

**Work and Pensions Committee
Employment support for carers inquiry
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We welcome the launch of this inquiry on employment support for carers.
- 1.2 The LITRG is not a carer organisation. We are a group of tax specialists with a particular interest and expertise in the tax and related welfare problems of those on low incomes and other vulnerable groups, including carers.
- 1.3 In general, we have concerns as to the impact of tax, National Insurance and benefits administration and policy on carers. In this submission, we make comments and practical recommendations as to how to improve incentives and reduce burdens for carers in work or looking for work, in those parts of the system within the remit of our work.
- 1.4 Some of the points we make are matters of technical detail, but we think tackling them could make it easier for carers to try to balance work and caring responsibilities.
- 1.5 In terms of whether Department for Work and Pensions (DWP) adequately support carers in employment or seeking employment, we raise concerns about the impact of universal credit (UC) (administered by DWP) on them (para 4.13ff).
- 1.6 A general ignorance that Carer's Allowance is subject to income tax leads to mistakes, misunderstandings and administrative wrinkles that DWP could certainly do more to prevent (para 4.1ff).

- 1.7 In response to the question on the main barriers to employment for carers, we highlight that being able to successfully juggle caring and employment may be shaped by the ability for carers to find work that fits around their caring duties in the first place (para 5). In the current employment landscape this is possibly much easier said than done, particularly as the right to request flexible working is an employment law right that currently accrues only to ‘employees’ and not ‘workers’ – zero hours contract workers and agency workers generally fall into this latter category and so cannot benefit from that statutory protection.
- 1.8 We also note that from April 2019, when Class 2 National Insurance contributions (NIC) are scheduled to be abolished, the ability of self-employed carers earning low profits to accrue a qualifying year for National Insurance purposes will change. Precisely how it will change is yet to be determined. But unless an affordable and easily accessible alternative is put in place, the removal of Class 2 contributions could have a real and a very serious impact on their financial position and undermine their work efforts.
- 1.9 Further, the rules around self-employment within tax credits and UC may be a huge problem for carers who are trying to balance work with their caring duties. For example, in UC a minimum level of income from self-employment may be assumed (the ‘Minimum Income Floor’ (MIF)), even if their actual income is lower than this. The MIF can result in less UC support than they might otherwise have received.
- 1.10 We do not believe there a coherent cross Government strategy for supporting carers in employment or seeking employment. The development of a new (cross government) strategy for carers was announced by the Secretary of State for Health on the 1st July 2015. However, to date, there has been no response to the evidence provided by carers and other organisations to the Department of Health (the consultation closed on the 31st July 2016¹) and this ought to be addressed.
- 1.11 Caring impacts on many different aspects of life so a cross governmental approach is crucial. The lack of such an approach may go some way to explaining the harsh interaction between tax credits, the minimum wage and Carer’s Allowance (involving three separate Departments) that we describe in para 6.3.

2 About Us

- 2.1 The LITRG is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

¹ https://consultations.dh.gov.uk/carers/how-can-we-improve-support-for-carers/consult_view/

- 2.2 LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 Introductory comments

- 3.1 People who look after family members or friends because of long-term ill health or disability, or care needs related to being elderly, make a vital contribution to society. However, for them, the consequences of caring can be quite devastating on their finances.
- 3.2 Working alongside caring can help carers to make ends meet. However, through carers contacting us via our website for help and advice – mainly in connection with the Carer's Allowance, and through our understanding and experiences of the system in general – we know that various problems can occur for them, which can make trying to balance work with their caring responsibilities feel unmanageable
- 3.3 In our response, we draw on our insight as to their needs and concerns across three broad headings:
- Does DWP provide adequate support for carers in employment and those seeking employment? What more could the department do?
 - What are the main barriers to employment for carers and how can these be reduced?
 - Is there a coherent cross-government strategy for supporting carers in employment/self-employment?
- 3.4 We have not addressed the other inquiry questions as they cover topics outside our direct field of knowledge. There are many organisations in a better position than us to provide detailed comments on these areas.

4 Does DWP provide adequate support for carers in employment and those seeking employment? What more could the department do?

