

**DECISION OF THE UPPER TRIBUNAL  
(ADMINISTRATIVE APPEALS CHAMBER)**

As the decision of the Fox Court appeal tribunal (held on 18 June 2008 under reference 201/07/00453) involved the making of an error in point of law, it is SET ASIDE under section 12(2)(a) and (b)(ii) of the Tribunals, Courts and Enforcement Act 2007 and the decision is RE-MADE.

The decision is: the claimant is not entitled to child tax credit on his claim that was made and refused on 12 January 2004.

**The time for applying for permission to appeal to the Court of Appeal is shortened to one month from the date when this decision is issued. (Rule 5(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI No 2698)).**

**REASONS FOR DECISION**

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**A. The issue**

1. The issue in this case is whether it is indirectly discriminatory for a substantial minority carer to be denied child tax credit in respect of the children for whom he cares for three days a week.

**B. History and background**

2. The claimant made a claim for child tax credit in respect of his two children. The Secretary of State decided that he was not entitled to an award, because he was not, within the terms of the legislation, responsible for the children. The claimant exercised his right of appeal and the tribunal decided that the provision on which the Secretary of State had relied

was discriminatory under Article 14 of the European Convention on Human Rights when read together with Article 8. The chairman of the tribunal gave Her Majesty's Revenue and Customs permission to appeal to a Social Security Commissioner. The proceedings were transferred to the Upper Tribunal under the Transfer of Tribunal Functions Order 2008 (SI No 2833). This has not affected my decision.

**C. The claimant's care of his children**

3. This was not in dispute. The parties agreed the following statement:

'The parties are agreed that [the claimant] had the care of the children for at least three days a week in the period from 12.1.04 to a date in December 2005. This is evidenced by the attached order which governs the position from 5<sup>th</sup> November 2004 onwards (see paragraph 2(c)).'

**D. The hearing**

4. I directed an oral hearing of the appeal, which was held on 16 December 2008. The Commissioners of Her Majesty's Revenue and Customs were represented by Jason Coppel, of counsel. The claimant attended and was represented by Richard Drabble QC. I am grateful to both representatives for their erudite and interesting arguments.

**E. The child tax credit legislation**

5. Tax credits are paid under the authority of the Tax Credits Act 2002. Section 1 provides:

**'1 Introductory**

- (1) This Act makes provision for-
- (a) a tax credit to be known as child tax credit; ...'

6. Section 3 deals with claims:

**'3 Claims**

...

- (3) A claim for a tax credit may be made-
- (a) jointly by the members of a couple both of whom are aged at least sixteen and are in the United Kingdom ...; ...
- (b) by a person who is aged at last sixteen and is in the United Kingdom but is not entitled to make a claim under paragraph (a) (jointly with another).'

7. Section 8 deals with entitlement:

*‘Child tax credit*

## **8 Entitlement**

(1) The entitlement of the person or persons by whom a claim for a child tax credit has been made is dependent on him, or either of them, being responsible for one or more children or qualifying young persons.

(2) Regulations may make provision for the purposes of child tax credit as to the circumstances in which a person is or is not responsible for a child or qualifying young person.’

8. Regulation 3 of the Child Tax Credit Regulations 2002 (SI No 2007) is made under the authority of section 8(2):

### **‘3 Circumstances in which a person is or is not responsible for a child or qualifying young person**

(1) For the purposes of child tax credit the circumstances in which a person is or is not responsible for a child or qualifying young person shall be determined in accordance with the following Rules.

#### *Rule 1*

1.1. A person shall be treated as responsible for a child or qualifying young person who is normally living with him (the “normally living with test”).

1.2. This Rule is subject to Rules 2 to 4.

#### *Rule 2 (Competing claims)*

2.1. This Rule applies where-

- (a) a child or qualifying young person normally lives with two or more persons in-
  - (i) different households, or
  - (ii) the same household, where those persons are not limited to the members of a ... couple, or
  - (iii) a combination of (i) and (ii), and
- (b) two or more of those persons make separate claims (that is, not a single joint claim made by a ... couple) for child tax credit in respect of the child or

qualifying young person.

- 2.2. The child or qualifying young person shall be treated as the responsibility of-
- (a) only one of those persons making such claims, and
  - (b) whichever of them has (comparing between them) the main responsibility for him (the “main responsibility test”), subject to Rules 3 and 4.

