

**Education Committee inquiry: Support for childcare and the early years
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We welcome this opportunity to provide evidence to the Education Committee inquiry into support for childcare and the early years. Our evidence focuses on the particular aspects of the system where we can add the most value – the interactions between the various childcare schemes and the provision of guidance and information about childcare support. We gave similar evidence to the Treasury Committee¹ and Work and Pensions Committee² in 2018 and it is disappointing that the same level of complexity and lack of detailed guidance remains and that many of the points in our original submissions have not been addressed. We therefore repeat some of those same points in this submission.
- 1.2 Finding reliable, affordable childcare is a major concern for working families. The high costs and availability of childcare are two of the biggest challenges that parents face. The high costs of childcare can be prohibitive to parents looking to enter the workplace or increase their hours.
- 1.3 While we are wholly supportive of the principle to provide financial support towards the costs of childcare, the various childcare support schemes provided by Government mean the resulting childcare landscape is incredibly complex which adds difficulty for anyone trying to navigate it and understand what support is available.
- 1.4 This complexity results from three factors – the differing qualifying conditions for each scheme, the potential financial support offered by each scheme and the interactions between the schemes. At present, we do not think there is sufficient support and guidance for people to help them understand which scheme is best for them.

¹ <https://www.litrg.org.uk/sites/default/files/180209-LITRG-evidence-TSC-childcare-inquiry-FINAL.pdf>

²

<https://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Work%20and%20Pensions/Universal%20Credit/written/88897.html>

- 1.5 In addition, as circumstances change, there is a need for individuals to re-assess their situation and potentially re-consider the qualifying conditions for each scheme and which is best for them financially. This can be extremely complicated and moving between schemes can bring other challenges (such as delays in payments and the possibility of not being able to reverse the decision at a future date).
- 1.6 As support for childcare is offered by different schemes run by different Government departments and local authorities, there is no central government support and advice available other than via the childcare choices website¹. We strongly recommend that telephone support is offered to people who need help understanding all of the different childcare schemes and choosing the best scheme for them.
- 1.7 The childcare choices website offers a tool to help people 'find the right offer for you'. In theory, this should be a helpful tool people can use to understand which of the various childcare offerings might be relevant to them and the title certainly suggests that to the reader. However, we are concerned about the accuracy of the tool in terms of the questions asked, that it contains errors and that it ignores potential scenarios. This can lead to people getting a result, incorrectly, that a particular scheme is not available to them. This means they could miss out on available support if it prevents them going any further and using the more detailed calculator or reading further information.
- 1.8 The childcare calculator offered on the childcare choices website has an important role to play in helping people with these often complex choices. However, we have a number of concerns about the accuracy of the questions within the calculator, the lack of additional guidance provided for users and the fact that it currently does not calculate UC entitlement. We urge HM Revenue & Customs (HMRC) to amend the calculator to ensure all of the questions are relevant and accurate, to provide additional information about some of the questions so users can answer correctly and to add some disclaimers to the front page making it clear who should not use the calculator. It should also be revised to include UC calculations or at the very least allow people to input their UC amount.
- 1.9 From a claimant perspective, it is confusing to have some information on the childcare choices website, and other information on the main GOV.UK pages with no clear links between them. This should be reviewed and links made between the two sets of information, especially as in some instances one website contains more detail than the other.
- 1.10 HMRC should review the guidance, tool and calculator (both on GOV.UK and childcare choices) to address these issues as soon as possible.

¹ www.childcarechoices.gov.uk

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.
- 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 Introduction

3.1 *Interactions between childcare schemes*

- 3.1.1 Since the introduction of Tax-Free Childcare (TFC) and the extended 30-hour free childcare support (in England) the childcare landscape has become far more complex. In addition to the childcare support offered through these two offerings and UC, some form of childcare support can also be found via Employer Supported Childcare¹ (such as childcare vouchers) and the childcare element of working tax credit (WTC). In addition, there are many other forms of childcare support available in specific circumstances such as for students and concessions for childcare costs contained within other support mechanisms, such as carer's allowance.
- 3.1.2 Most people on low incomes receiving UC are likely to be better off financially receiving help through the childcare element of UC rather than TFC (for example), but unless they carry out the relevant calculations, they will not know that is the case. For some UC claimants, TFC might be a better option financially – it is very difficult to know which childcare support to choose without advice or detailed guidance/support. This complexity results from three factors – the differing qualifying conditions for each scheme, the potential financial support offered by each scheme and the interactions between the schemes.

