

EMPLOYER SUPPORTED CHILDCARE

Responses to the Consultation Document

17 September 2003.

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Introduction

- 1) The Chancellor announced in his 2002 Pre-Budget report speech that the Government would be considering further tax and National Insurance Contributions (NICs) incentives to expand employer-supported childcare.
- 2) A consultation document on proposals to improve the existing tax and NICs exemptions was published on 25 February 2003. The consultation period closed on 31 May 2003.
- 3) Responses were sought on the main features of the reform proposals, which were:
 - To expand the current, limited tax exemption on workplace nurseries to cover employer support of all registered childcare and approved home childcare provision by removing the requirement for employers to have management responsibility of the childcare facility;
 - To give improved clarity on how the tax and NICs exemptions operate in order to give employers greater certainty when considering the introduction of childcare benefits;
 - For the tax and NICs exemptions to benefit those parents who need it most, ensuring that qualifying employer-supported childcare schemes are accessible to all employees;
 - To boost the current NICs exemption on childcare vouchers with a matching tax exemption to ensure that childcare vouchers continue as an equally valuable benefit option;
 - To ensure that the wider tax and NICs exemptions are affordable and fairly targeted a financial limit to the exemptions of £50 per week was proposed; and
 - Improved guidance to ensure parents and employers are better informed in deciding on childcare provision options.
- 4) We received 107 written responses to the consultation document. These came from employers, representative bodies, local authorities, NHS Trusts, Government departments, accountants and auditors, the childcare industry and individuals. A full list of the respondents is in appendix 1.
- 5) We are grateful to all respondents for the comments and suggestions made. Many were highly detailed and we recognise the time and effort that went into them.
- 6) We asked a number of specific questions in the consultation document. These related to key changes proposed to the existing arrangements. They were also intended to stimulate ideas about the future shape of employer-supported childcare.

- 7) The purpose of this report is to summarise the responses and, as far as possible at this stage, indicate how we are following them up. We have not been able to include every individual comment in this report, but they have all been recorded and are being considered carefully.

Summary of responses

- 8) All respondents agreed that childcare vouchers should receive equal treatment for tax and NICs as other employer-supported formal childcare provisions. Many felt that this would lead to greater choice and flexibility for working parents.
- 9) An overwhelming majority of respondents supported the proposal to extend the current workplace nurseries exemption to cover all forms of registered and approved childcare. Some commented that it would make it easier for employers to support childcare, others felt that it would widen access to childcare and some felt that it would help with recruitment and retention.
- 10) On the proposed financial limit to the exemptions, the majority of respondents would prefer to see it set at a higher rate. Some suggested alternatives, varying from £75 to £150 per week. Others thought that it should be a variable limit, related to a percentage of childcare costs or that it should be related to the actual cost of childcare. Some suggested that it should mirror the childcare element of the working tax credit. There were also concerns about how fairly targeted the proposals were, particularly for lone parents and the extra costs for families with more than one child, while some respondents felt that the financial limit did not reflect regional variations in the costs of childcare.
- 11) On the issue of better guidance, a substantial majority of respondents agreed that it would encourage employers to increase support for childcare, particularly by bringing out the business case for doing so. A number commented that it was needed to help employers and employees make informed choices. However, some did express reservations about how much effect it would have in encouraging employers to increase support for childcare.

DETAILED RESPONSES TO THE CONSULTATION QUESTIONS

Question a – Do you consider that extending the current workplace nurseries exemption to cover all forms of registered and approved childcare will encourage greater support of childcare by employers?

98 respondents answered this question, out of which 91 respondents representing 93% of the respondents agreed that the extension of current workplace nurseries exemption to cover all forms of registered childcare and approved home childcare would encourage greater support of childcare by employers. The reasons cited included:

- It would make it easier for employers to support childcare
- It would widen the access to childcare
- It would offer more choice to employees and aid sustainability of childcare provisions.
- It would provide business with greater flexibility
- It would help to simplify the process
- It would assist in recruitment and retention.

Some specific quotes included:

“ The existing arrangements have been unnecessarily cumbersome and difficult to interpret and implement. The revised proposals will enable employers to adopt a more creative approach in considering which childcare support options will help them to meet differing staff needs.” - Home Office

A flavour of respondents touching on the issue of recruitment and retention of staff was aptly put forward by one of the respondents.