- 4.1 There are a range of complex benefit issues to consider when a carer returns to work – for example while some benefits may stop because of increased income, they may start qualifying for others.¹
- 4.2 Carer's Allowance is the main welfare benefit for carers and is payable at £62.70 per week (2017/18). Carer's Allowance provides valuable financial support to carers in the transition from caring to work. However, there are a few technical issues around the administration of Carer's Allowance which we think the DWP should act on.
- 4.3 For example, confusion and misunderstanding can arise because Carer's Allowance is taxable, although PAYE is not deducted from it by DWP.²
- 4.4 The way tax is paid on Carer's Allowance depends on what other sources of income the person has. If they have a source of income where tax is collected under the PAYE system, like employment income, then HMRC will ask their employer to collect any tax due on their Carer's Allowance at the same time. They do this by adjusting their tax code to take account of the benefit.
- 4.5 Collecting tax on Carer's Allowance via tax on another source of income can lead to confusion if the person does not understand why the tax taken from the other source of income is higher than expected. In any case, the PAYE coding facility does not always work well. Codes can be fiendishly complicated to understand and check and because tax can only be collected on an estimated basis the correct amount of tax may not have been paid by the end of the tax year.
- 4.6 **Recommendation: Ideally, DWP should operate PAYE on Carer's Allowance. Failing that, more should be done to raise awareness of the fact that Carer's Allowance is taxable and how tax is collected, for example by stating it clearly in the award letter with some worked examples. The award letter should also make clear what the carer needs to do e.g. notify HMRC for tax, tax credits, etc.**
- 4.7 Carers who are attempting to enter or re-enter the work force face another challenge too. When they accept a new job yet do not have a P45 from their previous employment to give to their new employer, they need to help their new employer understand what tax code to use by completing a starter checklist.³
- 4.8 The employee is asked which statement applies to them:

¹ For an illustration, see here: <https://www.theguardian.com/commentisfree/2016/jun/16/jobcentre-advisers-pressure-work-carer>

² On its own, Carer's Allowance is below the threshold for paying tax (£11,500 for most people in 2017/18, which works out at about £221 per week or £958 per month). However, where Carer's Allowance is added to other sources of taxable income to reach a total in excess of the £11,500 threshold, then the carer will have to pay tax on it

³ <https://www.gov.uk/government/publications/payee-starter-checklist>

- This is their **first** job since last 6 April and they **have not** been receiving taxable Jobseeker's Allowance, Employment and Support Allowance, taxable Incapacity Benefit, state pension or occupational pension.
- This is their **only** job, but since last 6 April they have had another job, or have received taxable Jobseeker's Allowance, Employment and Support Allowance or taxable Incapacity Benefit. They do not receive state or occupational pension.
- They have another job or receive a state or occupational pension.

4.9 Though a taxable benefit, Carer's Allowance is not specifically mentioned alongside the other taxable benefits listed in the starter checklist. This can lead carers to tick box A rather than box B and thus have the wrong type of 'emergency' tax code applied until HMRC get around to issuing a proper code. The effect of this is best examined by way of an example:

4.10 **Example:** *Ann looks after her elderly mum who has dementia. She is in receipt of Carer's Allowance of £62.70 per week until September 2017 when Ann's brother takes over the bulk of Ann's caring duties so that Ann can return to work. Her new job pays her £2,000 a month. Ann completes the starter checklist and certifies that this is her first job (in the 2017/18 tax year) and that she has not been receiving any of the state benefits listed on the starter checklist. As a result, Ann will get the benefit of any unused personal allowance from the beginning of the tax year to set against her employment earnings.¹ It is only towards the end of the tax year that HMRC realise that Ann had some Carer's Allowance to code in but it is too late to make an adjustment to that year's tax code. This means that Ann will receive a P800 tax calculation that shows an unexpected and unwelcome amount of tax due of £271.70.²*

4.11 If the starter checklist mentioned Carer's Allowance we can see that Ann would likely have ticked box B.³ Ann would not have been given the unused amount of personal allowance from the earlier part of the year and the underpayment situation would have been avoided (indeed, she would probably be due a refund).

4.12 **Recommendation: DWP should work with HMRC to amend the wording on the starter checklist to make it clear that Carer's Allowance is a taxable benefit.**

¹ Ann's new employer will operate the standard tax code 1150L – giving Ann the full personal allowance of £11,500 on a cumulative basis.

² Calculated as follows:

Employment income (£2,000 x 7) £14,000
 Carer's Allowance £1,358.50
 Total £15,358.50
 Personal Allowance (£11,500)
 Taxable income £3,858.50
 Tax due @ 20% £771.70
 Tax paid under PAYE (£500)
Tax due £271.70

³ This means that Ann's employer would have instead used the standard code operated on a week 1/month 1 basis, i.e. not cumulatively.

