment. One of biggest challenges facing parents in this respect is meeting the costs of childcare. The new Tax – Free Childcare scheme will help more families than the current Employer Supported Childcare Scheme. The widening of the scheme to cover all employees (including the self employed) has obvious potential in terms of encouraging more people into work and helping those who do currently receive support with childcare costs to stay and progress in the labour market. To this end, DSD broadly welcomes the proposals as outlined in the consultation document. More detailed comments on the specifics of the design and operation of the new scheme are attached at **ANNEX 1**.
Issue raised in recent Ministerial correspondence	Recent correspondence to the Office of the First and the deputy First Minister (OFMDFM) noted that the proposals offer tax free childcare benefit to children born in or after September 2010. This may create an inequality for some NI children. The correspondent suggested that this date had been set to reflect the school system in England, ensuring that families with children starting primary school education in September 2015 would receive this benefit. The correspondent went on to say that, unlike in England, the age at which children here start primary school is the age at 1st July, not 1st September. As a result this scheme may create an inequality for an NI parent whose child has a July or August birthday—they will not benefit. A potential anomaly may therefore arise whereby some children in a class are eligible and some not. The correspondent recommended some flexibility regarding the date of birth criterion to ensure that all children within a primary school's intake are equally eligible.

ANNEX 1

DETAILED COMMENTS FROM DEPARTMENT FOR SOCIAL DEVELOPMENT (DSD)

General Comments

DSD officials have some general queries in relation to the content of the consultation paper (detailed below):

- Para 2.17, 3.21 & 3.26 include the term 'meaningful employment' – we feel this is an inappropriate overly judgmental term.
- Para 3.33 What is the definition of disabled child for Tax Free Childcare?
- Para 4.11 What disability benefits does the parent need to declare and why?
- Para 4.14 What impact does parents receiving Personal Independence Payment have on their entitlement to help through the scheme? Does this apply also to Disability Living Allowance?

Responses to the Consultation Questionnaire

DSD officials have also answered those questions pertinent to the Department's remit:

Chapter 3 – Tax-Free Childcare: eligibility

Q8: What are the potential benefits and risks of a minimum income rule or hours rule in defining qualifying employment?

Q8: The introduction of a minimum income rule or hours rule may discourage people from taking up part time jobs/seasonal work or encourage them to stay on Universal Credit where they can get help with childcare regardless of the hours they work. The use of the term 'meaningful work' is also worrying. Is it not the case that any paid work has the potential to be meaningful, particularly in terms of encouraging self sufficiency through reducing benefit dependency? Indeed, does this thinking not underpin many of the welfare reform measures?

Chapter 4 – Tax-Free Childcare: information and validation

Q13: Considering the objectives set out in paragraph 4.3, what information should parents provide when registering for Tax-Free Childcare? Would parents be content to pass personal information to a voucher provider, the Government, or other third-parties on registering for the scheme?

Q13: If personal information was provided to the voucher providers, Government would need to ensure that this is held securely.

Q15: Considering the objectives set out in paragraph 4.3, how quickly should the Government confirm eligibility based on the registration details provided to it? What should happen in cases where a parent is deemed to be ineligible for Tax-Free Childcare? How should the parent be informed?

Q15: The Government would need to in a position to confirm eligibility very quickly possibly within a week or ten days to encourage people to take up work and secure a place with the child care provider. If the parent is not entitled, should they be signposted to other help available? The parent could be advised be email if they have an email address.

Q17: How quickly should parents be required to inform changes of circumstances that affect their eligibility, and how can they be reminded to do this? What does this mean for voucher providers' systems?

Q17: Parents should be required to report changes of circumstances within a month but would parents want to report personal information to a voucher provider? Would the voucher providers systems be able to capture change of circumstances and how would these be notified to Government?

Chapter 5 – Tax –Free Childcare: the market for vouchers
Q30 What should be the balance between protecting parents money and allowing providers to generate revenues from the funds that they hold?

We need to avoid government investment. Providers must maintain and support separate/dedicated accounts to provide parents with vouchers while investing to cover operating cost and deliver a return. Providers could be appointed by government for a definite period subject to satisfactory operation (but not accredited). In doing so we would create and open market structure but still have appropriate controls in place. This would also create opportunities for social enterprises to enter the market and build alliances with child care providers.