“.. This will provide a method by which employers, specifically those with large numbers of part-time employees, can attract and retain parents; subject to the related costs being balanced by real improvements in staff retention, staff satisfaction levels and lower absenteeism.” – Vodafone PLC

Of the respondents who did not agree that the extension would encourage greater support of childcare by employers, most were concerned about the exclusion of informal childcare, particularly nannies and relatives from the proposed exemptions.

Question b - Do you agree that the tax and NICs treatment of employer-supported childcare should be consistent? If not, why not?

87 respondents answered this question, out of which 85 agreed with the proposal that the tax and NICs treatment of employer-supported childcare should be consistent.

This represented 98% of the respondents. Some of the reasons cited included:

- It would make the process simpler.
- It would make it easier for employers particularly small business to offer childcare benefits to their staff.
- It would widen the scope of childcare support.
- It would remove confusion and ease administrative burden.
- It would be fairer to both employees and employers.

Some specific quotes included:

“ A consistent treatment will benefit a wider range of parents and give employers and employees confidence that the arrangements are legal and robust”- National Day Nurseries Association NDNA.

“ It is unhelpful to employers and employees who have to comply with two sets of rules as exists at the present time. We believe the general policy is to align NIC and tax and we support this provided that lower income families are not disadvantaged”
ICAS.

“ It will iron out the inconsistencies of the current system and will provide employers with more options to support their staff with childcare. It is important that the anomaly in relation to workplace nurseries is managed so that it is not abused.”

Daycare Trust

Question c - Do you agree that employers should not be required to be involved in the management of the childcare? If not, why not?

87 respondents answered this question, out of which 80 respondents representing 92% of the respondents welcomed this proposal. 7 respondents representing 8% of the respondents did not agree with the proposal. The reasons cited by the overwhelming majority included:

- Childcare is not an employers' core business and it would allow employers to concentrate on their core business.
- It is an unnecessary burden on employer.
- It would have a significant impact on the number of employers providing support.
- It would remove disincentives for employers to offer childcare.
- It would address disparities in the provision of workplace nurseries.

Some specific quotes included:

“The requirement has caused many issues on availability of tax relief under the present regime. The removal of this obstacle is likely to mean that more employers will consider support for childcare for their employees and it would be a welcome relaxation that could have a significant impact on the number of employers who consider providing support for childcare to their employees.” DWP Solicitors.

“ It is sensible to remove the requirement for employers to be involved in the management of childcare. Increasingly, businesses are focusing on their core activities and outsourcing traditional functions to niche firms. The tax system should not discriminate against those who choose to operate in this way.” IOD

“ We believe it would be impractical and burdensome for employers to be involved in the management of all supported schemes. This is a major barrier to the introduction of work placed nurseries in particular. The employers are experts in their chosen fields NOT childcare.” City of London EYDCP

Question d - Should the criteria specify the level of funding for which employer should be responsible? We would like your views on how the requirement for employer funding can be made clearer.

72 respondents answered this question, out of which 45 respondents representing 62% did not agree with this proposal. 27 respondents representing 38% agreed that the criteria should specify the level of funding for which employers should be responsible. Reasons cited for disagreeing with the proposal included:

- Any additional funding criteria would detract employers from supporting childcare.
- It would be too complex and difficult to impose funding levels.
- The decision about funding should be left to employers to decide.

Some specific quotes included:

“ The TUC cannot see any reason why the government should specify the level of funding for which the employer should be responsible. Some employers may want to be more generous than others in the support for childcare that they offer. This is a decision left to individual employers.” Trade Union Congress

“We do not think that it is reasonable for criteria to specify any particular level of funding for which the employer should be responsible. A cap is reasonable but employers should be encouraged to offer whatever support they can, remembering that many people are employed by small firms and businesses.” ICAEW Tax Faculty.

Those that agreed suggested that the guidance on funding should be clearer and simple to follow. Some disagreed with the proposal but suggested that employers should be encouraged to re-invest their NICs savings

“No not as the proposals stand. But we would like to see further debate about how to encourage employer funding above and beyond salary sacrifice schemes. In promoting the new proposals, it would be useful to highlight good practice examples where employers invest their NIC savings in further meeting their employees’ childcare needs”.

The Small Business Council suggested that we *“give guidelines for best practice, but do not be prescriptive.”*

Question e - Do you agree with the requirement for employers to make childcare support generally accessible to all employees where a childcare support scheme is operated? If not, why not?