*Rule 3*

3.1. The persons mentioned in Rule 2.2 (other than the child or qualifying young person) may jointly elect as to which of them satisfies the main responsibility test for the child or qualifying young person, and in default of agreement the Board may determine that question on the information available to them at the time of their determination.

...’

**F. Apportionment or splitting of the award**

9. Section 9(7) of the Tax Credits Act 2002 allows for the possibility that an award might be apportioned or split between carers:

**‘9 Maximum rate**

(1) The maximum rate at which a person or persons may be entitled to child tax credit is to be determined in the prescribed manner.

...

(7) If, in accordance with regulations under section 8(2), more than one claimant may be entitled to child tax credit in respect of the same child or qualifying young person, the prescribed manner of determination may include provision for the amount of any element of child tax credit included in the case of any one or more of them to be less than it would be if only one claimant were so entitled.’

10. No regulations have been made under section 9(7). This position was maintained following a review. The background to this was explained in a witness statement by Adrian Dixon:

- ‘1. I am a policy advisor in the Benefits and Credits Group of HMRC; that group being responsible for Child Tax Credits and Child Benefit.
2. HMRC has already made a Submission in these proceedings which explains the grounds of justification which are relied upon in relation to the continuing regime whereby Child Tax Credit (“CTC”) is awarded only to the carer who has, or is

agreed to have, main responsibility for the care of a child rather than being split between two carers.

3. The purpose of this statement is to confirm that following the case of *Hockenjos*, in December 2004, officials within HMRC and HM Treasury did conduct an internal review of the validity of the justifications for the rules which are under challenge in these proceedings (and of the equivalent rules in relation to Child Benefit). The internal review recognised the increasing incidence of shared care arrangements and considered a range of policy options including (a) retaining the current system of payment to a single carer, (b) splitting payments of CTC between carers, apportioned according to share care arrangements and (c) making CTC awards to both parents in shared care cases.
  4. In relation to each option, officials considered a number of factors including (a) the logic behind the option and how it would work, (b) the effect on the wider benefits system, (c) the effect on public expenditure, (d) the support which would be offered for shared parenting, (e) the effect on the administration of CTC.
  5. The conclusion reached by officials, having considered these factors, was that there had been no material changes in the balance of policies which had led to the enactment of the original CTC regime, and payments being made to a single carer. Therefore, no further work was undertaken with regard to reforming the current system.
  6. Also in the Submission to which I have referred, HMRC undertook to inform the Tribunal of the outcome of its investigations into the incidence of competing claims to CTC and the effect of the rule at issue in these proceedings on men and women making competing claims. The position is that HMRC has no data on the incidence of competing claims to CTC or on how such claims are determined, and cannot obtain such data from its current computer system. However, I attach some statistics regarding the determination of competing claims to Child Benefit which were resolved by HMRC on essentially the same basis as disputes regarding the “main responsibility” test for CTC.’
11. The competing policy considerations were set out in a table, which is Annex A to this decision. The child benefit statistics are set out in Annex B. I have modified their presentation slightly to make them clearer.

#### **G. Convention rights**

12. The relevant Convention rights under the Human Rights Act 1998 are:

#### **‘ARTICLE 8**

#### **RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE**

1. Everyone has the right to respect for his private and family life, his home and his

correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

#### **'ARTICLE 14**

#### **PROHIBITION OF DISCRIMINATION**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

#### **'THE FIRST PROTOCOL**

#### **ARTICLE 1**

#### **PROTECTION OF PROPERTY**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.'

#### **H. The substantive article**

13. Mr Coppel conceded that, following the decision of the House of Lords in *R (RJM) v Secretary of State for Work and Pensions* [2008] 3 WLR 1023, the claimant's circumstances were within the scope of Article 1 of Protocol 1 to the Convention. Mr Drabble accepted that concession. He did not need to rely on Article 8, which was his preferred argument before the appeal tribunal. However, he reserved the right to rely on that Article should that be necessary. For the record, Mr Coppel opposed any argument that the case was within the ambit of Article 8.

#### **I. Personal characteristic**

14. Mr Coppel accepted that, as the discrimination was alleged on the ground of sex, that was a personal characteristic for the purposes of Article 14.