Chapter 6 – Childcare Support through Universal Credit

Q31: How will the proposed change to Universal Credit affect people who have earnings that change from month to month?

Q31:Those with fluctuating earnings or who are self employed may face some uncertainty with this system as they could be entitled to 85 per cent of childcare one month and 70 per cent the following month, or possibly not entitled at all in some months.

Q32: The proposal is to use gross taxable earnings as a proxy for people whose earnings are above the tax threshold. What other proxies could the Government use?

Q32: The Government could consider using net earnings as a better indicator of the actual take home pay. Net earnings are being considered by various Government departments as the indicator they will use to determine eligibility to passported benefits

Q33: The Government wishes to ensure help is targeted at those who need it most within the fiscal constraints it faces. Should people who are getting Statutory Sick Pay, Statutory Maternity Pay, Ordinary Statutory Paternity Pay, Additional Statutory Paternity Pay, Statutory Adoption Pay and Maternity Allowance be entitled to the 85 per cent support or not?

Q33: Childcare under Universal Credit continues to be paid if the claimant is in receipt of any of the above. If a lone parent or a couple normally earn enough to qualify for the 85 per cent support, Government may wish to consider continuing to provide this help for a short period of time for those in receipt of Statutory Sick Pay, Statutory Maternity Pay etc to ease the transition from a higher income as the parents will probably already be experiencing a drop in their income .However, the payment of the 85 per cent should only be for a limited period or tapered over a period of time.

Q34: What information will people need to understand the impact of the measure on their own circumstances?

Q34: Claimants would need to have clear information on how the monthly Income Tax Personal Allowance is calculated. It would also be helpful to have a tool to compare the support they would receive under UC to enable parents to decide which system provides the best support for their particular circumstance

Chapter 6 – Childcare Support through Universal Credit

Q35: Is offering a choice between Universal Credit and Tax-Free Childcare the best approach without driving up costs to the Government or increasing complexity for claimants? Should there be a limit on the number of times that a parent can switch?

Q35: The aim of Universal Credit was to create one single income-replacement benefit for working age adults which unifies the current system of means-tested out of work and in-work benefits. There needs to be a simple method for claimants to work out if they are better off claiming Universal Credit or Tax Free Childcare so as to avoid confusion. The claimant will need to be clear about the overall picture since if they are on Universal Credit they may receive additional support if they qualify for passported benefits e.g. free prescriptions, uniform grant etc.

As childcare is a key enabler for parents to move into, or remain in, employment ir is important that the scheme are easily understood and that parents can access any support they are entitled to. Limiting the number of times that parents can switch may disincentivise some to increase their hours/move jobs, however, this factor should be considered in conjunction with the administrative costs to Government associated with parents transferring between the schemes. Government may wish to consider a disproportionate costs approach e.g. it should not cost more to transfer a claim between systems than the increase in payment a parent would receive.

Q36: How can the Government best design the process to ensure that the journey off Universal Credit is as smooth as possible?

Q36: The process for moving claimants from Universal Credit would need to ensure there is no gap in the payment of childcare for the claimant.

Q37: What information and tools do families in this position need to inform their decision and how can this best be provided?

Q37: Claimants need to know what they will be entitled to under each scheme and be able to make comparisons. This could be in the form of an online calculator and also contain information on the criteria for, and support provided by, passported benefits.

Chapter 6 – Childcare Support through Universal Credit

Q38: A person who moves from one scheme to another will have practical concerns, for example how the balance on their childcare voucher account might affect their Universal Credit award. What factors are parents likely to take into account when deciding which scheme works best for them, and under what circumstances?

Q38: The point at which claimants lose entitlement to Universal Credit may create a cliff edge as claimants may be reluctant to lose the 70 or 85 per cent help they receive towards childcare under Universal Credit.
Also, under Universal Credit, childcare is available to claimants for children up to age 16 years this may create a disincentive for claimants to take more work or higher paid work since the new scheme will only apply to children under five years in the first year and gradually build up to children less than 12 years. Claimants may be inclined to stay on Universal Credit and not increase their earnings if they can get more help with childcare under that scheme.
Claimants would need to be aware that if they give up their entitlement to Universal Credit then their Universal Credit will stop from the beginning of the assessment period they report it in, not the actual date that they notify Universal Credit. As this would result in a backdated claim termination date, this may mean they would lose out on childcare costs already paid out.

