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The *Child Benefit Bill*

Bill 13 of 2004-05

The March 2004 consultation paper, *Supporting young people to achieve: towards a new deal for skills*, announced the Government's long-term intention to create a single, simplified system of financial support for young people. It also announced short-term measures including the extension of Child Benefit and Child Tax Credit to unwaged trainees aged 16-19, and changes to benefit and tax credit rules to ensure that young people who reach 19 before they have finished school or college continue to be eligible for benefits and tax credits until they complete their course.

The *Child Benefit Bill*, which was presented on 13 December 2004 and is expected to be debated on second reading on 12 January 2005, paves the way for these interim changes. It enables the Government to lay regulations prescribing the circumstances in which a young person aged 16 or over qualifies for Child Benefit. Draft regulations will be published during the passage of the Bill. The rules on entitlement to other social security benefits and tax credits are contained in statutory instruments and the corresponding changes will be made via separate amending regulations.

The Bill extends to the whole of the United Kingdom.

Steven Kennedy

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Summary of main points

In the 2003 Budget the Government announced that it would be undertaking a wide-ranging review of the financial incentives and support for young people aged 16-19. A consultation paper, *Supporting young people to achieve: towards a new deal for skills*, was published alongside Budget 2004.

The consultation paper set out the Government's long-term 'vision' of a single, simplified system of financial support for young people, along the lines of the Youth Allowance introduced in Australia in 1998. It also proposed a number of short-term measures to tackle deficiencies within existing support arrangements. In relation to social security benefits and tax credits, two problems were identified:

- While parents of young people aged 16 or over and under 19 in full-time 'non-advanced' education receive Child Benefit and Child Tax Credit, parents of young people in the same age group in unwaged training do not. This distorts choices for young people, forcing some into a course at college who might otherwise have opted for training.

- The fact that Child Benefit, Child Tax Credit and (for young people living independently) Income Support cease when a young person reaches 19 can cause financial hardship for those who have not yet completed their course at school or college, forcing some to abandon their studies.

The consultation paper announced that the Government would amend the social security and tax credit rules to extend Child Benefit and Child Tax Credit to unwaged 16-19 year old trainees, and to ensure that young people who reach 19 before they have finished at school or college continue to be eligible for benefits and tax credits until they complete their course.

The *Child Benefit Bill*, which extends to the whole of the United Kingdom, amends the *Social Security Contributions and Benefits Act 1992* (and the corresponding legislation in Northern Ireland) to provide that a person responsible for a child under 16 or qualifying young person is entitled to Child Benefit for him or her. The definition of 'qualifying young person' is to be set out in regulations, and will encompass unwaged 16-19 trainees, and 19 year olds who have not yet completed a course of learning when they reach that age. It is expected that the new rules will come into effect in April 2006.

The rules on entitlement to Child Tax Credit and Income Support are already contained in secondary legislation and the corresponding changes to these benefits will be made by separate amending regulations.

The Government is expected to set out further details of its long-term vision of financial support for 16-19 year olds in the 2005 Budget in the light of its consultation.

CONTENTS

I Existing financial support for 16-19 year olds

At present, financial support for young people aged 16-19 may come from a variety of sources. Precisely what a young person is entitled to (or what may be claimed on their behalf) may depend on their personal status, whether they are in education and at what level, whether they are in paid work or training, and whether or not they are living at home. The principle sources of support for those not in paid work or higher education are social security benefits and tax credits, Education Maintenance Allowances (EMAs) and training allowances.

A. Social security benefits and tax credits

1. Support for those responsible for young people

The main benefits available for families containing young people are Child Benefit and Child Tax Credit. Families of working age in receipt of means-tested benefits - Income Support (IS) or income-based Jobseeker's Allowance (JSA) - may also receive additions to benefit for dependent children/young people, if they are not already receiving Child Tax Credit for them.

Child Benefit is a non-taxable, non-means-tested benefit paid to people who are responsible for a dependent child or young person. The weekly rates, from April 2004, are £16.50 for the eldest qualifying child, and £11.05 for all other children.[1] It is paid for dependent children under the age of 16, or young persons under the age of 19 in full-time, non-advanced education - this is more than 12 hours supervised study a week below degree level, not counting breaks for meals and homework, at a recognised educational establishment.[2] It includes the following levels of education:

- GCSEs and qualifications up to and including A Level
- NVQ level 1, 2, or 3
- AVCE (Vocational A Level)
- GNVQ foundation, intermediate or advanced course,
- CACHE (Advanced Diploma in Child Care and Education)
- B/Tec National Diploma, National Certificate and 1st Diploma
- National Diploma
- Standard Grade (Scotland)
- SVQ level 1, 2 or 3
- Scottish Group Awards

This is not, however, an exhaustive list.