15. He did not accept that being a substantial minority carer was a personal characteristic or

that a minority carer was in an analogous position to a majority carer. He relied on the decision of Mr Commissioner Pacey in *CTC/2065/2004* at paragraphs 23 to 30. I do not have to decide this issue. However, I would have been open to an argument that being a carer was a personal characteristic:

- Many carers see that role as an important aspect of their lives to the point where it may even form part of their identity. It is surely no different from being a single parent, which I would regard as a personal characteristic.
- Separated parents who have limited or no contact with their children certainly feel aggrieved by that and do so strongly. It is arguable that this feature also is a important factor in their identity.
- If being a carer and a parent, single or separated, can be personal characteristics, I see no reason why being a member of one subset comprising separated parents with minority caring roles cannot also be a personal characteristic.

#### **J. Discrimination and statistics**

16. Mr Coppel argued that the claimant had produced no statistics. Mr Drabble replied that he relied on the statistics that were put to the Court of Appeal in *Hockenjos*. In that case, the Secretary of State had conceded their relevance. Mr Coppel did not repeat that concession.

17. I referred Mr Coppel to what Baroness Hale said in *AL (Serbia) v Secretary of State for the Home Department* [2008] 1 WLR 1434:

‘25. Nevertheless, as the very helpful analysis of the Strasbourg case law on article 14, carried out on behalf of Mr AL, shows, in only a handful of cases has the Court found that the persons with whom the complainant wishes to compare himself are not in a relevantly similar or analogous position (around 4.5%). ... This suggests that, unless there are very obvious relevant differences between the two situations, it is better to concentrate on the reasons for the difference in treatment and whether they amount to an objective and reasonable justification.’

He asked to make a written submission on that case after the hearing, which I allowed. In that submission, he argued that the case concerned direct discrimination and that Baroness Hale’s comments were concerned with the limited relevance of whether the situation of the claimant and the chosen comparator were relevantly analogous. Be that as it may, I consider that Baroness Hale’s remarks contain a wider truth: the focus should be on what matters to the claimant, the issue of discrimination, rather than an analysis of statistical information.

18. I also note what the Grand Chamber of the European Court of Human Rights said about the burden of proof in *DH v Czech Republic* [2007] ECHR 57325/00:

‘179. ... Convention proceedings do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation – *Aktas v Turkey (extracts)* [2003] ECHR 24351/98 at para

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272). In certain circumstances, where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (*Salman v Turkey* [2000] ECHR 21986/93 at para 100; and *Anguelova v Bulgaria* [2002] ECHR 38361/97 at para 111). ...'

19. In this regard, I note from Adrian Dixon's witness statement that Her Majesty's Revenue and Customs is unable to say how many competing claims there are for child tax credit. It would no doubt be possible for an outsider to obtain this information, but it does not come well from the Department of State entrusted to receive and decide claims to argue that others should obtain the information that it does not, but could easily, retain.

20. The statistics in *Hockenjos* were taken from a paper by Sally Holtermann, entitled *The Impact on Men and Women of the Rules of Entitlement to Child Additions to Income-based Jobseekers Allowance* of 17 December 2001. Mr Drabble relied particularly on the figures for overnight care of children in the child support scheme:

'24. The figures ... show that in February 1998 there were 44,600 non-resident parents who were subject to a reduced assessment due to having care of children for 104 nights a year or more, and of these, 41,200 were men and 3,400 were women. There was a total of 662,000 non-resident parents, of whom 624,700 were men and 37,300 were women. There were 634,900 actual parents with care, of whom 37,200 were men and 597,700 were women.'

21. Mr Drabble emphasised the extent of the disparity. The district chairman who heard this appeal accepted those figures as accurate based on his experience in child support cases. That is also my experience of child support cases. However, that is not the end of the matter.

22. In this case, the issue is not whether more men than women are substantial minority carers. The issue is whether more men than women are substantial minority carers who have not reached an agreement with the other carer for the purposes of Rule 3, which allows competing carers to elect, in effect, which of them should receive the child tax credit.

23. Moreover, the child support figures relate to overnight care, whereas Mr Drabble defined a substantial minority carer by reference to the number of days for which a parent had responsibility for a child.

24. Despite these qualifications, I accept Mr Drabble's argument that the child support figures are so much in his favour that it would be astonishing if men were not treated less favourably than women even when they are taken into account. As to the absence of agreement, my experience of child support cases is that the sex of non-resident parents does not affect their willingness or reluctance to co-operate with parents with care. And as to the contrast between day and night care, the number of non-resident parents who have care by day as well as by night is unlikely to be greater than those who have care overnight only.