Additionally, as Universal Credit is assessed monthly, changes of circumstances affect the whole month payment so some claimants may not be entitled for the full month. Therefore claimants would need to be signposted to the new scheme to determine if they are eligible for it so they don't lose out on any assistance they may be entitled to.

LIST OF STAKEHOLDERS CONTACTED BY OFMDFM
(All those who responded to the '*Towards a Childcare Strategy'* consultation)

Organisations

1	Northern Ireland Commissioner for Children and Young People
2	Employers for Childcare
3	Women's Resource & Development Agency
4	PlayBoard NI
5	Early Years
6	Equality Commission Northern Ireland
7	Northern Ireland Childminding Association
8	Area Childcare Partnerships
9	Barnardo's Northern Ireland
10	Northern Ireland Council for Voluntary Action
11	Children in Northern Ireland
12	Save the Children
13	South East Belfast Sure Start
14	Mencap
15	Disability Action
16	The Playwork Education & Training Council for Northern Ireland
17	Skills Active
18	Volunteer Now
19	Women's Support Network
20	Parenting NI
21	The Institute of Public Health in Ireland
22	South Belfast Partnership Board
23	Training for Women's Network
24	Northern Ireland Local Government Association
24	The National Children's Bureau NI
25	Footprints Women's Centre
26	Youth Action Northern Ireland
27	North-West Community Network
28	Play Services Ireland
29	The Alliance Party
30	Rural Community Network
31	Rural Network for Northern Ireland
32	UNISON
33	NI Committee, Irish Congress of Trade Unions (NICICTU)
34	Law Centre NI
35	Simon Community
36	NI Council for Ethnic Minorities

Day Care Groups

1. Toddle in Day Nursery (Enniskillen)
2. Roger D’Arcy Joint Managing Director - Rascals Day Nurseries
3. Betty Boyle, Development & Education Manager, Foyle Daycare Limited
4. Christine Beckett, Happy Days Nursery
5. Audrey McCracken, Nurseries Director, Clear Day Nurseries
6. Tom Hunter, Joint Propietor, Robins Nest Day Nursery
7. John Lindsay, Director, Jollytots (NI) Ltd
8. Alan Elliott, Partner, Fundays Childcare (Antrim)
9. Laura Fegan, Nursery Manager, Home from Home Daycare
10. Rosemary King, Merdyn Day Nursery
11. Howard Davey, General Secretary, Belfast YMCA
12. Clan Mor Sure Start