87 respondents answered this question out of which 78 respondents representing 90% agreed with this proposal and the balance of 9 respondents representing 10% did not agree with the proposals. It should however be noted that some of those that agreed and disagreed made qualified statements. The reasons cited by those that agreed included:

- This is fair and equitable.
- It would benefit low-income earners.
- It would encourage employers to provide support for childcare.

Some of those that agreed with this proposal however expressed some concern about the impact on small businesses.

The reasons cited by those that disagreed included:

- It would hinder flexibility.
- It would act as a disincentive to employers
- It would deter small companies from participating.

Some specific quotes include:

“ The group agrees that there should be a requirement to make childcare support generally accessible to all employees. However, this is based on the premise that any new rules will be flexible enough to be equally applicable to work locations where there are just few employees as those where there are more.” AOL Time Warner

“ Yes, a child support scheme should be open to all employees – male or female, high or low income.” Accor Services

“ In the interests of ensuring that childcare is made more accessible, the CBI accepts that companies should qualify for this exemption only when childcare is made more generally available to employees. However, it is vital that employers retain the flexibility to vary the level and type of support to employees, and retain the choice to exclude all non-permanent workers from access.” CBI

“Subject to specific, practical problem of an employer who operates from a number of geographically diverse sites, we agree with the requirement for employers to make childcare support generally accessible to all employees where a childcare support scheme is operated” NW Brown.

Question f - The option proposes £50 per week financial limit for tax and NICs exemption. Is this the right amount? If not why not, and what amount would be more appropriate?

90 respondents answered this question, out of which 78 respondents did not agree with the proposal of £50 per week financial limit. This represented 87% of the respondents, the balance of 12 respondents representing 13% agreed with the proposals. There were very detailed analytical and very well reasoned arguments on both sides. Some of the reasons cited for not agreeing with the proposals included:

- It is too low.
- It does not take into account regional variations.
- It would discriminate against single parents.
- It does not address families with more than one child.
- It does not take into account part-time and irregular hours workers.

Most of the respondents who supported the proposals felt that it was reasonable and would benefit low-income earners.

The suggestions for alternative amounts were divided into three broad categories. The first group suggested that there should be an increase in the financial limit to between £75 and £150 per week.

The second suggested that the weekly financial limit should mirror the childcare element of Working Tax Credit.

And the third broad suggestion was that a percentage of costs should be allowed as the financial limit for the exemption. The percentages suggested ranged from 35% to 90%.

Finally, there were further suggestions of restricting the exemption allowed for childcare costs to the basic rate of tax.

Some specific quotes included:

“At the time of response, Parents at Work considers £50 per week to be a realistic limit to set for tax and NICs exemptions, this being approximately one third of the average current weekly cost of childcare for one child. We welcome the retention of current exemptions applicable to nurseries managed and financed by employers”

“ The financial limit of £50 per employee is felt to be unfair and many of our clients felt that it should be per child. Even if it were per child, it is unlikely to be adequate to cover full cost of childcare in some parts of the UK.” Grant Thornton

“ The limit needs to take account the actual costs of childcare (typical national cost of a nursery place is £128 a week); it should increase for families with a second or more children using childcare; and it should be calculated as a sum per household (as for the tax credits) to ensure equity and affordability for lone parents.” Early Childhood Forum on Employer Supported Childcare

Question g - We would like your views on the extent to which the take up of childcare vouchers would grow under the proposals?

The majority of respondents felt that childcare vouchers would grow substantially under the proposals. 77 answered this question and 64 of them agreed that take-up would grow. There were divergent views on the level of increase as some felt that the take up would be marginal while others thought it would be more significant.

Together, they represented 83% of respondents. The balance of 13 respondents representing 17% of the total felt that take-up would fall under the proposals. The main reason advanced for this was the exclusion of informal care.

Some specific quotes included:

“ It is likely that the take up of childcare vouchers would increase rapidly if these proposals were implemented. However, they will also be for lesser amounts than current uptake in many cases, due to the proposed £50 limit.” North East London Workforce Confederation.

“The use of childcare vouchers is likely to grow significantly under these proposals in the medium to long term. In the short term there will be an impact on take up of vouchers by parents who use vouchers to pay for informal care and consideration should be given to transitional protection for employees in this situation.” Early Childhood Forum on Employer Supported Childcare.

“ We believe it would grow. Large employers who do not provide childcare under the current rules because of the burden would find this a simpler solution. Small and medium sized employers will find this more acceptable to offer staff” Private Sector Payrolls Group.