25. Mr Coppel argued that the pool for comparison should only consist of carers who had made competing claims. I do not accept that, because some carers will be deterred by the



legislation from making a claim. Not everyone is as persistent as the claimant in this case or so fortunate to have the assistance of Mr Drabble to argue his case.

## K. Justification

26. Lord Bingham said in *AL (Serbia)*:

‘3. The task of the court is not, however, to view the policy through the eyes of one party or another, but to make an objective overall judgment.’

### *Hockenjos*

27. Mr Drabble argued that the argument on justification that had prevailed in *Hockenjos* applied likewise to tax credits. I reject his argument that the reasoning in that case can be read across to this one. I do so for these reasons.

28. First, *Hockenjos* was decided under Article 4 of EC Directive 79/7/EEC whereas this case is argued under the European Convention.

29. Second, cost is not of itself a justification for sex discrimination in EC law, but can be under the European Convention. I accept Mr Coppel’s argument on this point. As regards EC law, the authority is *Jorgensen v Foreningen Speciallaeger* (Case C-226/98) [2000] ECR I-2447, quoted in *Hockenjos* at paragraph 39. As regards Convention law, the authority is *Hoogendijk v The Netherlands* (Application No 58641/00), where in declaring the application inadmissible, the Court decided that keeping down costs constituted a reasonable and objective justification.

30. Third, in *Hockenjos* there was no competition between the parents in respect of jobseeker’s allowance. For Ward LJ at least (paragraph 180): ‘Where both are contending for the *same* benefit the arguments may take on a different complexion.’ As he was able to agree with the reasoning of Scott Baker LJ (paragraph 177), it is possible that this remark identifies the background against which the whole of the reasoning in the case must be read. In this case, in contrast, both parents had applied for child tax credit. Indeed, Rule 2 only applies if there are competing claims.

31. Fourth, in *Hockenjos* the court was influenced by the fundamental principle of equality in EC law. I accept Mr Coppel’s argument on that point. Mr Drabble emphasised that the court referred to the principle in the context of so clear a disparity against men. That is certainly the context of the case. However, ‘a fundamental principle of community law’ (paragraph 44) refers specifically to Article 4 of the Directive and to the more general concept of equality as one of the general principles of law recognised and applied by the European Court of Justice.

32. Fifth, the structure of jobseeker’s allowance and child tax credit differ. I deal with this in more detail later.

*Difficulties in decision-making*

33. Mr Coppel referred to the difficult issues of investigation and fact-finding that would be involved in a different system. I pointed out that those same difficulties arose in the child support scheme. He replied that that scheme was a less than ideal model. I accept that the child support scheme has had difficulties, but the decision-makers have operated the shared care provisions, albeit on the basis of rather rudimentary analysis of the evidence, and the tribunal has handled the difficult fact-finding as it would any other contested issue of fact.

*Administrative convenience*

34. Mr Coppel referred to the administrative inconvenience (i) of having a different system and (ii) of changing from the present system.

35. I find (i) unappealing, but have to accept that *AL (Serbia)* is a clear authority of the House of Lords that administrative considerations can justify different treatment.

36. I find (ii) even more unappealing. It assumes that there is discrimination, but argues that it would be too inconvenient to remove it. In support of this, Mr Coppel referred me to the judgment of Sir Richard Tucker in *Barber v Secretary of State for Work and Pensions* [2002] EWHC 1915 (Admin). That case concerned child benefit and an argument whether it could be split between parents. The Court rejected that argument, saying in part:

‘43 ... If the payment for each child were to be split, the administration of such claims would become complex and expensive. I have no doubt that if split claims were to be allowed, there would be a proliferation of such claims and the corresponding increase in complexity and cost and an increase of payment accounts on an already overburdened computer system.’

I am not sure that that fully supports Mr Coppel’s argument that the inconvenience in making a change to remove discrimination is itself relevant. However, it does provide some support for that argument.

37. I am pleased that I do not have to rely on inconvenience as of any great significance in my analysis.

*Conclusion on justification*

38. I have to decide if the difference in treatment has an objective and reasonable justification (*Hoffmann v. Austria* (1993) 17 EHRR 293 at paragraph 31). I accept Mr Coppel’s argument that it the difference in treatment between men and women inherent in the child tax credit scheme is justified.