7 Individuals

LIST OF ALL RESPONDENTS TO HM TREASURY/HMRC CONSULTATION

1.4 in 10
2.4Children
3.Abacus Voucher Solutions
4.Active Kids Day Nursery
5.Advice NI
6.Airdale NHS
7.Allsave
8.Association of Accounting Technicians
9.Barnardos
10. Blackpool Council
11. Blois Meadow Day Nurseries Ltd
12. Bradford Metropolitan District Council
13. British Airways
14. Busy Bees
15. Cambridgeshire Council
16. Camden Council
17.CARE
18. Carillion PLC
19. Chartered Institute of Payroll Professionals
20. Chartered Institute of Personal Development
21. Chartered Institute of Taxation
22. Chartered Institute Payroll Professionals
23. Child Poverty Action Group
24. Childcare Voucher Providers Association
25. Children in Scotland
26. Children's Society
27. Chwarae Teg
28. Citizens Advice
29. Citizens Advice (Northern Ireland)
30. Clybiau Plant Cymru kids Club
31. Confederation of British Industry
32. Co-operative Flexible Benefits
33. Cornwall Council
34. Crown Prosecution Service
35. Early Years – the organisation for young children
36. Employers for Childcare Charitable Group
37. Endenred UK Group Limited
38.E-ON UK
39. Family and Childcare Trust
40. Family Education Co Antrim
41. Family Education Trust
42. Federation of Small Business
43. Fideliti Ltd
44. Fun Lodge limited
45. Gingerbread
46. Glasgow City Council
47. Hampshire County Council
48. Information Commissioner's Office
49. Islington Council, Early Years and Childcare Children's Services
50. Joseph Rowntree Foundation
51. Linking Up Childcare Provider
52. London Borough of Hammersmith and Fulham, the Royal Borough of Kensington and Chelsea and Westminster City Council
53. Low Income Tax Reform Group
54. Mid Lothian Council
55. Mid Yorkshire Chamber of Commerce
56. Mid Yorkshire Hospitals NHS Trust
57. Mothers at Home Matter
58. Motivcom PLC
59. Multi Resource Marketing Ltd
60. National Day Nurseries Association
61.NHS Employers
62. Northern Ireland Government Departments
63. Out of School Alliance
64.P&MM
65. Playboard Northern Ireland
66. Policy Exchange
67. PriceWaterhouseCoopers LLP
68. Professional Association for Childcare and Early Years
69. Recruitment and Employment Federation UK
70. Resolution Foundation
71. Save the Children
72. Scottish Childminding Association
73. Scottish Out of School Care Network
74. Sodexo Motivation Solutions Ltd
75. Super Camps Ltd
76. The Association for Professional Nannies in the UK
77. The Mid Yorkshire Hospital's NHS Trust
78. The Open University
79. Trade Union Congress
80.TURN 2 US
81. Twins and Multiple Births Association
82.UK Women's Budget Group
83. Unison – The Public Service Trade Union
84. Wider Plan Limited
85. Working Families

TAB C

LOCAL CONSULTATION RESPONSES RECEIVED BY OFMDFM

The Department received 2 responses from stakeholders in relation to the tax-free childcare consultation.

Response 1

From: toddlein2 [mailto:toddlein2@btconnect.com]
To: Childcare Consultation
Subject: HM Treasury and HM Revenue and Customs
Importance: High

To whom it may concern,

I have forward my response to the above consultation under the following link.
https://www.gov.uk/government/consultations/tax-free-childcare

Just to briefly mention some of the points which I had highlighted throughout this response please see summary below:

We have been operating our Day Nursery for almost nine years and during that period of time there has been many changes to the tax credit system. Initially the tax credit payment was paid directly to the child-care provider this process ceased as soon as we began to trade therefore we have little or no experience of how this process operated. When this process changed parents were receiving payments directly from the government through child tax credits as oppose to directly to the child-care provider. This had led to the lack of control of payment for the childcare provider. The parent was responsible for making the payment directly to the childcare provider which has both positive and negative implications. Unfortunately in some circumstances parents would leave with an outstanding balance which could not be recovered via this new system.

In 2005 there was the introduction of the voucher scheme. This initially was set up by Employers for Childcare. It was never promoted as a service for all parents only just to those whom knew about the facility. Parents whom were entitled to tax credits were uncertain about their eligibility for childcare vouchers as were we. There would have been slight confusion as to whom was eligible or not and still to date some parents are unaware of such schemes. Generally those parents whom do not work for a corporate organisation were not eligible. There was little or no communication/training about the voucher scheme at that particular time.

Personally I would feel that by introducing a single voucher provider would enable the process to be more consistent and cause less confusion as sometimes when there are too many options it can cause unnecessary frustration to parents. By providing training and information to all registered childcare providers to ensure that there is a clear and consistent message about this new voucher service. This should be highlighted before the introduction of the new Tax-Free Childcare. Ideally the government should propose to establish various focus groups in certain geographical area's in order to enable providers to meet to discuss and understand these new proposals.

An effective advertising campaign regarding the new Tax-Free Childcare is crucial. A similar example of a successful advertising campaign would be that of the 'Education Works Better When You Get Involved' an advertising campaign, aimed at raising awareness of the value of a good education and highlighting education works better when you get involved launched by Education

Minister John O'Dowd. Keeping the message simple and informative in order for parents to understand the message. It is essential that a similar run campaign to the above is in place for the Tax-Free Childcare implementation to ensure that everyone understands the benefits of the new system and how it will work.