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[1] From April 2005 the rates will be £17.00 and £11.40 respectively

[2] Section 142(1) *Social Security Contributions and Benefits Act 1992*; *Child Benefit (General) Regulations* SI 2003/493

Where a young person leaves school or college and is not entitled to Incapacity Benefit, Income Support or Jobseeker's Allowance in their own right, Child Benefit may continue to be paid for them until the first Monday after the end of the school holiday following the date of leaving.[3] Thereafter, Child Benefit can only continue to be paid if the young person is under 18, has registered with the Careers Service or Connexions Service (in Northern Ireland, the Department for Employment and Learning or an Education and Library Board), and has not yet started work, or training for which a training allowance is paid. This is known as the 'Child Benefit Extension Period' (CBEP). The duration of the CBEP depends on when during the year the young person left school or college.

Child Benefit cannot be paid for any young person after they reach the age of 19, whatever the circumstances.

The rules for **Child Tax Credit** largely mirror those for Child Benefit.[4] Child Tax Credit may be paid for a child or qualifying young person. A child remains a child for tax credit purposes until 1 September following their 16th birthday. A 'qualifying young person' is a young person who:

- is not a child but is under 19; and
- is receiving full-time non-advanced education;

or

- is not a child but is under 18; and
- is not receiving full-time education; and
- within three months of leaving education, notified the Inland Revenue that they were registered for work or training with the Careers Service or Connexions Service or (in Northern Ireland) the Department for Employment and Learning; and
- it is not more than 20 weeks since the date of leaving full-time education.

A young person ceases to qualify for Child Tax Credit if they start remunerative work (unless they are still in full-time education), or become entitled to Income Support or income-based JSA in their own right, or start a training programme for which a training allowance is payable.

Entitlement to additional support for children and young people via **Income Support** and **income-based Jobseeker's Allowance** is determined in the same way as Child Benefit.[5]

3 Regulation 7 SI 2003/493
4 Section 8 *Tax Credits Act 2002*; *Child Tax Credit Regulations* SI 2002/2007
5 Regulation 15 *Income Support (General) Regulations* SI 1987/1967; regulation 77 *Jobseeker's Allowance Regulations* SI 1996/207

Eventually, however, support for children in such families will be provided by the Child Tax Credit.[6]

2. Support for young people themselves

Young people aged 16, 17 or 18 cannot usually claim **Income Support** themselves if they would be defined as a child for Child Benefit purposes. However, there are some exceptions.[7] A young person under 19 in full-time non-advance education can claim Income Support if they:

- have a child living with them for whom they are responsible; or
- are severely mentally or physically disabled and as a result would be unlikely to find work within the next twelve months; or
- have no parent and no one else acts in place of their parents; or
- of necessity live apart from their parents because they are estranged from them, or would be in 'physical or moral danger' or would face a 'serious risk' to their 'physical or mental health'; or
- have left local authority care and of necessity have to live away from their parents; or
- have to live away from their parents (or any person acting in place of them), because the parent/person cannot support them financially due to chronic sickness or disability, or because they are in custody, or are prohibited from coming to the United Kingdom; or
- are a refugee on an English course.

On reaching the age of 19 however a person is treated as any other adult claimant and cannot claim Income Support if still in full-time education, unless they fall into one of the categories of person who can usually claim IS, such as lone parents or people who are unable to work due to sickness or disability. A person who is unable to claim IS can claim **Jobseeker's Allowance**, but they cannot remain in full-time education and must be 'available for and actively seeking work.'[8]

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6 The Child Tax Credit will eventually replace these additions but in the meantime some families in receipt of IS or income-based JSA continue to receive support for their children along with their benefit. The child elements payable with IS and income-based JSA have been adjusted so that families receive the same amount in respect of their children as they would have done had they claimed Child Tax Credit. Families in receipt of IS or income-based JSA were to have been 'migrated' to the Child Tax Credit from 2004, but on 21 October 2004 the Paymaster General announced that the transfer would be postponed until some time in 2005: HC Deb 21 October 2004 c39WS

7 Regulation 13 *Income Support (General) Regulations* SI 1987/1967

8 People who do not qualify for JSA because they do not satisfy the labour market conditions may nevertheless be able to get reduced-rate 'hardship payments' if they are in a 'vulnerable group', or can satisfy the DWP decision maker that they would suffer hardship if payment were not made. For further details see Chapter 35 of the Department for Work and Pensions *Decision Maker's Guide*, available online at: http://www.dwp.gov.uk/publications/dwp/dmg/index.asp

19 year olds in non-advanced education who are without funds could claim a **Crisis Loan** from the Social Fund. In terms of social security benefits this would however be a last resort, and assistance from this source would not be a long term solution. Crisis Loans are discretionary and the ability to repay the loan is taken into account when deciding eligibility.

Students who find that their benefit is cut off when they reach 19 may be able to get help from their school or college via funding streams such as Learner Support Funds (in England), Financial Contingency Funds (in Wales), and Hardship Funds (in Scotland).[9] The allocations of funds and decisions about priorities may however differ between institutions.

B. Education Maintenance Allowances

Education Maintenance Allowances (EMAs) have been available throughout the United Kingdom since September 2004, having previously been piloted in 56 Local Education Authorities in England and also in Scotland. The policy intent of the EMA is to broaden participation, and to improve the retention and attainment of young people in the 16-19 age group in post-compulsory education. EMAs are designed to tackle the financial barriers to participation in education that young people – particularly those from lower income households – can face.