¹ Employer Supported Childcare includes childcare vouchers, directly-contracted childcare and workplace nurseries. TFC is only replacing the tax and NI relief offered through childcare vouchers and directly-contracted childcare.

Qualifying conditions

3.1.3 Each scheme has a different set of qualifying conditions, with some subtle but important differences between them. There are many examples of the different conditions between the various schemes and we mention only a few here to illustrate the complexity it creates for people trying to navigate the system:

- The TFC scheme supports children until the last day of the week in which the 1 September falls following their 11th birthday (or 16th birthday if the child is disabled) whereas UC childcare element supports children and young people up until the assessment period in which the 1 September following their 16th birthday falls.¹
- TFC offers support of up to £2,000 per year per child² whereas UC offers up to 85% of relevant childcare costs (the maximum you can claim is 85% of £760.42 per month for one child (£646.35) or £1,303.57 (£1108.04) per month for two or more children). It is worth noting that these UC amounts have not changed since 2016-2017 and TFC has not changed since its introduction.
- Under the TFC scheme 'self-employed' means '*engaged in carrying on a trade, profession or vocation on a commercial basis and with a view to profit, either on one's own account or as a member of a business partnership*'. For UC there is no commerciality requirement, so the definition is slightly different.
- For UC, there is a requirement that the childcare is to enable the claimant (or both claimants in a joint claim) to be in paid work or due to start paid work before the end of the next assessment period (although there are some exceptions for those in certain periods of leave or sickness). This means that the work must be done for payment or in expectation of payment – but, whilst the hours of childcare are expected to reflect the claimant's hours of paid work, there is no actual minimum hours requirement to meet in order to qualify as long as some paid work is done. For TFC, the person must usually expect to earn a certain amount over a three-month entitlement period (the amount for the entitlement period is set based on 16 hours x national minimum wage per week).
- For claimants who have reached state pension credit age and need to claim help towards their childcare costs (either for their own children or grandchildren/other children they may be responsible for), the range of options available to them is more limited as UC is only available for working-age claimants (unless there is a joint claim from a mixed-age couple) and our understanding is that there is no intention to offer childcare support within pension credit. However, under existing rules, they would have access to the childcare element of

¹ Costs are included in the assessment period prior to the assessment period in which 1 September following the child's 16th birthday falls, but not the actual assessment period where that date occurs.

² This is increased to £4,000 per year for each disabled child.

WTC (assuming the relevant conditions are met and they are already in the tax credit system)¹.

Potential financial support available from each scheme

- 3.1.4 Once the relevant qualifying conditions have been met, the next step is to understand how much financial support can be obtained from each scheme to enable a 'better-off' comparison to be made and for many, the 'better-off' comparison will not just be a one-off snapshot but will need to be considered over a longer period. Once again, this section illustrates some of the complexities claimants face, but this is not an exhaustive list.
- 3.1.5 On the surface, the financial support offered by the childcare element of UC is fairly straightforward (85% of costs up to a maximum amount). However, this is not a stand-alone element and in order to work out what childcare support you will receive you need to be able to calculate a whole UC award. For example, if the claimant is self-employed and subject to the minimum income floor, this will impact how much UC they get overall (which includes the childcare element).
- 3.1.6 The TFC scheme also appears to be fairly straightforward in terms of calculating the amount of help a claimant will receive. According to the childcare choices website '*For every £8 you pay in, the government will add an extra £2, up to £2,000 per child per year – that's up to £500 every three months*'.² Although this sounds straightforward, it can be complex where someone has variable childcare costs.
- 3.1.7 The first point to note is that the top-up is given at the point that the parent pays money into their childcare account – not at the point at which childcare is paid for. The other point to note is that although up to £2,000 per child per year is available, this is capped at £500 every three months.³ For someone with variable childcare costs, complex calculations are needed to find the most advantageous timing of making payments into the account. For example, if a parent knows their costs will be very high in the summer holidays and low at other times in the year, they may need to spread the payments into their account across the year to attract the full amount of the top-up.
- 3.1.8 Support through the tax credits scheme is via the childcare element of WTC⁴. However, this is not a stand-alone element and in order to work out what childcare support you will receive you need to be able to calculate a whole tax credits award. Rather confusingly, due to how elements in an award

¹ Universal credit is now available across the UK and HMRC state that it is no longer possible for anyone to make a brand-new claim for tax credits. Instead, people are expected to claim UC or pension credit if appropriate. Existing tax credit claimants can continue to renew their tax credits and/or add extra elements to their claim. Eventually existing tax credit claimants will move to either UC or pension credit.