Kind Regards
Rosie Keaney
Manager
Toddle In 2 Ltd
Tel: 02866 320950
Mob: 07734265353
Toddlein2@btconnect.com

Toddle In 2 Ltd
124 Irvinestown Road, Enniskillen
Co. Fermanagh, BT74 6DN.

Response 2

Melanie,
Thank you for your email. I have responded to the consultation through the Survey Monkey facility but it does not allow for copying to yourselves. I have made a number of comments that may be of interest including:

1. Currently voucher companies are operating very well without any form of government regulation. This should continue.
2. Tax Free childcare should be at least 30% rebate as NIC is a tax.
3. Currently the 15 hours of nursery care per child does not reduce childcare costs for many working families as they still have to pay full time daycare fees for the child to be delivered to & collected from the nursery school. These 15 hours would be better in the form of a voucher that could be used in a nursery school or a daycare.

Regards
Howard

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Company Number NI 04741
Charity Number XN 45743

Northern Ireland Assembly

Committee for the Office of the First Minister and deputy First Minister

Colette Kerr
Departmental Assembly Liaison Officer
Office of the First Minister and deputy First Minister
Room G50
Stormont Castle
Belfast

3 July 2014

Dear Colette,

Legislative Consent Memorandum – Childcare Payments Bill

At its meeting of 2 July 2014, the Committee received an oral briefing from Departmental officials in relation to a Legislative Consent Memorandum for the Childcare Payments Bill. During the briefing officials agreed to provide further information on a number of issues including:

- The Department's response to the 2013 Treasury consultation on Tax-free Childcare
- A list of the stakeholders who were consulted on the 2013 Treasury consultation on Tax-free Childcare;
- The number of responses received by the Department, including copies of those responses;
- An assessment of the impact the proposed legislation may have on parents who are on zero hours contracts;
- Provide comment on Clause 30 of the Bill which refers to Universal Credit and, as drafted, appears to expect that the Universal Credit system will be in operation in NI by the time these proposals are implemented.

The Committee also agreed to forward a copy of the Employers for Childcare paper on the Childcare Payments Bill to the Department for comment on the issues raised.

The Committee noted that although the Department responded to the 2013 Treasury consultation on Tax-free Childcare and a number of stakeholders were notified of the consultation at that time, the Committee has only now received notification of the proposed legislation.

The Committee agreed to write to the Department to indicate its disappointment that it was not afforded the courtesy of notification of the consultation and the Department's response in line with the agreed protocols.

A response by 19 July 2014 would be appreciated. Should a response within this timeframe not be possible the Committee wishes to be advised of the reason why a longer period is required and the expected date of response.

Yours sincerely

Karen Jardine
Senior Assistant Clerk to the Committee

Office of the
First Minister and
Deputy First Minister
www.ofmdfmni.gov.uk

Kathy O'Hanlon
Clerk
Committee for OFMDFM
Room 285
Parliament Buildings
Ballymiscaw
Stormont
BELFAST
BT4 3XX

16 September 2014

Dear Kathy

TECHNICAL CONSULTATION ON DRAFT SECONDARY LEGISLATION FOR THE CHILDCARE PAYMENTS BILL

The Committee is currently considering a Legislative Consent Memorandum in relation to the proposed extension of the Westminster Childcare Payments Bill to Northern Ireland. The Bill provides the statutory basis for the introduction of the Coalition Government's new Tax-Free Childcare scheme which will provide financial support to help working families with the cost of childcare.

The Childcare Payments Bill provides the overall structure for the new Tax-Free Childcare scheme and for the way in which it will operate. The Bill also contains a number of delegated powers to be exercised by regulations (made by statutory instrument) which will provide for flexibility to amend the detailed rules of the scheme. HM Revenue and Customs (HMRC) recently launched an external technical consultation on two sets of draft regulations which will be made under enabling powers contained in the Bill.

The HMRC consultation invites interested parties to comment on both sets of regulations. The closing date for the HMRC consultation is 3 October 2014. The draft regulations are available from the HMRC website at https://www.hmrc.gov.uk/drafts/ along with details of how interested parties can respond to the consultation.