“ Because informal home-based care (including nannies) is excluded we feel it would decrease in our business.” KPMG

Question h - Do you agree that childcare vouchers should receive equal treatment for tax and NICs as other employer-supported formal childcare provision?

84 respondents answered this question and all the respondents agreed that childcare vouchers should receive equal treatment for tax and NICs as other employer-supported childcare provision. The reasons cited for the agreement include:

- It would make provision easier.
- It would lead to greater choice for parents and aid sustainability of childcare.
- There should be no distortion between the different methods of employer supported childcare.
- It would create a fairer process.
- It would provide more flexibility to employees and employers.

Some specific quotes included:

“We agree that childcare vouchers should receive equal tax and National Insurance treatment with other Employer supported formal childcare provision. It would be inequitable for employee unable to take up employer provided childcare provision to be penalised where vouchers for other providers are given in lieu of other employer provisions.” Newcastle City Council EYDCP

“ Vouchers should receive equal treatment for Tax and NICs as they are more versatile and as the reasons stated above make them more accessible to a broader spectrum of employees and therefore reduces or eliminates the discrimination related to other forms of employer supported childcare” Employers for Childcare

“ Yes. Childcare vouchers could well become one of the most popular forms of employer supported childcare, and so should receive equal treatment for tax and NICs.” USDAW

Question i - Please comment on whether £50 per week per employee is an appropriate limit for the exemption on childcare vouchers.

77 respondents answered this question, out of which 21 representing 28% of the total agreed that the financial limit of £50 was appropriate. The balance of 56 respondents representing 72% did not think that the financial limit of £50 was enough. By way of explanation, the majority (86%) of them referred back to their answers in question f. There were some differences in the statistics in these two questions and this can be attributed to two major reasons:

- a) Approximately 20% of the respondents who answered question f did not answer this question.
- b) Some who did not agree with the £50 limit in question f changed their minds, accepting that it was a good starting point.

On the whole, however, the answers generally mirrored those to question f. Some respondents suggested that a review of the financial limit should be carried out after 12 months of its operation. It was also suggested by a few respondents that the financial limit could be linked to the retail price index

Question j - Do you think that better guidance along the lines above would help to encourage employers to increase support for childcare provisions?

78 respondents answered this question and an overwhelming majority of 75 respondents representing 96% agreed that better guidance would help to increase support for childcare provision. The balance of 3 respondents representing 4% of the respondents did not agree that better guidance would help to encourage employers to increase support for childcare provision.

The reasons cited for the agreement included:

- It would help employers especially small businesses.
- It would help employees to make informed decisions and choices.
- It would lead to higher take up.
- It would reduce employer burden.
- It would promote certainty.
- It is essential to the success of Government policy on childcare.

Respondents who did not agree with this proposal expressed concern about the link with salary sacrifice, which they felt would discourage the use of childcare vouchers.

Some specific quotes included:

“We agree with the Government that better guidance is needed to encourage employers to increase support for childcare provision and that it should be directed at providing greater certainty over the qualification criteria for exemptions. This would do much to help encourage employers to increase support for childcare provision.”

British Retail Consortium

“ We believe that employers will support childcare provision when it is in their interests to do so. It is also, however, important that the rules should be clear and unambiguous. We are concerned that the fact that the impact of employer support for formal childcare provision, on a person’s entitlement to the childcare element of Working Tax Credit, will not easily be understood” ICAEW Tax Faculty.

“ Clear guidance must come from the Inland Revenue on types of schemes that qualify for the exemptions and the guidance and advice on the impact on pension, maternity, Working Tax Credit and Childcare Tax Credit.” Grass Roots Group

Question k- Do you have any other ideas about what the guidance should contain?

82 respondents answered this question and many offered useful ideas about what the guidance on childcare should contain. The general theme was that it should be simple, clear and easy to follow. A summary of the main ideas proposed by respondents included:

- The Guidance should contain clear examples.
- It should contain example of best practice.
- It should be more in-depth with examples flow charts and contact details.
- It should contain examples showing impact on state benefits.
- It should be cross-departmental and cross representative.
- It should contain explanations with interactions with tax credits.
- There should be separate guidance for employees and employers.
- It should contain step by step instructions on how to set up and implement a scheme.
- It should contain clearer guidance on salary sacrifice.