² <https://www.childcarechoices.gov.uk/>

³ This is increased to £4,000 per year for each disabled child, capped at £1,000 every three months.

⁴ See footnote 1 above (on this page)

are tapered as income rises, it is possible for someone to claim help with their childcare costs and receive no WTC childcare element but see an increase in their child tax credit instead.

3.1.9 The most complicated part of these financial calculations is the potential impact of changes of circumstances. Many people do not have static lives. They may have regular changes of working hours, income and childcare costs that can affect which scheme is financially the most beneficial and secure for them. It may also be the case that even if one scheme gives more financial support in the short term, it may be better to accept a lower level of support for longer term gains if circumstances are going to change.

3.1.10 Of course, most people cannot predict when or how their circumstances are going to change and that means they must constantly review which childcare support is the best option for them as their circumstances change.

Interactions between schemes

3.1.11 As if the situation described above were not complicated enough, further complexity is created by the interactions between the different schemes. We have explained in the preceding paragraphs that parents/carers must carry out financial better-off calculations in order to ascertain which scheme gives the greatest financial support. However, following that, how the schemes fit together must be considered.

3.1.12 Currently there are a number of different possible outcomes in terms of interactions:

- In some cases, it is perfectly possible to claim help from more than one scheme at the same time. For example, you can claim support through TFC for paid childcare and 30 hours of free childcare at the same time.
- In other cases, claiming from one scheme stops you from being able to claim support from another. For example, it is not possible to claim TFC and either tax credits or UC together.
- And in yet other cases the answer sits somewhere in the middle – you can claim support from more than one scheme but the amount of support may be affected. For example, you can technically claim the childcare element of WTC and childcare vouchers from your employer at the same time, however you must deduct the value of the childcare vouchers from the childcare amount claimed in tax credits.

3.1.13 The majority of people who pay childcare costs are unlikely to understand this range of interactions and yet the consequences of failing to understand can be very serious. For example, take the interaction between TFC and tax credits. Most people might see the logic in a rule that prevents you from claiming help with the same childcare costs from two schemes, and so it would seem logical that you cannot claim TFC for the same childcare costs that you are claiming the childcare element of WTC for. However, the TFC rules go one step further and say that if an existing tax credit claimant, whether claiming the childcare element of WTC or not, makes a claim for TFC their whole tax credit award (both working WTC and child tax credit) is automatically terminated.

- 3.1.14 As no new claims for tax credits can be made, this means they would need to claim UC in order to access financial support, but not everyone may be entitled to UC or get the same level of support as they were getting from tax credits¹.
- 3.1.15 It may also be the case that some existing tax credit claimants may be entitled to more through the universal credit system and so could make a voluntary claim (ahead of the formal migration exercise of tax credit claimants to UC), but without detailed calculations and expert knowledge it is difficult for claimants to make this assessment with the required degree of certainty.
- 3.1.16 Switching between schemes may bring with it administrative delays and financial impacts. Where it is possible to switch between schemes, claimants will need to understand the impact of the timing of their change if they are to optimise the support available and that is likely to need detailed scrutiny of their individual circumstances, payment frequencies and options. They will also need to understand whether switching is a permanent action or whether there is the opportunity to return to a scheme if circumstances change again.