While there are small differences between the schemes being introduced in England, Wales, Scotland and Northern Ireland, the basic model is the same.[10] The scheme in England[11] has the following key features:

- the EMA consists of a weekly payment to the young person, plus occasional bonus payments contingent on the young person remaining on the course and making satisfactory progress against set learning goals.

- EMAs are available for young people undertaking any academic or vocational course up to level 3 which involves at least 12 hours of guided learning a week at a school sixth form, sixth form college or further education college.

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9 Detailed information on these and other funding sources is available at the DfES support4learning website: http://www.support4learning.org.uk/money/funds_access.htm

10 The following websites give Information on EMAs in Wales, Scotland and Northern Ireland respectively:
http://www.emawales.gov.uk/portal/page?_pageid=1365,1&_dad=portal&_schema=PROTOCOL
http://www.emascotland.com/index.html
http://www.delni.gov.uk/index.cfm/area/information/page/EMA

11 For further details see Library Standard Note SN/SP/3310, *Education Maintenance Allowance: the national scheme 2004/05*, 9 December 2004

- eligible students are entitled to EMA for up to three years (though two years is the norm), with an additional year of entitlement for young people in certain vulnerable groups. Unlike social security benefits, EMA does not stop when a young person reaches 19 but continues until they have finished their course.

- EMA eligibility depends on household income. Young people in households with incomes of up to £19,630 receive a weekly payment of £30. If household income is between £19,631 and £24,030 the payment is £20, and if household income is between £24,031 and £30,000 the payment is £10. If household income is greater than £30,000 EMA is not payable.

- bonus payments of £100 may be made in January and July of the first year of study, and in September, January and July in subsequent years of study.

- payment is made directly into the student's bank account rather than to the parent.

- EMA is not counted as income for means-tested benefits and tax credit purposes, and does not affect any other benefits the young person's family might receive.

Further details of the scheme in England are available at the Department for Education and Skills website.[12]

The evaluations of the EMA pilots found that EMAs increased the number of eligible young people in full-time education in Year 12 in pilot areas by 5.9 per cent compared to LEAs without EMAs. It also found that EMAs increased participation by young people in Year 13 by 4.1 percentage points.[13] The DfES *EMA Guidance Overview 2004/05* states:

> The Pilot studies carried out over the last four years demonstrate that payment of EMA has a positive net effect of increasing the number of 16 -19 year olds who **participate** in further education. Much of this was drawn from those not in employment, education or training (the "NEET group"); much was from work with no training; and small amounts (less than 10% of the EMA effect) were from training programmes. EMA has had an impact on **retention** (ie reduced dropout rate) among EMA students. Young people drawn into Further Education because of EMA are achieving to the same level as their peers despite a lower average attainment at age 16. And the findings also demonstrated that EMA has a marked positive effect on attendance and behaviour.[14]

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12 http://info.emasys1.dfes.gov.uk/control.asp?region=partners&page=guidance

13 HC Deb 8 25 May 2004 cc1531-1532w

14 DfES, *EMA Guidance Overview 2004/05*, Version 1.1, 25 August 2004, original emphasis: http://info.emasys1.dfes.gov.uk/content/documents/GUIDANCE%20-%20Overview%20v1.1.pdf

The DfES estimates that nearly 50 per cent of 16-19 year olds live in households with an income level which will make them eligible for EMAs.[15]

On 23 December 2004 the Minister for Skills and Vocational Education, Ivan Lewis, announced that over 250,000 students aged 16 or over in England had received EMAs since the scheme was rolled out nationally in September 2004.[16]

C. Training Allowances

A trainee following a course with a training provider, but not employed (i.e. not receiving a wage from an employer), is entitled to a Training Allowance. The Minimum Training Allowance (MTA) is currently £40 a week, but this may be 'topped up' by the training provider.

A young person in receipt of a Training Allowance is not in 'non-advanced education' and his/her family will not therefore be eligible for Child Benefit, Child Tax Credit or additional means-tested benefits in respect of him/her. A young person who is able to claim Income Support in their own right may however be entitled to a 'top up', if their 'applicable amount' is more than the Training Allowance.

The *Supporting young people to achieve* consultation paper published in March 2004 described how the level of the MTA can cause financial difficulties for young unwaged trainees and their families:

> **2.23** Parents will often ask their children to pay board. This is particularly the case in families who are no longer eligible for Child Benefit for their child. Consultation responses showed that a typical amount for a trainee on the MTA to contribute in board was £20 a week. This leaves the young person with £20 for all other personal expenses. Even having received a £20 contribution, the parents of young trainees will be subsidising their child's living costs. The poorest families may be unable to do so as their own benefits take no account of the young person, who is treated as independent. The voluntary and community sector organisations involved in the review were concerned about of the level of the MTA. The level was even described as 'below benefit levels' or 'poverty wages'.[17]

The consultation paper also noted that those young people able to claim Income Support in their own right had little incentive to move into training because of the level of the MTA:

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15 *ibid.* para 1.3

16 DfES press notice 2004/0232, *Glad tidings for post-16 students: over 250,000 benefit from EMAs in 2004 – Lewis*, 23 December 2004: http://www.dfes.gov.uk/pns/DisplayPN.cgi?pn_id=2004_0232