Yours sincerely

Signed Colette Kerr

Colette Kerr
Departmental Assembly Liaison Officer

https://www.gov.uk/government/publications/draft-legislation-tax-free-childcare-childcare-payments-eligibility-regulations-and-draft-childcare-payments-regulations-2015

Northern Ireland Assembly

Committee for Employment and Learning
Room 416
Parliament Buildings

Tel: +44 (0)28 9052 1448
cathie.white@niassembly.gov.uk

To: **Kathy O'Hanlon**

Clerk to the Committee for the Office of First Minister and deputy First Minister

From: **Cathie White**

Clerk to the Employment and Learning Committee

Date: **10 September 2014**

Subject: **Westminster Childcare Payments Bill**

Kathy,

At its meeting today the Committee for Employment and Learning considered the attached correspondence from the Department for Employment and Learning providing comments on the Employers for Childcare policy paper regarding the impact in Northern Ireland of the Westminster Childcare Payments Bill.

I should be grateful if you would bring this to the attention of your Committee.

Regards,

C White

Cathie White
Committee Clerk

Enc.

Department for
Employment
and Learning
www.delni.gov.uk

Adelaide House
39/49 Adelaide Street
Belfast
BT2 8FD
Tel: 028 9025 7791
Fax: 028 9025 7919
email: private.office@delni.gov.uk

Mrs Cathie White
Assembly Clerk
Committee for Employment and Learning
Room 373, Parliament Buildings
Ballymiscaw
Stormont, Belfast
BT4 3XX

Our Ref: COR-307-14

28 July 2014

Dear Cathie,

Thank you for your email of 4 July 2014 concerning the Employers for Childcare policy paper regarding the impact in Northern Ireland of the Westminster Childcare Payments Bill 2014.

The Office of the First Minister and Deputy First Minister are responsible for taking forward the Executive's response to the Bill and has obtained Executive support for the Bill to extend to Northern Ireland, subject to the Assembly's agreement, as certain provisions deal with a transferred matter.

The Bill should create an improved level of available support, which will be welcome as childcare is a significant barrier to many people's participation in the labour market, as well as their ability to undertake training and education opportunities. In addition it is worth noting that the proposed approach would complement the Department's existing provision, which offers financial assistance towards the cost of childcare incurred by certain eligible participants while on its programmes. In this regard, as my Department already provides financial assistance towards childcare, I have asked that my officials are kept updated on developments, so that we can give fuller consideration to its potential impact on our support arrangements.

The work undertaken to date jointly by DEL and DETI on the Strategic Framework to address Economic Inactivity in Northern Ireland: "*Enabling Success*" recognises that available, affordable childcare is a significant structural barrier to work that must be addressed if other measures proposed in the Framework are to have a positive impact on inactivity. Any scheme that makes childcare more affordable is welcome in that context.

Yours sincerely,

F Stanley

FIONA STANLEY
Departmental Assembly Liaison Officer

STRONGER TOGETHER
CONGRESS
Irish Congress of Trade Unions
Northern Ireland Committee

12 September 2014.

Mr Mike Nesbitt
Chairperson
OFM DFM Committee

Dear Mr Nesbitt

I am writing to you on behalf of the Irish Congress of Trade Unions in connection with the Draft Childcare Payments Bill which I understand will shortly be considered by the Northern Ireland Executive.

ICTU is extremely concerned to learn that the Draft Childcare Payments Bill proposes radical changes to how parents are currently supported to meet childcare costs.

We believe that proposals to change the current Childcare Voucher Scheme and replace it with a complex, new tax relief scheme do not meet the needs of working parents and have the potential to cause further hardship to already hard-pressed families.

We are further concerned to learn that the tax free incentives proposed within the Bill will only apply to children up to the age of twelve rather than children up to the age of 16 as is currently the case with the Childcare Voucher Scheme.

Parents, employers and the local economy will lose out if the existing Childcare Voucher scheme is abolished as planned. We believe that the proposals will have a detrimental impact on gender equality in the workplace and have the potential to increase child poverty and in work poverty.

Rather than simply adopting a Bill which we believe has not been properly considered, ICTU would urge the Northern Ireland Assembly to use it's devolved powers to devise a local solution to this issue. A local solution would ensure that working families do not lose critical support with their childcare costs and would also protect local employers from the additional costs that may arise from the loss of childcare vouchers.

Yours sincerely

Clare Moore
Irish Congress of Trade Unions.

