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Dear Committee Member,

Ahead of your session with David Varney on 19th April, CPAG would like to update you on some current issues of concern in relation to the way in which tax credits are working for lower income families. We have given both oral and written evidence to your inquiry before and for brevity do not repeat these arguments but here focus on several specific issues which arise as HMRC is changing its policies and delivery following Dawn Primarolo's May 2005 statement and the subsequent policy changes announced in the 2005 pre-budget review. We raise these both for your information and in case you wish to raise these with David Varney.

In general we are supportive of the moves HMRC is making to improve its service and the efforts of its staff to achieve this, but we continue to have both policy and delivery concerns with the approach. The issues of concern we outline below relate principally to:

- The nature of communication between the HMRC and claimants and the quality of information available to claimants.
- Issues relating to overpayment recovery around communication and policies on overpayment.
- Planned changes to the law on reporting changes of circumstances
- Migration of Income Support cases.

Communication between HMRC and claimants.

The computer system: the computer system on which the tax credit system is being operated is fundamental to its effective delivery. CPAG believes its limitations underlie many of the problems with the award notices and the inability to respond quickly to make changes to the tax credit scheme in accordance with government's, NGOs' and claimants' wishes. We understand HMRC is attempting to improve its system to allow more rapid change in the future – but we are not yet convinced this has gone far enough - and delivery on this front is crucial to support policy and detailed regulation changes.

Internet and helpline: HMRC remains reliant on delivering information to claimants via the internet or by phone. To rely on these methods alone does not take into account the difficulties faced by many lower income claimants, in particular the need for face to face contact (to explain complex issues such as how an award is worked out). Barriers to the use of computers include not being used to operating them, and not having access to the internet at home or to using this in a public place to transact complex and confidential information. Further we do not believe HMRC should assume that its clients have telephones when a minority do not have landlines and rely on more expensive pay as you go mobile telephones.

Complex written information: the system relies not only on complex award notices but on detailed booklets of notes that accompany claim and renewal forms and other detailed information leaflets on specific issues. However well written these are, the assumption that claimants will have understood the content or obtained professional or expert advice and then completed forms appropriately is unreasonable. It demonstrates the need not only for an effective helpline but for access to face to face advice by HMRC.

Providing different services to different groups who claim tax credits: HMRC have now accepted the principle that there is a need to provide services and help in different ways to different groups of claimants and that for some low income claimants there will also be specific needs that may not exist in other groups. Developing new ways of reaching different groups of claimants needs adequate staffing and resources which we do not currently see earmarked, and indeed remains under threat from the programme of staff cuts in HMRC.

HMRC's monitoring its service: There is a need for the HMRC to monitor its service in order to understand why claimants have difficulties dealing with the system, to assess whether new forms and notices are effective, for example the new award notice, the 'checking your award' notice (TC 602 SN) and the new code of practice on overpayments (henceforth COP 26). This is necessary in order to reassess constantly the best mechanisms for delivering the system given the varied nature of the tax credit recipients.

Provisions for recovering overpayments between April and November 2006.

CPAG remains concerned about the information presentation on award notices despite the introduction of the new 'checking the award notice' form; we feel the new COP 26¹ continues to lack clarity and have concerns about specific provisions in it, outlined below. Although generally welcoming the policy changes that will reduce overpayments we wish to draw attention to certain difficulties that exist between now and November 2006 when the computer will be able to deliver automatic maximum deductions to recover overpayments.

¹ A new COP 26 has been introduced for the period April to November 2006: we do not know whether a new document will be written for beyond November.

Award notices and checking award notices forms.

CPAG believes that the award notices to be introduced from April 2006 remain difficult to understand particularly in relation to the section on 'payments' which also covers overpayments. Although the accompanying 'Checking the award notice form' (TC 602 SN) is an improvement and may help prompt some claimants to ask for an additional payment the content of the award notice is such that it will still be unclear whether the change to award is due to a new overpayment or not. The content of award notices relies in large part on the capacity to change the instructions in the computer programme.

Between now and November 2006, following overpayment, the award will simply be adjusted as in the past to recover the new overpayment within the year until the claimant requests the additional payment. With the additional payment the recovery will be reduced to achieve the standard maximum deductions of up to 10 per cent or 25 per cent in the case of those with awards of more than the family element of CTC. These deductions are applied automatically to end of year overpayments.

Unfortunately the new subsection of the award notice now entitled 'overpayments' (a welcome extra) is still impossible to understand from models we have so far seen. Claimants are prompted by the 'checking the award notice' to ask for an additional payment if their payments have been reduced. A reduction in the payments *may* but does not necessarily indicate an overpayment; moreover an award could increase but this could mask a new overpayment due to income change.² The only safe current advice for claimants is therefore to contact the Helpline each time they receive an award notice to check whether there is a new overpayment and if so then request an additional payment. However it is not always easy for helpline staff to explain award notices and to do so is onerous on the helpline.

Certain claimants may face difficulties obtaining an additional payment – where HMRC has decided there has been a failure to notify a change or wrong information has been given to the Revenue. This may be the result of a failure to notify or giving wrong information may be the result of lack of understanding, low functional literacy levels or poor mental health. If the claimant says they will be in hardship their request is reconsidered but the danger is that in practice they will have been deterred from obtaining this help. It also appears to be inconsistent with the policy in 2006/7 which assumes overpayments are recovered at a standard deduction rates without exception and which once the computer allows will apply these automatically.