4.13 **Universal Credit**

- 4.13.1 It is worth pointing out that there are challenges for carers under the UC system – which is administered by DWP. For example, those in employment caring for someone for less than 35 hours per week and those caring for someone who is not ‘severely disabled’ may have some ‘work-related requirements’ unless the decision maker decides that there are special circumstances which would mean it would be unreasonable for them to have to meet these requirements.
- 4.13.2 The requirements imposed and the support available to claimants is tailored and personalised and is recorded on the Claimant Commitment drawn up by the claimant’s personal adviser during a face-to-face discussion. However, we worry that many will still find themselves subject to unrealistic conditionality requirements. We provide further comments on this and set out what we believe DWP should do to ease the system for carers, including in relation to the self-employed, in section 5.7.6 onwards.
- 4.13.3 Finally, Carer’s Allowance is treated as ‘unearned income’ for UC meaning a person’s UC award is abated pound for pound for their Carer’s Allowance (one cancels the other out). However, UC includes a carer element to support carers on a low income who provide unpaid care for a severely disabled person for at least 35 hours per week.¹ This element will be paid in addition to the claimant’s standard UC entitlement meaning that carers can receive some recognition for their caring duties within their UC award.
- 4.13.4 **Recommendation: The DWP should be doing everything it can to encourage people who are entitled to it to claim this help in UC.**

5 **What are the main barriers to employment for carers and how can these be reduced?**

- 5.1 There are many factors that can make the world of work appear very daunting for carers and can present practical issues. Even back in 2001, only two thirds of working carers (but only about a half of those working in the private sector) said their employer was supportive and ‘carer-friendly’.²
- 5.1 The labour market has since seen a reduction in permanent, direct employment and a growth in temporary roles, sub-contracting, etc. (the Director of Labour Market Enforcement talks of ‘*the fissuring of employment relationships*’³).
- 5.2 Agency work or zero hours contract work for example, can offer a ‘stepping stone’ back into the labour market and may seem attractive to carers given the ‘flexibility’ that it can offer. Yet,

¹ <http://www.legislation.gov.uk/ukxi/2013/376/regulation/30/made>

² <http://www.sociology.leeds.ac.uk/assets/files/Circle/carers-uk-report-2.pdf>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/632074/labour-market-enforcement-strategy-2018-19-summary-of-issues.pdf

arranging flexible hours, days or special leave so as to fit work around caring duties may be more difficult (or even impossible) to manage in non-standard work of the kind that might initially seem attractive to carers¹. This is because of the often unpredictable or ‘on demand’ nature of the work but also because the right to request flexible working is an employment law right that currently accrues only to ‘employees’ and not ‘workers’² – zero hours contract workers and agency workers generally fall into this latter category and so cannot benefit from that statutory protection.

- 5.3 Carers are referred to frequently in the Matthew Taylor Review publications, however no detailed policy recommendations are put forward apart from the following:

‘As part of the statutory evaluation of the Right to Request Flexible Working in 2019, Government should consider how further to promote genuine flexibility in the workplace. For example, it should consider whether temporary changes to contracts might be allowed, to accommodate flexibility needed for a particular caring requirement. Government should work closely with organisations like Timewise and Working Families to encourage flexible working and initiatives like “happy to talk flexible working” to a wider range of employers.’

- 5.4 **Recommendation: With input from specialist external organisations, such as carer’s charities, the Government should consider what specific policy interventions might be appropriate to encourage genuinely flexible working and to create carer friendly workplaces.**

- 5.5 Some carers find that running their own business/being self-employed is a good way of working, as it allows them to manage their own time and often means they can work from home. However, this comes with all the associated reporting requirements that being self-employed entails. For those we represent, these can be onerous responsibilities. There are other issues too, related to the fact that self-employment for carers can be on a very small scale.

5.6 **National Insurance costs**

- 5.6.1 Under proposed changes to the self-employed National Insurance system,³ Class 2 NIC are to be abolished. As matters stand at present, this could result in the lowest earners among the self-

¹ Some research by Rupert Harwood, from the University of Greenwich’s Department of Human Resources and Organisational Behaviour (<http://www.mdpi.com/2075-471X/5/4/42>) suggests that extra demands on workers in general – even those not on zero hours contracts – make it more likely that disabled workers will be denied requests for reasonable adjustments. We find these findings worrying in terms of how they might be extrapolated to carers.

² <https://www.gov.uk/employment-status/worker>

³ <https://www.gov.uk/government/publications/abolition-of-class-2-national-insurance-contributions/abolition-of-class-2-national-insurance-contributions>

employed potentially paying five times more than they do now to secure entitlement to a state retirement pension.¹

- 5.6.2 We do acknowledge that a further consultation is expected which will aim to avoid such an outcome. But unless an affordable and easily accessible alternative is put in place, the removal of Class 2 contributions could have a real impact on their financial position and undermine their work efforts.