3.2 ***The need for adequate guidance and support***

- 3.2.1 The paragraphs above outline the complexities created by the different childcare schemes and demonstrate a clear need for anyone who pays for childcare to have access to adequate guidance and support in order to:
- Understand the qualifying conditions of each scheme and the differences between them.
 - Calculate how much support they will receive from each scheme (if they meet the relevant conditions) and whether that will differ in the longer term.
 - Understand how changes in their circumstances will impact on the support they receive and whether they need to consider a different childcare scheme.
 - Understand how the schemes interact and the potential consequences of making a claim for a scheme in terms of their existing benefits.
- 3.2.2 At the present time, we do not think that parents/carers are adequately supported through government guidance and advice to understand the issues listed in paragraph 3.2.1. The main problem is that there is no single source of advice or guidance that covers all of the schemes. The UC helpline cannot answer questions about childcare vouchers or help parents carry out better-off calculations and similarly the childcare service helpline² cannot answer questions about tax credits or UC.

¹ Universal credit may give a higher, lower or broadly the same entitlement as a claimant was receiving under the tax credit system. However, it depends on individual circumstances and requires consideration of many factors and detailed calculations to work this out. One significant difference between the two schemes of financial support is that universal credit takes account of claimants' capital (savings) as part of an overall means test, whereas tax credits looks at income alone

² The Childcare Service helpline <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/childcare-service-helpline> is run by HMRC and covers TFC and 30 hours free childcare

- 3.2.3 HMRC undertook to improve the TFC guidance on GOV.UK in response to the 2018 Treasury Committee inquiry¹. While some improvements have been made to the main GOV.UK guidance (for example it is now clear that those who are self-employed can look at their earnings over a tax year rather than three monthly entitlement period), there is still further work that can be done to make the full rules clear.
- 3.2.4 For example, one of the rules for TFC is that you can only use the government top-up payments to pay for qualifying childcare – this means that the main reason, or one of the main reasons, for incurring the costs must be to enable the person to work. This test operates at the point of payment out of the TFC account, not at the point of paying in and qualifying for the top-up. However, we cannot find that important rule mentioned on GOV.UK or the main part of the childcare choices website² – the former saying merely that ‘you can use it to pay for approved childcare’.
- 3.2.5 Another example is that the childcare choices website, if you can find the relevant information (see below regarding the tool), states that ‘If you, or your partner.....are unable to work because you are disabled or have caring responsibilities, you could still be eligible’. However it doesn’t give any explanation as to what ‘disabled’ means for this purpose. It also doesn’t make it clear that this rule only applies for couples where one person is working and the other is not. The GOV.UK website does have more information on this point, but there is no link to that information from childcare choices³:

If you’re not currently working

You may still be eligible if your partner is working, and you get Incapacity Benefit, Severe Disablement Allowance, Carer’s Allowance or contribution-based Employment and Support Allowance.

You can apply if you’re starting or re-starting work within the next 31 days.

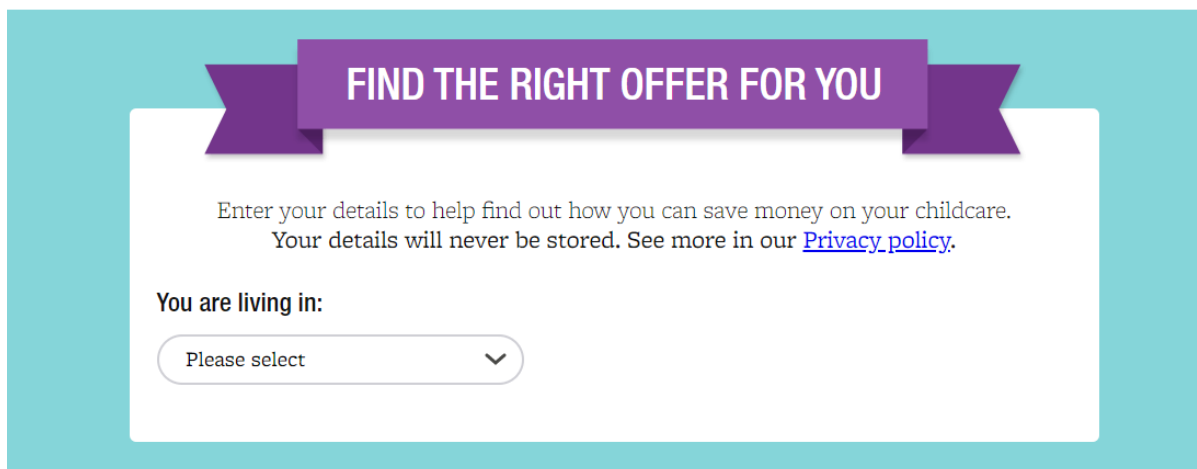
- 3.2.6 Although GOV.UK provides more information, by listing the benefits that still allow you to qualify even if not working, the list is not accurate. It does not include national insurance credits on the grounds of incapacity for work or limited capability for work. It also says ‘you may still be eligible’ if you are receiving one of those benefits suggesting there may be instances where you are in receipt of one of them but are not eligible.

