

The child tax credit cap and the 'rape clause'

Key messages

The RCM does not support the UK Government's cap on child tax credits and was not consulted on this policy change. We believe the introduction of a cap to be unfair and associated exemptions to be inequitable, invasive and divisive.

Whilst the RCM opposes the overarching policy, we recognise that exemptions apply to children born as a result of 'non-consensual' conception and we support a woman's right to take advantage of this exception, should she wish to. We therefore recommend that if approached by a woman to assist her with completing the exception form, that a midwife should do so.

Background

With effect from 6th April 2017, the UK Government introduced a cap to child tax credits, meaning that payments are limited to two children and that it is no longer possible to claim for third or later children born after this date.

A number of exceptions are allowed, including for multiple births or adoptions and also for children born as a result of 'non-consensual conception'. This is defined as either a sexual act that a woman didn't or couldn't consent to or as a result of being in an abusive relationship.

The exception does not however apply if the woman is living with the other parent of the child. The failure to exempt women who feel unable to leave a coercive or abusive relationship has been criticised by groups representing abused women as amounting to victim-blaming.

A woman who wishes to claim an exception on the grounds of a non-consensual conception is required to complete an application form "with the help of a third-party professional" who can be a midwife. This takes the form of signing a declaration to the effect that they have been in contact with the applicant and that the applicant's circumstances appear likely, in your judgement, to meet the conditions of the exception.



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Recommendation

If a midwife is approached to support an application for this exception, we advise that the midwife has adequate time to listen, consider, respect and respond to such a request and signpost to other sources of support. The midwife will be required to use his or her judgement in determining whether or not to support an application and should take into account the NMC Code. The DWP has also produced guidance aimed at the women completing the form, on how an application should be completed and supported¹.

Northern Ireland

Please be aware that in Northern Ireland, if the third party knows or believes that a relevant offence (such as rape) has been committed, the third party will normally have a duty to inform the police of any information that is likely to secure, or to be of material assistance in securing the apprehension, prosecution or conviction of someone for that offence. We have requested official guidance from the Chief Nursing Officer, for midwives in Northern Ireland, as to how they should report these women to the police as victims of a crime. We also recognise the conflict between the NMC Code requirement to protect confidentiality and the requirement of the law in Northern Ireland to report a crime. We have sought clarity on this from the NMC.

Next steps

Following the outcome of the 2017 general election, the RCM along with other supportive organisations (such as Women's Aid, Victim Support, Rape Crisis and Maternity Action) has called for the Government to change the current policy, including repealing the cap on child tax credits.

However while the policy remains in place, we want to gather evidence as to how many applications are being made for exceptions and, of these, how many have been supported by midwives. We are tabling some parliamentary questions to this effect but we would also like to hear from midwives that have been approached to support an application for an exemption. In particular, it would be helpful to know:

- How many requests have been received
- How long it takes to complete the application
- What impact midwives feel this has had on the woman applying for the exemption and on themselves as health professionals and their relationship with the woman they are caring for

We ask that midwives write to Emma Currer, RCM National Officer at Emma.Currer@rcm.org.uk, about their experiences.

Midwives can also write directly to the Secretary of State for Work and Pensions² if they wish to express their concerns about the broader impact of the policy and the impact it is having on their role.

¹ <https://www.gov.uk/guidance/child-tax-credit-exceptions-to-the-2-child-limit>

² The Right Hon David Gauke MP, Secretary of State for Work and Pensions, Department for Work and Pensions, Caxton House, Tothill Street, London SW1 H 9DA