17 HM Treasury, DWP and DfES, *Supporting young people to achieve: towards a new deal for skills*, March 2004, p19

> **2.35** Young people under 19 and on benefits who want to take up a training place instead of full-time education currently have no incentive to enter training. As the MTA at £40 is below the severe hardship rate of Income Support, currently at £43.25, an eligible young person can claim an Income Support top-up of £3.25. They are in the same financial position in training as on benefits. There is an unemployment trap.
>
> **2.36** Receiving Income Support provides entitlement to a range of passported benefits, including full Housing Benefit, Council Tax Benefit, free prescriptions and access to the Social Fund, some of which are substantial. Young people who are eligible for an Income Support top up face a cliff edge when their training income rises above £43.25 as they lose entitlement to this range of benefits.[18]

II The Government's review

A. Background and main recommendations

The July 1999 report of the Social Exclusion Unit, *Bridging the Gap: New opportunities for 16-18 year olds not in education, employment or training*[19], looked at various factors influencing young people's participation in education and training. It noted that the system of financial support for young people was 'extremely complex':

> A young person's entitlement to state financial support varies according to their personal status (for example, whether they are a lone parent or disabled), what they are doing in education, training or work, whether they are unemployed, and whether or not they are living at home. Money is paid through at least eight different agencies (with a ninth heavily involved) on behalf of two Government Departments. The system is so complex that someone has written a book of around 130 pages about it for young people and their advisers.[20]

The current system of support, it argued, generated 'anomalies and perverse effects', and confused the choices young people had to make. Disadvantaged young people in particular faced insufficient incentives to participate in learning, as opposed to taking work.[21] The report, while recognising that Education Maintenance Allowances (EMAs) addressed some of these concerns, recommended that the Government should examine the longer-term case for wider rationalisation of support for young people, citing the example of the Youth Allowance introduced in Australia in 1998.[22]

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18 *ibid.* p21
19 Cm 4405: http://www.socialexclusion.gov.uk/page.asp?id=53
20 *ibid.* para 5.20 p45
21 *ibid.* para 9.2 p75
22 *ibid.* para 9.4 p76

A cross-government review of financial support was announced in the 2003 Budget, in response to the Low Pay Commission's recommendation for an investigation into a National Minimum Wage for 16 and 17 year olds.[23] The review would examine:

- the financial incentives for young people to participate in education and training and the interaction between this support and any new minimum wage for 16-17 year olds;

- financial support for young people and their parents or carers, including those living independently and those in very low-paid work; and

- how the overall system of financial support could be rationalised.[24]

The consultation paper, *Supporting young people to achieve: towards a new deal for skills*, was published alongside Budget 2004.[25] The paper stated that the Government was committed to ensuring that all young people reach the age of 19 prepared for higher education or employment, and set out a series of measures to help achieve this goal. In her foreword, the Paymaster General, Dawn Primarolo, underlined the importance of addressing the 'skills agenda':

> As a result of the Government's economic policies and reforms to improve the functioning of the labour market, employment in the UK is currently at record levels and the employment rate is higher than in any other G7 country. Even with this success, skill gaps in the UK remain stubbornly persistent, especially at the intermediate level. From improving outcomes for young children through Sure Start, through to raising skill levels amongst adults already in the workforce, the Government is taking action to tackle this problem. This report sets out the contribution that improved financial support for young people can make to the skills agenda.
>
> Skills are essential to delivering on flexibility and fairness together. Skilled workers adapt faster and more effectively to change, promoting employment opportunity, productivity and social inclusion. Skills also protect against a wide range of negative outcomes including unemployment and inactivity, poverty and poor health. The Government is committed to ensuring that young people reach the age of 19 with the skills they need to succeed in a modern, global economy. Our ambition is that UK staying-on rates after 16 should be among the highest in the OECD.

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[23] HM Treasury, *Budget 2003: Building a Britain of economic strength and social justice*, 9 April 2003, HC 500 2002-03, para 5.24

[24] *ibid.*

[25] HM Treasury, Department for Work and Pensions and Department for Education and Skills, *Supporting young people to achieve: towards a new deal for skills*, March 2004

> I believe the Government can achieve this ambition by setting clear expectations for young people about continuing in learning after the end of compulsory schooling. That expectation should be backed by an improved learning offer to young people, together with the support and incentives to take it up. Financial support for 16-19 year olds is an investment in the future and aspirations of young people. The success of the Education Maintenance Allowance (EMA) pilots demonstrates how important financial incentives are to young people's participation in education. Our decision to roll EMAs out nationally from September 2004 demonstrates this Government's commitment to supporting young people's choices.[26]

The central recommendation was that there should be a single, unified system of financial support for young people:

> **1.19** Underpinning the Government's expectation of participation is a long-term vision of a single, coherent system of financial support for 16-19 year olds. The Government believes a system of financial support for 16-19s designed to deliver on its objectives should fulfil the following criteria:
>
> - support young people's post-16 choices and transitions;
> - deliver decent minimum income levels to young people and their families; and
> - provide an accessible system of support.
>
> **1.20** The Government believes that the current model of support for the two-thirds of young people aged 16-18 who are in full-time education and living at home is the right one. That is:
>
> - financial support paid direct to the parents or carers, or independent young person; and
> - a financial incentive paid direct to the young person.
>
> **1.21** The Government's intention is to replicate this model of support and incentive for more marginalised groups. Early soundings with representatives from the voluntary and community sector have shown a consensus in favour of this approach.[27]

The paper also set out a range of measures as intermediate steps towards the Government's 'long-term vision'. The Budget 2004 *Economic and Fiscal Strategy Report* highlighted two measures in particular:

> **5.18** As an initial step towards this vision, the Government will introduce a package of short-term measures to improve choice, deliver minimum income standards and offer a more individualised, professional service to young people.