¹ In response to the Treasury Committee’s Childcare Inquiry, the Government said that they are working closely with LITRG and others to help improve the GOV.UK guidance and to develop more detailed guidance for parents to help them choose and apply for the schemes which best suit their needs.
<https://publications.parliament.uk/pa/cm201719/cmselect/cmtreasy/1196/119602.htm>

² It is mentioned in some more detailed guidance that was published on the childcare choices website in 2019, but that has not been updated. As far as we can tell, there is no way to find this guidance from the childcare choices main website pages.

³ <https://www.gov.uk/tax-free-childcare>

- 3.2.7 The childcare choices website has a tool called ‘find the right offer for you’. This simple tool asks you to enter details to ‘help find out how you can save money on your childcare’. This is presented at the top of the page before any of the information about the various childcare schemes¹:



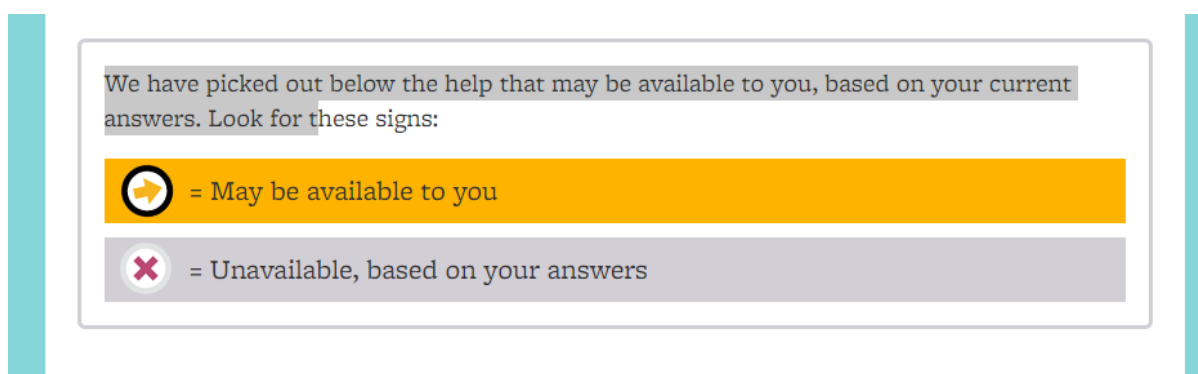
FIND THE RIGHT OFFER FOR YOU

Enter your details to help find out how you can save money on your childcare.
Your details will never be stored. See more in our [Privacy policy](#).

You are living in:

Please select ▼

- 3.2.8 After answering some simple questions, the tool then marks each childcare scheme covered on the page (Tax-Free Childcare, 15 hours free childcare, 30 hours free childcare, tax credits childcare element, universal credit childcare element, support while you study,) with either a yellow arrow (indicating it may be available to you) or a red cross (unavailable to you based on the answers). Crucially, any of the schemes with a red cross change to remove previously displayed information and a clickable box saying ‘is it for me’ (to find out more information) changes to ‘show me anyway’:



- 3.2.9 There are unfortunately a number of problems with this tool. Given that the tool is presented in such a way as suggesting it will ask you enough questions to tell you which schemes are available to you, we are concerned that where someone is told a scheme is ‘unavailable based on answers to the questions’ they will not click on the ‘show me anyway’ box.