39. Mr Coppel argued that the relevant test was that set out by the Grand Chamber of the European Court of Human Rights in *Stec v United Kingdom* (2006) 43 EHHR 1017:

‘52. ... Because of their direct knowledge of their society and its needs, the national

authorities are in principle better placed than the international judge to appreciate what is in the public interest on social or economic grounds, and the Court will generally respect the legislature's policy choice unless it is "manifestly without reasonable foundation".'

He also argued that that test was, in substance, based on rationality. I accept both those arguments.

40. I agree with Mr Drabble that the Court was setting only the standard for the international judge. It would be compatible with *Stec* for a national judge to decide the standard required by a particular State. However, that is not how the House of Lords has applied the Human Rights Act 1998. It has refrained from going beyond the case law of the European Court on Article 14 or any other issue.

41. The officials of Her Majesty's Revenue and Customs have considered the comparative advantages of the three possible options for child tax credit: see Annex A.

42. Their analysis is structured around relevant factors and shows a rational analysis. I can see no factor that was omitted or any that was included that had no relevance in law. They were entitled to conclude that the balance was in favour of maintaining the present rule of one credit for a particular child. In coming to that conclusion, I have given little significance to considerations of administrative convenience. The factor that has particularly influenced my decision is the nature and context of child tax credit.

43. The Tax Credits Act 2002 created two tax credits: child tax credit and working tax credit. The former incorporates benefit in respect of children that was previously awarded as part of an income-related benefit. Along with child benefit, which remains separate, it forms the means by which benefit is directed specifically at the needs of children. It is part of a well-publicised Government programme to reduce child poverty. The focus is directly on the child. Working tax credit focuses on the family as a whole. It is one of a number of income-related benefits by which benefit is directed at those individuals or families who need financial support. Those benefits supplement a family's income to the benefit of all its members, including children. However, specific provision for the children is treated separately.

44. This is very different from the position before the 2002 Act. A jobseeker's allowance, to take as an example the benefit involved in *Hockenjos*, was assessed on the needs of the family as a whole, with the children included as part of that whole. But under the 2002 Act, the children are given separate treatment. The effect may be similar in substance, but the focus is now different and it is supported by a different rationale – the reduction in child poverty. That is clearly a legitimate aim. In that context, the decision to make one award only in respect of a child is not discriminatory. Nor is it discriminatory to pay the award to the primary carer as a tie-breaker if the carers cannot agree.

45. The child receives the benefit of the payment, regardless of the carer to whom it is paid. The system may not be perfect, as there will inevitably be some additional costs if a child lives in different households. However, as an approach to the deployment of the limited resources available, it is legitimate and efficient to distribute money in a way that avoids duplication for

a particular child. That is especially so when, as in child tax credit, the carers have the power to elect which shall receive the credit and, if they wish, to distribute between themselves the money received as the tax credit or the costs associated with caring for the child.

46. The reasoning in *Hockenjos* is not relevant in this different context. The Court of Appeal was concerned with the needs of the claimant in supporting his family, which included for that purpose his children. This formed part of one composite calculation, albeit with a specific element relating to the child. The focus there was on what the need of the claimant and his family. What his children needed was not the subject of separate consideration. That has now changed under the tax credit regime.

#### **L. Disposal**

47. I allow the appeal and re-make the decision, confirming the Secretary of State's decision that the claimant was not entitled to a child tax credit in respect of his children for the period in issue.

48. At the hearing, I said I would give permission to appeal to the Court of Appeal if asked. An appeal from the Upper Tribunal to the Court of Appeal is governed by the Appeals from the Upper Tribunal to the Court of Appeal Order 2008 (SI No 2834). Article 2 provides that permission may only be given if it considers that

- '(a) the proposed appeal would raise some important point of principle or practice; or
- (b) there is some other compelling reason for the relevant appellate court to hear the appeal.'

I consider that the issue in this case is an important point of principle. I also said that, as the issues were clear and permission would be given, I would shorten to one month the time within which an application may be made.