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26 *ibid.* p3
27 *ibid.* p9

> At the centre of this package is the intention to remove the current distinction in financial support between education and unwaged training and to support young people to finish their courses after their 19th birthday. The Government will consult on these reforms and on its long-term vision for financial support for 16-19 year olds.[28]

The *Child Benefit Bill* paves the way for these two main interim reforms. It is expected that the Government will announce further details of its long-term vision of financial support for 16-19 year olds in the 2005 Budget.

B. Extending Child Benefit to unwaged trainees

1. The Government's proposal

The *Supporting young people to achieve* consultation paper argued that Child Benefit (together with Child Tax Credit and other support for 'dependent' young people) should be extended to unwaged 16-19 year old trainees to support young people's choices between education and training. Ceasing to distinguish between education and unwaged training when delivering financial support would, according to the Government, be an important step towards the long-term vision of a unified system of support for 16-19 year olds.[29]

The consultation paper argued that the current definition of a child for Child Benefit and Child Tax Credit distorts choices, particularly for vulnerable young people, who may be forced into a course at college rather than with a training provider, because of the additional financial support available to those in non-advanced education. The paper argued that young people should choose the route most appropriate to them, and that the system of financial support should not influence their decision. It outlined particular problems with the current rules:

> **2.26** For financial support, a young person in full-time non-advanced education and living at home is treated as a child while a young person in training and living at home is treated as an adult. Treatment as an adult means a loss of Child Benefit to the family of £16.50 per week for the first child or £11.05 per week for subsequent children [2004-05 rates]. Child Tax Credit follows the same definition as Child Benefit and is worth a maximum of £31.22 per week for each child in the household to low-income households plus £10.45 per family. Together they constitute an important stream of income for a young person's family. The loss of this income may mean some low-income parents are unable to continue to support their child. It also sends an implicit message that the young person is no longer the responsibility of the parents or carers.

[28] HC 301 2003-04, 17 March 2004, p104
[29] para 2.24 p19

Recognition of responsibility for a child
2.27 Beyond the loss of state financial recognition of parental responsibility, many other streams of income follow this definition of a child. These go beyond the normal passported benefits like free prescriptions, to include high value income transfers such as child support payments, dependents' pension entitlements and home responsibility protection for basic state pension.[30]

The paper went on to state that in order to extend Child Benefit and Child Tax Credit to the parents or carers of unwaged trainees, the Government would need to identify them in legislation. There were two ways of doing this: by 'programme of learning', or by unwaged status:

Programme of learning
2.31 Identifying only those on specific programmes, for example Entry to Employment (E2E) and the devolved equivalents, would introduce the fewest distortions into the progression between unwaged and waged training. It would also be easier to enforce than a wider entitlement for unwaged trainees. While it would cover many of the unwaged, it would leave some young people behind, for example those on newly developed or local learning options. Updating legislation to include new programmes of learning would be a less flexible approach, placing an administrative burden on the provider and on the Inland Revenue and would lead to anomalies pending the legislative changes.

Non-employed trainees
2.32 Alternatively the legislation could target all those 16-19s in training who are not employed. This comprehensive approach would include all unwaged trainees irrespective of the programme. This approach will only work if there is a clear distinction between employed and non-employed trainees and incentives are put in place for employers and providers to reinforce the waged route over the non-waged.[31]

The consultation paper asked for views on which approach was the most appropriate.

A further, related proposal was that unwaged trainees should receive the Education Maintenance Allowance (EMA) rather than the Minimum Training Allowance (MTA):

2.29 The Government believes that unwaged trainees should have the same package of support as those in full-time education. Therefore it proposes replacing the MTA for the unwaged with EMA. For dependent young people, EMAs are related to household income whereas MTA is a flat minimum rate which treats the young person as independent. However MTA is included as income in assessing entitlement to income-related benefits, whereas EMA is treated as an education incentive. Hence independent young people eligible for Income Support would have improved incentives to train because the EMA

[30] p19
[31] p21

would not be taken into account as income. Unwaged trainees from households with income above the EMA threshold of £30,000 per annum would not receive any financial support directly, only via their family.[32]

2. Responses to the consultation

The consultation on the *Supporting young people to achieve* paper closed on 30 September 2004. Over 50 organisations submitted written responses. Consultation seminars also took place involving employers, voluntary and community sector organisations and learning providers. The National Council for Voluntary Youth Services and Article 12 (a children's rights organisation run by and for young people under 18 in England) also organised a programme of consultation with young people on behalf of the Treasury. In addition, the Treasury contracted the National Family and Parenting Institute to run focus groups with parents.[33]