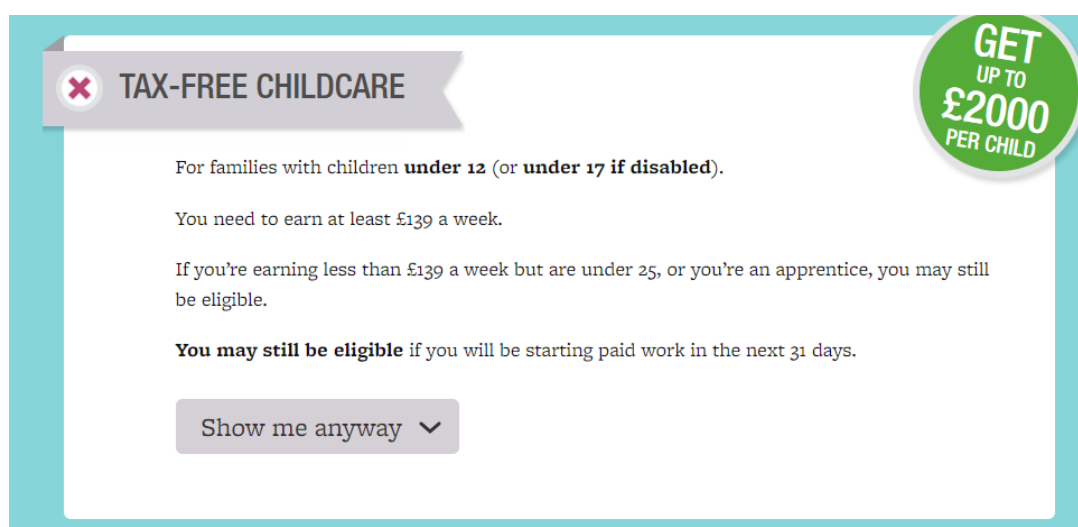
- 3.2.10 The issues with the tool include:

- The tool asks whether you ‘earn’ less than or more than £152 a week. This is a question related to TFC, however the rules do not require an individual to earn more than a weekly

¹ <https://www.childcarechoices.gov.uk/>

amount, they require a person to declare they **expect** their income to be above a certain threshold over the next three months (in most cases). So you can earn less than that figure in some weeks and more in others and still qualify. Even if it turns out you did not earn as much as you thought, as long as you reasonably expected to at the start of the period, that is sufficient.

- The tool asks if you have 'income over £100,000'. This is again related to TFC as if you have adjusted net income over £100,000 then you cannot claim TFC. However, the tool doesn't specify what it means by income. In contrast to the three monthly entitlement threshold, which only looks at earned income from employment and self-employment, this threshold includes other types of taxable income.
- The tool asks whether you are 'not working'. This is a question relevant to several of the schemes. If you select this and indicate your partner is working and earning more than £152 a week, it says that TFC, UC and WTC are not available to you. This is incorrect as all of those schemes have rules that allow access where one partner is working and the other is unable to work due to caring responsibilities or disability. Such people may not go any further and think that childcare support is unavailable to them.
- The tool does not cover self-employment. The rules for the self-employed are sufficiently different that they would potentially get the wrong answer and not continue any further. For example, their earnings may fluctuate so they don't earn more than £152 in some weeks. For working tax credit childcare support, the requirement is to be working a specific number of hours, not to be earning a specific amount (which is required for TFC). So a self-employed person making a loss or very little profit can still access childcare support in WTC but the tool does not indicate this possibility and suggests the opposite is true.
- The questions use different thresholds to the text. The initial question asks if you earn more than £152 a week but the information under TFC then mentions a threshold of £139 a week. If you click 'show me anyway' it reverts back to £152 a week :



X TAX-FREE CHILDCARE

For families with children **under 12** (or **under 17 if disabled**).

You need to earn at least £139 a week.

If you're earning less than £139 a week but are under 25, or you're an apprentice, you may still be eligible.

You may still be eligible if you will be starting paid work in the next 31 days.