**Signed on original  
on 4 February 2009**

**Edward Jacobs  
Upper Tribunal Judge**

## ANNEX A – TABLE OF POLICY ISSUES

	<b>SINGLE PAYMENT</b>	<b>SPLIT PAYMENT</b>	<b>EXTRA PAYMENT</b>
<b>Precedent</b>	<ul style="list-style-type: none"> <li>Option generally adopted across benefit system: child benefit, income support child premia, housing and council tax benefit</li> </ul>	<ul style="list-style-type: none"> <li>Supplementary Benefit rules allowed sharing of child's scale rate</li> <li>Tax allowance of Children's Tax Credit, until 2003</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>
<b>Rationale</b>	<ul style="list-style-type: none"> <li>CTC aims to protect children from poverty</li> <li>Single payment ensures that the main carer has sufficient income to keep children out of poverty</li> </ul>	<ul style="list-style-type: none"> <li>Split amount of single payment between parents actively participating in care of child</li> <li>Targets financial support at both carers, tailored to time in which they are chiefly responsible for care of a child, and according to individual incomes</li> </ul>	<ul style="list-style-type: none"> <li>Would extend CTC to minority carers without reducing support to primary carer</li> </ul>
<b>Impact on benefits system</b>	<ul style="list-style-type: none"> <li>Myriad of other benefits based on single payment even where child actually lives in more than one household</li> </ul>	<ul style="list-style-type: none"> <li>Immediate impact on WTC, assessed in tandem to CTC and contains elements for lone parents &amp; childcare</li> <li>Pressure for reform of other benefits also based on single payment</li> </ul>	<ul style="list-style-type: none"> <li>Immediate impact on WTC, assessed in tandem to CTC and contains elements for lone parents and childcare</li> <li>Pressure for reform of other benefits also based on single payment</li> </ul>

<b>Public expenditure</b>	<ul style="list-style-type: none"> <li>• No additional expenditure required</li> <li>• Maximises amount of current resources going to child</li> </ul>	<ul style="list-style-type: none"> <li>• No additional expenditure on benefit paid</li> <li>• But greater expenditure on administrative costs</li> </ul>	<ul style="list-style-type: none"> <li>• Substantial additional expenditure required on benefit</li> <li>• Some additional admin costs, as increased number of claims</li> </ul>
<b>Support for shared parenting</b>	<ul style="list-style-type: none"> <li>• Can be paid to minority carer by agreement, or if more than one child</li> <li>• Responsive to changes in care arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Recognises financial contribution of both carers</li> <li>• But financial incentive for greater proportion of care may lead to greater conflict over care arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Recognises additional costs of caring for children in two households</li> </ul>
<b>Administration</b>	<ul style="list-style-type: none"> <li>• Avoids difficult administrative and IT changes</li> </ul>	<ul style="list-style-type: none"> <li>• Administratively complex, requiring extensive re-development of IT and business systems</li> <li>• Decisions on appropriate split problematic (time spent with, money spent by, each carer, their other financial resources etc.)</li> <li>• Care pattern difficult to verify without formal agreement, and can change regularly</li> <li>• Compliance risk re monitoring shared care arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Some implications for IT and business systems but not as complex as splitting</li> <li>• Additional burden of investigating shared care arrangements</li> <li>• Offering more generous support for separated couples creates incentive for collusive arrangements</li> </ul>

<p><b>Other factors</b></p>	<ul style="list-style-type: none"> <li>• Children in shared care arrangements treated in same way as children in nuclear family</li> </ul>	<ul style="list-style-type: none"> <li>• Money moved away from primary carers, usually lone parents, risking increase in child poverty</li> <li>• Adverse implications for level of support if total award based on both parents' income</li> <li>• Pro rata award to each carer based on household income will lead to lower level of support where minority carer has higher income</li> <li>• Difficult questions arise on repartnering</li> </ul>	<ul style="list-style-type: none"> <li>• Government policy announced in Parliament is not to put shared care households in a better position than family which stays together</li> </ul>
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## ANNEX B – CHILD BENEFIT SHARED CARE STATISTICS 2007

CB paid to	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	%
Male	92	78	85	107	110	95	111	79	69	98			924	42.5
Female	80	77	75	83	88	88	74	56	55	82			758	34.9
Split	42	35	41	35	42	43	57	23	26	42			386	17.8
Same sex	4	5	4	3	5	5	5	4	2	5			42	1.9
Other	4	3	7	7	4	7	8	2	12	8			62	2.9
Total	222	198	212	235	249	238	255	64	164	235	0	0	2172	
New claimant	64	72	79	98	94	82	86	69	55	84			783	36.0
Original claimant	111	88	85	95	109	106	103	70	71	100			938	43.2
Split	42	35	41	35	42	43	57	23	26	42			386	17.8
Others	5	3	7	7	4	7	9	2	12	9			65	3.0



Total	222	198	212	235	249	238	255	164	164	235	0	0	2172
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