The consultation exercise found virtually unanimous broad support for both the Government's long-term 'vision' of a single, simplified system of financial support for young people, and the proposed short-term measures.[34]

There was general support for the principle of creating a 'level playing field' in financial support for unwaged training and education, but a significant number of respondents – including the Association of Learning Providers, Barnardo's, the Campaign for Learning, Connexions partnerships, the Learning and Skills Council – voiced concerns about the replacement of the Minimum Training Allowance with the means-tested Education Maintenance Allowance. In particular, there was concern that, for some young people, the cut in their personal allowance would act as a disincentive to enter training. Young people themselves also commented that allowances based on parental income would reduce their feeling of independence. Some organisations (including the Association of Learning Providers and the Learning and Skills Council) argued that the EMA should be paid at a flat rate of £40 a week to all unwaged trainees. This was justified in part because while unwaged trainees are usually required to attend full-time, the threshold for EMAs is currently only 12 hours of guided learning a week.

The majority of respondents (including Centrepoint, the National Association for Teachers in Further and Higher Education, the National Confederation of Parent Teacher Associations, the National Union of Students, the Foyer Foundation, the Trades Union Congress (TUC) and National Union of Schoolmasters and Union of Women Teachers (NASUWT)) favoured identifying those young people eligible for Child Benefit and Child Tax Credit by reference their non-employed status rather than by programme of

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32 p20

33 http://www.hm-treasury.gov.uk/consultations_and_legislation/supporting_young_people/supp_young_people_index.cfm

34 See HM Treasury, *Supporting young people to achieve: overview of consultation responses*, undated

learning. This would offer a more comprehensive and flexible approach. Others – including the Association of Colleges, the Learning and Skills Council, the Learning and Skills Development Agency and the National Youth Agency – argued for an approach based on programme of learning. It was argued that this would make it easier to manage the progression to waged training, be more transparent to young people, and would help safeguard the quality of training provision.

C. Child Benefit and the age 19 cut off

1. The Government's proposal

The rules on entitlement to social security benefits and tax credits outlined in section I.A above can cause problems for families with young people who reach 19 before they have finished at school or college, and also for young people in this situation living independently. The problem has been highlighted by organisations working with homeless young people, such as Centrepoint:

> Recent Centrepoint research revealed, that on entering our projects, 1/3 of young people had no qualifications, which means that they are likely to take longer to finish their education than their peers with a home and family support. Whilst the latter will invariably have completed non-advanced education by 19, many Centrepoint clients will still need financial support in order to finish their studies.[35]

The Foyer Federation, a body which works with the homeless, similarly points out that the current situation puts students who are already in difficult circumstances in an even more difficult position:

> Yet, despite the Government's commitment to lifelong learning, we still have a system which strongly discourages full time study, except at university, after the age of 18, leaving the people who have fallen furthest behind in the education race with least opportunity to catch up.[36]

These and other bodies approached the Government and recommended that students' benefit entitlement should continue until they finish a course of study.

Chapter 3 of the *Supporting young people to achieve* consultation paper concerned the financial problems facing many young people attempting to study post-16. The report acknowledged the 'anomalies and perverse incentives' of the current system:

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35 Centrepoint, *19 and forced out of education*, press release, 9 March 2004: http://www.centrepoint.org.uk/main.asp?id=33_134_15126

36 The Foyer Foundation, *The 16 Hour Rule – Past its Sell By Date*, 2004: http://www.foyer.net/mpn/downloads/16_hour_HB_rule_doc.pdf

3.23 The most damaging of these anomalies for low-skilled and vulnerable young people is the age 19 cut off. Child Benefit rules define a child around a normative view of post-16 participation as two academic years of A-level study, completed before the young person's 19th birthday. The pattern of post-16 participation has changed along with the proportion of the cohort who continue in learning. Each year thousands of young people reach the age of 19 while still engaged in full-time education as they have not yet achieved their qualifications. Most of those who are still studying for non-advanced qualifications at age 19 will be doing so because their education was disrupted for some reason. There is no available statistical breakdown by group, but representations were made on the age 19 cut off by care leavers, young offenders, homeless and estranged young people.

3.24 Parents' or carers' entitlement for Child Benefit and Child Tax Credit support ceases on the young person's 19th birthday, irrespective of whether they are still in full time non-advanced education. Young people from low-income households may be forced to leave their course before achieving their qualification because of the pressure on the family finances of losing financial support. The situation is even worse for young people living independently, as in some cases their entitlement to Income Support will cease and they must instead claim financial support through the Jobseeker's Allowance (JSA) regime. In order to continue to receive support through JSA, the young person must be available for work and therefore not studying full-time. Even if the young person decides to struggle on without benefits, the loss of Income Support triggers the loss of Housing Benefit, making it impossible for a young person to continue on their course without losing their home or running up rent arrears.