Additional Comments

A number of respondents made some additional comments which were not related to the questions asked in the consultation document. A lot of very coherent reasoned and thoughtful issues were touched. Some of the key issues and concerns are detailed below:

1. Concerns about informal childcare and suggestion of a transitional period. A few of the respondents also mentioned the issues of eldercare.
2. Concerns about the exclusion of self-employed.
3. There were suggestions of the need to address the issue of qualifying age of children as this was different under tax, NICs and tax credits rules.
4. There should be clarification on whether the benefit of employer supported childcare should count towards the National Minimum Wage.
5. There were suggestions that the Inland Revenue should have pre-transaction rulings on childcare schemes.
6. There should be more exploration of the impact of tax credits
7. The issue of electronic and virtual vouchers
8. There should be clarification and consistency about payrolling benefits or reporting on P11Ds.
9. Concerns that childcare currently attracts zero-rated value added tax status and this consequently leads to increased costs because input tax is not recoverable.

Appendix 1

Employer Supported Childcare respondent

Respondent

Accountants Auditors and Accountancy bodies

Association of Chartered Certified Accountants
Barber Harrison & Platt
Chartered Institute of Taxation
Deloitte & Touche
Ernst & Young
Grant Thornton
ICAS
ICAEW Tax Faculty
KPMG
Macintyre Hudson Accountants
N W Brown Employee Benefits

Employers

AOL Time Warner
Asda
Barclays
BBC
DWF Solicitors
Eli Lilly and Company
Legal & General
Livestock & Meat Com.
M J Carter Associates
Marks & Spencer PLC
Royal Mail
University of East Anglia Norwich
Vodafone Group services Limited

Government Departments

Department of Health
Department of Trade and industry
D W P Procurement Service
DEFRA
DWP Child Support Agency
DWP Direct Carers division
DWP Social Research
Equality Commission N.I
Forensic Science N.I
Government Communications HQ
Home Office
Interdepartmental Childcare Group
Lord Chancellors Department
Ministry of Defence
Northern Ireland Office
Small Business Service

NHS Trusts Local Authorities and EYDCPs

Barking, Havering & Redbridge NHS
Barts & The London NHS

Bath & NE Somerset Education service
Blackpool, Preston & Chorley NHS consortium
Brighton & Hove City Council
Cambridgeshire EYDCP
Central England Employer Liaison Network
Corporation of London
East Cheshire NHS
Exeter PCT
Kings College Hospital
Luton & Dunstable Hospital NHS
NE London Workforce
DevelopmentConfederation
Newcastle EYDCP
Nottinghamshire EYDCP
Oxford Radcliffe Hospital NHS Trusts
Plymouth Hospitals
Sheffield EYDCP
South East London NHS
Trent region childcare co-ordinators network
Westminster Council

Childcare industry

Accor Services
Asquith Court Schools Ltd
Buffer Bear Limited
Busy Bees
Grass Roots Group
Jigsaw Day Nurseries Ltd
Kids Unlimited
Leapfrog Day Nurseries
Scottish Childminding Association
Sodexo Pass

Representative bodies Charities and Trade Unions

British Retail Consortium
CBI
Contact a Family
Daycare Trust
Early Childhood Forum
Employers for Childcare
Equal Opps Comm.
Federation of Small Businesses
Graphical Paper and Medical union
Institute of Directors
Institute of Payroll & Pensions management
Kids Club Network
National Childminding Association
National Day Nurseries Association
North West Worklife Balance Network
One Parent Families
Parents at work
Private Sector Payroll Group
Prospect
Public and Commercial Services Union
Royal College of Nursing
Scottish Childminding Association
Small Business Council

Trades Union Congress
Union of shop, distributive and allied workers
(USDAW)

Individuals

3 Anonymous
Catherine Newman
Jane Jordan
Lee Povey
Liz Sewell
Sandra James
Sarah Deeks
Sue Lister
Sue Ward

Appendix 2

Summary of responses

Total number of responses was 107
Breakdown as follow;

Accountants, Auditors and Accountancy bodies	11
Employers	13
Govt Dept	16
NHS, Local Authorities and EYDCPs	21
Rep bodies	25
Childcare Industry	10
Individuals	11

Questions	No of respondents that answered question	No that Agreed	% of Respondents that agreed	No that disagreed	% of Respondents that disagreed
a	98	91	93	7	7
b	87	85	98	2	2
c	87	80	92	7	8
d	72	27	38	45	62
e	87	78	90	9	10
f	90	12	13	78	87
g	77	64	83	13	17
h	84	84	100	0	0
l	77	21	28	56	72
j	78	75	96	3	4