Carlin House
4-6 Donegall Street Place
Belfast BT1 2FN
T +44 (0)28 9024 7940
F +44 (0)28 9024 6898
info@ictuni.org

www.ictuni.org

Northern Ireland Policy Unit

Cathedral Chambers
143 Royal Avenue
Belfast
BT1 1FH

Telephone: 028 9032 6035

www.fsb.org.uk

29 September 2014

Mike Nesbitt MLA

Chair, Committee for the Office of the First Minister and deputy First Minister

via email: mike.nesbitt@mla.niassembly.gov.uk; committee.ofmdfm@niassembly.gov.uk

Copied to all Committee Members

Dear Mike

Childcare Payments Bill: Legislative Consent Motion

We are writing with reference to the Committee's forthcoming further consideration of the Legislative Consent Motion to extend the Childcare Payments Bill to Northern Ireland. Whilst we are in favour of any additional support that could be provided to working parents with the cost of their childcare, we are extremely concerned that the Bill will have a negative impact on the local labour market.

The closure of the Childcare Voucher Scheme to new entrants, with effect from Autumn 2015, will not only reduce the amount of support available to many working parents, but will also increase the paybills of those family friendly employers who have supported their staff over many years by providing this Scheme. At a time of economic uncertainty, this added cost will be another pressure on small businesses across Northern Ireland. Reducing the amount of support available for working parents could also force many to re-evaluate the economics of actually remaining in employment, which will again have a disproportionate impact on small businesses who don't have sufficient capability to withstand such fluctuations.

We are, therefore, calling on the Assembly to consider introducing additional support for those business and their employees who will be worse off as a result of the extension of the Childcare Payments Bill to Northern Ireland. We know that Northern Ireland currently benefits to the tune of £13 million in savings each year through the Childcare Voucher Scheme, and would be extremely concerned if these savings were to be lost without any form of intervention locally.

If you wish to discuss this matter further, please do not hesitate to contact John Fullerton in our Press and Parliamentary Office at john.fullerton@fsb.org.uk or at the telephone number above.

Yours faithfully

Wilfred Mitchell OBE
Northern Ireland Policy Chairman

From: David Fry [mailto:David.Fry@cbi.org.uk]
Sent: 30 September 2014 10:23
To: Nesbitt, Mike
Cc: +Comm OFMDFM Public Email
Subject: Childcare Payments Bill: Legislative Consent Motion

Dear Mike

I trust you are well.

I am emailing you with reference to the OFMdFM Committee's forthcoming further consideration of the Legislative Consent Motion to extend the Childcare Payments Bill to Northern Ireland – and in your role as Chair of said committee. We know that this Bill will close the Childcare Voucher Scheme to new entrants with effect from Autumn 2015. Given the priority we have placed on delivering greater gender diversity within businesses across Northern Ireland, and the strong focus we put on this at our Annual Lunch last Thursday at which over 400 business leaders were in attendance, we are concerned that any reduction in the amount of financial support available to help working parents with their childcare costs will run counter to our goals.

We know that the lack of flexible, affordable childcare is the biggest obstacle to achieving better representation across the workforce, as it remains a fact that the majority of domestic caring responsibilities are held by women.

We are concerned that the closure of the Childcare Voucher Scheme will affect a range of employers, whose paybills will increase as a result, and their employees, many of whom will have to make difficult decisions about remaining in the workforce. The Northern Ireland economy currently enjoys £13 million of savings each year through the Childcare Voucher Scheme, and we would be extremely disappointed if these savings were to be lost.

As our Chair Colin Walsh said in his remarks at our Annual Lunch last week, "Delivering flexible, high quality, affordable childcare needs to be the next challenge that government takes on and finds workable solutions to". In this vein we are, therefore, calling on the Assembly to protect working parents by introducing additional support for business and employees who will be affected as a result of the extension of the Childcare Payments Bill to Northern Ireland.

Best wishes
David

David Fry
Senior policy adviser - Northern Ireland
CBI

D: +44 (0)289 010 1102
CBI | Northern Ireland | 2nd Floor Hamilton House | 3 Joy Street |
Belfast | BT2 8LE

www.cbi.org.uk

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