3.25 Personal testimonies offered to the review about the effects of the age 19 cut off, particularly for independent young people, show the distress and frustration caused. Those affected were by definition re-engaged in education, having overcome previous obstacles, but blighted by this rule, which only served to heighten the sense of injustice. Many young people echoed the sentiment of this 20 year old independent tenant:

'I want to claim benefits now to support my study so I don't have to claim benefits for the rest of my life'.

3.26 There was a real sense among the respondents, although they were seeking support in the short-term, in the long-term they would contribute more to society. The determination of young people to continue their education had lead to severe hardship and debt in some cases which threatened to affect future long-term prospects.[37]

The Government proposed therefore to change the benefit cut off point for young people:

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[37] p27

> The Government plans to amend the age 19 cut off in Child Benefit, Child Tax Credit and Income Support, to help achieve its skills objectives by continuing support for any young person on a course of learning before their 19th birthday until the end of their course.[38]

The consultation paper set out possible criteria for accessing support beyond 19:

> **3.28** The Government has developed three criteria for accessing extended support to finish a course of learning:
>
> - **In a programme of learning eligible for Child Benefit, Child Tax Credit or Income Support before their 19th birthday.**
>
> **3.29** This criteria is designed to act as a gateway to define the group currently disadvantaged by the age 19 cut off. By excluding those who begin a course after age 19 it may generate an incentive to re-engage earlier to benefit from more generous support. There will be hard cases where a young person has entered education later than the cut off and missed out on entitlement for the more generous treatment, for example where they were not able to start a course until after their 19th birthday despite being accepted.
>
> - **On a recognised course that leads to an agreed learning goal up to but not beyond qualification level 3.[39] Entitlement stops on achievement of the specified learning goal or on progression from one level of qualification to another.**
>
> **3.30** The aim of this reform is to enable young people to complete their courses, not necessarily to progress between levels. For example a young person completing a level 2 over the age of 19 under the new provisions would not then be entitled to enrol on a level 3 programme with the same package of support. The current provisions cut off when a young person reaches level 3 or age 19, which ever comes first. Entitlement beyond the age of 19 would cut off on the achievement of the qualification or 'agreed learning goal' as in EMA.
>
> - **Cuts off on the young person's 21st birthday.**
>
> **3.31** While age cut offs create anomalies, it is necessary to have one for those cases in which a young person does not or cannot reach their learning goal or the next level of qualification within a reasonable period. The proposed absolute cut off would cover those exceptional circumstances.[40]

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38 p28

39 Level 3 is also known as advanced level and can be reached by achieving A-levels, AVCE (Vocational A-level), level 3 NVQ or equivalent vocational qualifications

40 *Supporting young people to achieve*, p28

2. Responses to the consultation

There was strong support from respondents to the Government's consultation for the proposed reforms to the rules on the age 19 cut-off for social security benefits and tax credits. The proposed criteria for accessing support were broadly welcomed. However, some organisations – including the Action on Aftercare Consortium, Barnardo's, Centrepoint, the Learning and Skills Council, the Learning and Skills Development Agency and the NUS – argued for more flexible age rules. Some young people may not be able to start a course of study until after they have reached 19, due to personal circumstances or illness or disability. Others who begin their studies late, or who find themselves in difficult circumstances, may need longer to complete their course and may be still studying when they reach 21.

Some of the respondents, including Centrepoint and the Learning and Skills Development Agency, felt that support should continue until the achievement of level 3 qualifications, rather than the completion of the current course.

A further suggestion from some respondents (including the Association of Colleges and the Association of Learning Providers) was that the age rules for Education Maintenance Allowances should be brought in line with the proposed new rules for social security benefits and tax credits.

III The Bill

The Queen's Speech on 23 November 2004 stated that a Bill would be introduced "to extend financial support for 16 to 19 year olds in training and education." In the subsequent Debate on the Address, both Conservative and Liberal Democrat spokesmen welcomed the proposal.[41]

The *Child Benefit Bill* was presented on 13 December 2004 and is due to be considered on second reading in the House of Commons on 12 January 2005. Explanatory Notes for the Bill have been published.[42] A full *Regulatory Impact Assessment* (RIA) for the Bill is also available at the HM Treasury website.[43] The RIA states:

> 1. The Child Benefit Bill is a single purpose Bill. It will restructure the existing definition of a 'child' for Child Benefit, aligning it with that in Child Tax Credit. It will do this by replicating the concept of a 'young person' aged 16-19 in addition to a 'child' aged under 16.
>
> 2. The Bill will provide powers to define the circumstances in which Child Benefit will be payable in respect of young persons who have attained age 16. In

41 HC Deb 30 November 2004 cc591 and 595
42 Bill 13-EN: http://pubs1.tso.parliament.uk/pa/cm200405/cmbills/013/en/05013x--.htm
43 http://www.hm-treasury.gov.uk/media/CD6/4D/RIA_final2.pdf

the short-term the changes will enable the implementation of the Government's intention to extend Child Benefit to unwaged trainees and to 19 year olds completing a course they started before the age of 19. The aim of the measure is to improve the financial support available to more vulnerable young people: those on the work-based route without a contract of employment and those who take longer to finish their courses. It will provide a more flexible approach, which will be able to respond readily to longer-term curriculum developments.