Show me anyway ▼

GET UP TO £2000 PER CHILD

- 3.2.11 In addition to the tool, there is a more detailed childcare calculator on GOV.UK and childcare choices that allows people to find out how much they can get towards childcare.¹ The calculator is only offered to people on the childcare choices website after using the tool if they click 'show me anyway' and only on the TFC information.
- 3.2.12 However, the calculator does not currently include UC. The Government's 2018 response to the Treasury Committee childcare inquiry said that the calculator takes account of UC by directing parents to third party benefit calculators so they can see their UC entitlement but that 'HMRC plans to enable users to input their UC entitlement into the calculator so they can make a direct comparison with other forms of childcare support'.²
- 3.2.13 While this is better than not covering UC at all, it is not a suitable replacement for a fully functioning calculator that calculates UC entitlement as it does tax credits. Disappointingly, over 4 years since that commitment, as far as we can tell the calculator has not been amended to allow this.
- 3.2.14 In addition, we have other concerns about the accuracy of the calculator. Some changes were made to the wording after our evidence to the Treasury Committee in 2018. However, we highlighted some further concerns to the Work and Pensions Committee in 2018 which are set out below and which do not appear to have been addressed:
- When asking about childcare costs, it simply asks 'How often do you pay or expect to pay X's childcare costs?' with the option to choose monthly or weekly. It then asks what you expect the weekly or monthly costs to be. There appears to be no guidance on what figure to use if you have variable costs. Tax credits have very specific rules about how to calculate childcare and how to deal with changes in childcare costs that are assessed on an annual basis which is very different to TFC. Changing the figure you put in that box can significantly alter the answer given by the calculator and we are not convinced that those with variable costs should be encouraged to use this calculator – instead, they should get tailored advice.
 - It asks if the person is in paid work and says 'paid work includes maternity, paternity, shared parental, adoption and sick leave'. However, the rules about this vary between the schemes – for example under TFC you are treated as in paid work for a full 52 weeks of maternity leave, whereas under WTC you are no longer in remunerative work after 39 weeks.
 - It asks 'Do you have a partner that you live with?' – tax credit claimants who are married but who live separately are still required to claim as part of a couple and their claim will be assessed jointly. Under TFC and UC, such people could make single claims if they are not part of the same household.
 - On the question about income, related to TFC criteria, it asks 'on average, will you earn £152 or more a week?' but it doesn't seem to specify over what period (our understanding is that this should be over three months).

¹ <https://www.gov.uk/childcare-calculator>

² <https://publications.parliament.uk/pa/cm201719/cmselect/cmtreasy/1196/119602.htm> (para 74)

- The calculator asks ‘will you earn more than £100,000 a year? – this is the total pay from all your jobs or profit from self-employment, with any pension and gift aid contributions taken off’. This is incorrect because, unlike the threshold for qualification, which is based on earnings only, this threshold looks at adjusted net income. ANI includes all taxable income before any personal allowances and less certain tax reliefs¹. This could lead to someone incorrectly believing they qualify when in fact, because of other income, they don’t.

3.2.15 Steps need to be taken urgently by HMRC to ensure the guidance (on both childcare choices and GOV.UK), the tool and the calculator are fit for purpose including:

- ensuring all guidance is accurate and complete;
- ensuring there are appropriate links between childcare choices and GOV.UK guidance;
- ensuring that the initial tool on the childcare choices is updated to be accurate so that people are not dissuaded from continuing;
- amending the calculator questions to ensure they are accurate and providing further guidance where that is needed to ensure people answer correctly;
- identifying those who cannot get an accurate answer from the calculator and making that clear on the front page;
- ensuring UC is fully integrated into the calculator or at the very least that the commitments given in 2018 are put into effect.

In addition, the childcare service helpline (run by HMRC, covering TFC and 30 hours free childcare) should be staffed with a small team of specialists who are trained across the full range of childcare schemes and who can provide additional support to people who are not able to access the online calculator (for example because they are digitally excluded) or who need more tailored advice and support.

3.2.16 We also note that there is currently very little information about the impact of the introduction of UC for those who have reached state pension credit age (or will in the near future) and who need help with their childcare costs (either for their own children or other children they are responsible for such as grandchildren). Previously, they would have been able to claim working tax credit and access the childcare element of WTC (if working sufficient hours). As no new claims for tax credits are possible, they can only access the childcare element of WTC if they are already in the tax credit system. Our understanding is that those who have reached state pension age cannot access UC (unless their partner is under state pension credit age) and there are no plans to provide childcare support via pension credit.² We suspect that the numbers of people affected by this are relatively small, however it is still an important form of support that is being withdrawn and is likely to become more relevant as people continue to work past retirement age.

¹ <https://www.gov.uk/guidance/adjusted-net-income>

² Our current understanding is that some transitional protection will be provided for those moving to pension credit who get childcare support currently but there have been no details published about this as yet.