5.7 ***Tax credits***

- 5.7.1 The strengthened self-employment test in tax credits may bring additional pressures for carers in work via self-employment. This has been introduced from April 2015 in order to discourage unsuccessful businesses from relying indefinitely on welfare, but the way in which the test is applied can make life more difficult for carers whose work is via self-employment, rather than employment.

- 5.7.2 For claims prior to April 2015, there was no restriction on claiming working tax credit (WTC) for people who were self-employed, providing the work was done for payment, or in expectation of payment, and they met the remunerative work conditions. For claims from 6 April 2015 onwards, all claimants who are using self-employed work to meet the qualifying remunerative work condition for WTC must show that they are trading on a commercial basis and their business is done with a view to achieving profits. The self-employment should also be structured, regular and ongoing.²

- 5.7.3 The way HMRC are applying the test is that for claims where the income from self-employment provides an hourly rate at least equivalent to the minimum wage for a given number of hours a week, they will consider that the test is passed and where the income is less than that, they are likely to ask for additional information to support the claim. The evidence asked for may include

¹At present, self-employed earners whose profits exceed £6,035 a year (the small profits threshold) are required to pay Class 2 NIC at £2.85 a week, which count towards their state retirement pension and entitlement to certain other contributory benefits. If their profits fall below the small profits threshold, they are currently able to opt into paying Class 2. Under current proposals, from April 2019, when Class 2 is abolished, payment of Class 4 NIC will count towards state benefits. In order to protect some on low incomes, Class 4 NIC will not be payable until annual profits reach £8,164 but as long as profits exceed the small profits threshold, the self-employed will be given Class 4 credits – in other words they will be treated as making contributions even though none were actually paid. This places them in a similar position to employees on low incomes who receive National Insurance credits. But Class 4 NIC cannot be paid on a voluntary basis by those with profits under the small profits threshold, so currently the only alternative to Class 2 is to pay Class 3 voluntary contributions at £14.10 a week.

² <https://www.gov.uk/government/publications/revenue-and-customs-brief-7-2015-new-rules-for-the-self-employed-claiming-working-tax-credit>

things such as business plans. Claimants may lose their WTC if they cannot provide the evidence.¹

- 5.7.4 The impact of this test on carers is concerning to us. They may be less 'efficient' than they could be if they are having to deal with interruptions, etc. which means that they may well fall short of the 'minimum wage' threshold and find they are more likely to be selected by HMRC to provide additional evidence and justification before they can receive WTC.² This has the potential to cause difficulty and inconvenience as many in this group may struggle to show that their self-employment meets the required conditions if it is combined with caring responsibilities and others will just not have the necessary evidence, such as business plans, to readily prove to HMRC that they are trading commercially.
- 5.7.5 Tax credits are being phased out over the next few years and replaced by UC. Under UC, the self-employed are, in some instances, treated less favourably than the employed and one of the most concerning aspects is that if you are gainfully self-employed then a minimum level of income from self-employment will be assumed (the MIF) even if your actual income is lower than this.³
- 5.7.6 Self-employed claimants in the 'all work requirements' group of UC, who have been found to be 'gainfully self-employed', will be subject to the MIF for any month where their income from self-employment falls below the MIF threshold. The MIF threshold is equal to the National Minimum Wage (NMW) for the claimant's age group multiplied by their expected number of hours each week. For most people, the expected number of hours will be 35 hours a week, although it may be less, for example, if the claimant has a physical or mental impairment or caring responsibilities.
- 5.7.7 This minimum level of income will not apply to anyone who is in the no-work related requirements group (including those who receive the carer's element or who are providing care for a severely disabled person for at least 35 hours a week), or who is in the work-focused interview requirement group or in the work preparation requirement group (ie those found to have a limited capability for work, following a work capability assessment). While this will put many returning carers outside of the scope of the MIF, those who do not fall into one of those groups will be subject to the MIF and much then rests on the work coach in determining how many hours to use when setting the MIF.
- 5.7.8 The prospect of returning carers having to rely on the judgement of UC decision makers when having their ability to work assessed adds a substantial degree of uncertainty and is worrying, as

¹ HMRC are also now gradually checking existing claims to see if those claimants also meet the new test.

² Particularly as the minimum wage has increased significantly following the introduction from 1 April 2016 of the National Living Wage (NLW) rate. This is the rate paid to those aged 25 and over currently is £7.50 per hour.