3. The Government has agreed to publish draft regulations covering the extension of Child Benefit to unwaged trainees on Government supported training and those over 19 completing a course they started before the age of 19 to provide more detail about the purpose of the Bill. The regulations will be published in time for the Bill's Second Reading.[44]

The RIA goes on to outline the purpose and intended effect of the Bill in greater detail:

12. The Bill will replace the existing definition of a 'child' for Child Benefit purposes. With regard to young people who have attained age 16, the Bill substitutes a structure which enables the conditions that a young person must satisfy in order for Child Benefit to be payable for them to be prescribed in regulations. This will introduce a common approach to describing those young people for whom both Child Benefit and Child Tax Credit are payable. This structure will facilitate the delivery through secondary legislation of key elements of the short-term steps that emerged from the cross-government review of financial support for 16-19 year olds. Where a young person is still engaged in education section 142 of the Social Security and Contributions and Benefits Act 1992 currently restricts the definition of a 'child' to include generally only persons who are under 19 and receiving full-time education by attendance at a recognised educational establishment.

13. The changes to the Child Benefit regulations will enable the benefit to be paid to:

- **Unwaged trainees** – on Government supported schemes with the aim of removing distortions in the choice between full-time education and unwaged training and improve the levels of support available to the families of young people choosing the work-based route.
- **Young people over age 19 to finish courses started before age 19** – with the aim of ensuring that young people who start a course can finish it and gain the relevant qualification. This change will provide better value-for-money for Government investment and support those young people who suffer disruption to their learning.

14. The Bill creates opportunities for incremental changes to the Child Benefit rules regarding 16-19 year olds over time. The Bill also enables the

[44] p1

> simplification of the current rules concerning payment of Child Benefit after a person ceases full-time education.
>
> 15. The Bill will have no impact on the payment of Child Benefit for children under age 16.[45]

The RIA states that the Bill will allow greater flexibility to respond to any curriculum changes resulting from the report of the Working Group on 14-19 Reform chaired by Mike Tomlinson[46] and corresponding changes made by the devolved administrations, and reforms to Government-supported training and apprenticeships.[47]

At present, section 141 of the *Social Security Contributions and Benefits Act 1992* provides that a person is entitled to Child Benefit in respect of each child for whom they are responsible. ‘Child’ is defined in section 142 of the Act. **Clause 1** of the Bill amends section 141 of the 1992 Act to provide that a person is entitled to Child Benefit in respect of each child <u>or</u> qualifying young person for whom they are responsible.

Clause 1(2) substitutes a new section 142 in the 1992 Act defining the terms ‘child’ and ‘qualifying young person’. A child is a person who has not attained the age of 16. A qualifying young person is a person other than a child who has not attained a certain age greater than 16 and also satisfies further conditions. The Treasury is given the power to prescribe in regulations the age at which a person ceases to be a qualifying person and the further conditions they need to satisfy. The regulations will be subject to the negative procedure. As noted above, the Government has said that a draft of the regulations will be published before the Commons second reading. This will be accompanied by estimates of the financial effects of the Bill, including estimates of the additional expenditure on benefits linked to Child Benefit (see below).[48]

Clause 2 makes corresponding amendments to the equivalent legislation in Northern Ireland.

The remainder of the Bill amends various provisions in UK and Northern Ireland social security legislation as a consequence of the new distinction between a ‘child’ and a ‘qualifying young person’ for Child Benefit purposes. The amendments are necessary because entitlement to certain benefits (for example Widowed Parent’s Allowance), or to increases to benefits, is conditional upon receipt of Child Benefit. References to ‘child’ in various pieces of legislation therefore need to be amended to read ‘child or qualifying young person’.

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45 p3

46 *14-19 Curriculum and Qualifications Reform: Final Report of the Working Group on 14-19 Reform*, 18 October 2004: http://www.dfes.gov.uk/14-19/index.cfm?sid=10&pid=131&ctype=TEXT&ptype=Single

47 para 17

48 Bill 13-EN paras 21-22

The regulation making powers may be exercised at any time after the Act is passed, but all other provisions in the Bill come into force on 10 April 2006 (**clause 6**).

The Bill extends to the whole of the United Kingdom.

The *Regulatory Impact Assessment* states that the measures are likely to have a 'negligible impact' on business.[49] It states that the employers and their representative bodies consulted during the review of financial support for 16-19 year olds raised 'no specific concerns' about the proposed extension of Child Benefit to the families of unwaged trainees. This was also the position of small businesses, and the Small Business Service.[50] One possible effect of the reform is that training providers may find they are on a 'level playing field' with further education colleges.[51]

The RIA notes that while tax and benefits are reserved matters, education and training are devolved responsibilities. It states that there are 'complex interactions between the support available through Child Benefit and the policies of the devolved administrations on financial support for learning', noting that the particular differences between the education system in Scotland and the rest of the UK have implications for financial support through the school leaving age. The RIA adds that representatives from the devolved administrations were included in the group reviewing financial support for 16-19 year olds.[52]

The Chancellor of the Exchequer has stated that in his view the provisions in the Bill are compatible with the European Convention on Human Rights.

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49 para 20
50 para 23
51 para 28
52 para 25