The new COP 26

COP 26 is a relatively detailed document and designed for those who can cope with reading several pages of complex text. Many people will not

² Income increases during a tax year will still create automatic overpayments for those whose income is less than in the previous year where the award is based on current year income. They are not protected by the new £25,000 increase in income disregard.

understand its contents. We understand the HMRC plan to do a two sided leaflet as an addition or alternative to COP 26 but that this is not an immediate priority. We feel this would be useful and would ask that this be a more urgent priority. A simple leaflet would enable more claimants to understand what happens if they have an overpayment and what to do. A leaflet would also have an important signposting function to other advice, and could advise those who wish to read it how to obtain the COP 26. It would be an important supplement to the new checking your award notice leaflet.

Content issues in COP 26 include:

- We believe the structure and layout of the new COP 26 is not very clear or logical.
- The rates of deductions are not set out very clearly. For example a claimant on maximum CTC but reduced WTC would have a deduction made at 25%. This needs spelling out.
- The COP 26 still refers to stopping paying tax credits for the rest of the year if the person has received too much. All it now needs to say is that deductions are set at certain maximum rates to recover in year overpayments and that to achieve these the tax credit recipient must apply for an additional payment. The concept of deductions is easier to explain than adjustments to awards.
- 'Disagreeing with recovery of an overpayment' section. Hardship as well as official error should be included in this section so that it is clear overpayment recovery can be challenged on one or both grounds. This would be consistent with the Treasury's own advice on waiving recovery in cases of hardship.³
- The departmental error test is satisfied only where both the department has made an error and 'it was reasonable for the claimant to think the payments were right'. For the latter part of the test to be satisfied there is an expectation that claimants will have made certain checks including the payments going into bank accounts, which it is not reasonable to assume of all claimants (such as those with mental health problems or with poor literacy or numeracy).

Comments on changes to overpayment policies and proposals for further improvement.

We welcome most of the changes announced in December 2005. However we remain critical of the following:

- The proposal to hold back any underpayment and offset against any possible overpayment – to be introduced in April 2007. If those on low income have been underpaid they may well have incurred debts whilst receiving an underpaid award.
- The exclusion of certain people from additional payments (see above)

We also propose the following changes:

³ See HM Treasury, *Government Accounting 2000*. <http://www.government-accounting.gov.uk/current/frames.htm>, Para 17.2.10

- An additional deduction rate of 15% for recovery where a person is on reduced rate WTC and maximum rate CTC. There is a big jump from the 10% deduction level to that of 25% which does not take full account of the fact that some low paid workers may have income for example below £10,000.
- Disregard the disability elements in the tax credit award when calculating the percentage reduction. At present those with the disability elements repay a proportionately larger amount when repaying an overpayment yet these families are often most at risk of poverty.
- That claimants should have a statutory right of appeal against recovery of overpayments. We believe this will improve decision making and protect claimants' rights.
- There is a need for clarification of procedures where an outstanding overpayment exists but there is no continuing award or a new award has been made following household change. CPAG is concerned that where a non resident parent is untraced, a lone parent may be required to repay the full overpayment thus disadvantaging their children.

Changes to the law relating to changes of circumstances, the timetable and process for consultation on the changes.

The policy changes which have been announced raise a number of issues – both in relation to policy and process, many of which we have commented on before. We would raise concerns here about:

- HMRC increasing its powers to apply penalties where it believes people have wrongly reported circumstances. CPAG believes these are unnecessary (as the HMRC have the power to recover the overpayment) and risk placing families with children in hardship. Where fraud is suspected HMRC already has measures available.
- The one month rule for reporting a change of circumstances to be introduced in April 2007. CPAG believes this period should be three months. It will be unclear to claimants in many cases whether or not the change of circumstances – eg hours of work or child having left home to stay with absent parent – is permanent or long term after one month. If there is a further change the claimant will need to report it again. Introducing the change with a three month reporting period initially (from November 2006) and then reducing this to one month in April 2007 seems to be a recipe for confusion.

CPAG would welcome clarification of the following:

- HMRC's strengthening of its regulations around reporting changes of circumstances requires clearer definitions yet we do not know what HMRC proposes to do, both around when a child ceases to count as living with a parent (say if absent for a short period) and around how hours of paid work are to be defined. Both are complex issues, and have ramifications for different ethnic groups and for those with different working patterns. Each shows the need for HMRC to adequately consult – both with

voluntary sector and with the Social Security Advisory Committee - about the implications of regulation changes.

- The way in which the HMRC plan to tighten definitions and to confirm that these will be made by regulations rather than guidance. The latter is open to more flexibility but consistency is lost. If the changes are incorporated into regulations they are open to clarification by case law if necessary. CPAG would hope that the definitions and changes will be dealt with in regulations.
- How will consultation proceed on the regulations and what is the timetable for change. It would be useful to see draft regulations by July giving time for comment and discussion.
- The concept of full time work and who is responsible for a child is relevant to social security entitlement and therefore we would like to see the HMRC learning, where appropriate, from the DWP as to how these definitions should be drawn the tax credits model.
- How far will the computer have the capacity to deal with these changes or will the onus for deciding whether a person fits the specific conditions in relation to hours of work or responsibility for a child lie with the claimant who will then tick the relevant box when claiming or reporting a change. Again this detail suggests the need for more access to direct advice and information from the HMRC and in some cases this may need to be at local offices. The voluntary and professional sector may advise claimants but it is up to the HMRC to deliver the service.

Migration of Income Support cases

CPAG would welcome a reassessment of the timing on migrating claimants currently in receipt of means tested benefits to child tax credit given the extent of the changes currently being planned. It seems quite reasonable to wait until these important procedural and policy changes are in place and seen to be operating effectively before moving across those in a particularly vulnerable position. This does not prevent any income support or Job seekers allowance claimant making a claim for CTC if they so wish.

I hope these points are of use in your forthcoming session with David Varney. If you have any questions in relation to this document or if CPAG can be of any assistance to you please do get in touch.

Yours sincerely



Kate Green
Chief Executive