³ We explain more about this in our report on self-employment and UC:
<https://www.litrg.org.uk/sites/default/files/Self%20Employment%20report%20FINAL%20for%20release.pdf>

the decision makers may not have the expertise and understanding to discharge the task assigned to them.

- 5.7.9 **Recommendation: Ensure that staff who take on the role of key decision makers in tax credits or UC cases are given appropriate training and guidance around carers as this will ensure those with caring responsibilities are treated appropriately given the fact there may be particular circumstances to consider and/or they are not subject to unrealistic conditionality requirements or the minimum income floor in UC if they are self-employed.**

6 Is there a coherent cross-government strategy for supporting carers in employment/self-employment?

- 6.1 No. A (cross government) strategy for carers was announced by the Secretary of State for Health on the 1st July 2015.¹ However, to date there has been no response to the evidence provided by carers and other organisations to the Department of Health (consultation closed on the 31st July 2016). In the meantime, there seem to be pockets of other activity – for example there has just been a Government Equalities Office call for evidence on Returning to work after time out for caring.²

- 6.2 **Recommendation: The Government should prioritise bringing out their carer action plan to improve support for carers and ensure they take on board the evidence from all those who responded to the consultation.**³

- 6.3 Caring impacts on many different aspects of life so a cross governmental approach is crucial. This could also help deal with complexities that arise that involve several departments. For example there is a particularly harsh interaction concerning tax credits, the minimum wage and Carer's Allowance that affect carers. We think the Government should address this urgently.

- 6.4 Carer's Allowance is not means tested in the sense of income-based. However, there is a cap on how much you can earn from work (employment or self-employment) and still be entitled to Carer's Allowance.

- 6.5 In 2017/18, in order to get Carer's Allowance your earnings *after allowable deductions* must be no more than £116 per week. This creates a disturbing cliff edge and means that this carer who

¹ <https://www.gov.uk/government/consultations/carers-strategy-call-for-evidence>

² <https://consult.education.gov.uk/government-equalities-office/returning-to-work-after-time-out-for-caring/>

³ We understand from Carer's UK that around 6000 submissions were made – 80% from carers – this huge volume demonstrating just how important a wide-ranging strategy is. We also note that their understanding is that a cross-Government action plan will be launched in the New Year: <https://www.carersuk.org/news-and-campaigns/campaigns/national-carers-strategy-asks>.

wrote to us misses out on Carer's Allowance by just £1 (unless she has any deductions that can be made from her earnings – more on this later):

'Hi, I'm a carer working in 2 jobs to make ends meet. My earnings vary due to my son's illness as to what hours I work weekly but [I] usually have a take home pay of £117, sometime slightly more. Due to working unsociable hours I [take a] taxi home. Are these costs taken into consideration at all or do you have any other idea of any expenses I could take off? regards' (sic)

- 6.6 Since the introduction of the NLW for those over the age of 25 (which, we recognise is good news for many) those working just 16 hours at the NLW risk losing all of their Carer's Allowance. Of course, a person in this position could cut their hours so that they still qualify, however depending on their circumstances, cutting their hours to below 16 could mean they no longer qualify for another vital strand of financial support – WTC.
- 6.7 There are different deductions¹ that can be made from earnings to help a person retain Carer's Allowance payments without having to cut their hours. One of the deductions is 'an expense that is not repaid to an employee by the employer if it is incurred in the performance of the duties of the employment and is wholly, exclusively and necessarily incurred' – the type of expenses that qualify, such as professional subscriptions, business mileage or specialist clothing are, in our experience, quite commonly incurred.
- 6.8 Being aware of the 'employment expense' rule may give more people the opportunity to work part time and still qualify for Carer's Allowance, however no mention is made of this rule on GOV.UK.² Further, we recognise that the problematic minimum wage interaction will still affect many – causing them a significant loss of income and even facing the choice between giving up work or losing their benefits.
- 6.9 **Recommendation: The earnings threshold for Carer's Allowance should be increased automatically with the uprating of the minimum wage each year. In the meantime, improvements to the guidance on GOV.UK for carers should be made.**

LITRG
21 December 2017

¹ The full list of deductions includes:

- Income tax and NIC
- Half of any contributions that you make into a work or personal pension
- An expense that is not repaid to an employee by the employer if it is incurred in the performance of the duties of the employment and is wholly, exclusively and necessarily incurred (in that same way that they are deductible for income tax purposes).
- You can also take off up to half of your earnings (after the above deductions if they apply) for amounts you pay to someone to look after either a child under 16 who you or your partner get child benefit for, or the person you are the carer for, when you are at work (so long as you pay someone other than a close relative).

² <https://www.gov.uk/carers-allowance/eligibility>