

## LOW INCOMES TAX REFORM GROUP

### RESPONSE TO HMRC AND HM TREASURY CONSULTATIVE DOCUMENT: TAX CREDITS: IMPROVING DELIVERY AND CHOICE – A DISCUSSION PAPER

#### I. EXECUTIVE SUMMARY AND SUMMARY OF RECOMMENDATIONS

- 1.1 The Low Incomes Tax Reform Group of the Chartered Institute of Taxation is pleased to have the opportunity of responding to this important consultation.
- 1.2 We acknowledge that tax credits have helped a great many families, and the take-up is far higher than their predecessor credits; but it has yet to reach its full potential.
- 1.3 Excellent customer service is fundamental to making the system work well, and despite improvements there is a long way to go before customer service reaches an acceptable level. Moreover, the Government faces the challenge of a negative perception of the system, and a widespread fear of overpayments.
- 1.4 The current system can be made to work better for claimants, and our response focuses largely on how that can be done. We also respond to the proposals in the consultation, but we think that making such fundamental changes before rectifying the known defects in the system will add more complexity and confusion for claimants.
- 1.5 While tax credits can act as a work incentive for some claimants, disincentives can result from the complexities inherent in tax credits and their interactions with the benefits system. Loss of passported benefits on entering work, in particular, can make people worse off, or at least create the perception that they are worse off.
- 1.6 **We recommend an urgent review of how tax credits interact with other parts of the benefits system, so that work does indeed become the best route out of poverty and financial disincentives are eradicated** (para 3.1.9).
- 1.7 We have specific concerns about take-up of WTC by disabled people, and **recommend (a) an urgent review of the fast-track rules** (para 3.2.4) **and (b) that take-up campaigns should target all those who qualify for WTC, including people with disabilities** (para 3.2.5).

- 1.8 We outline a range of ideas for making the existing system work better, including suggestions for pilots to test how greater accuracy and understanding might be brought to the process (para 4.1.4 and Appendix A).
- 1.9 We find that claimants still find it difficult to understand what they are entitled to, whether they are overpaid and why, and how their overpayment will be recovered. **We recommend that work should continue, in liaison with the representative bodies, in order to make sure that the award notice is as customer friendly as possible** (para 4.1.6).
- 1.10 We are concerned about current accuracy levels, and doubtful about some of the figures quoted in statistics (para 4.1.7).
- 1.11 Analysis of the cause of overpayments is vital to highlight the areas of the system that are problematic for claimants, and we support the recommendation of the Treasury Sub Committee that HMRC carry out more research into the specific causes of overpayments (para 4.1.10).
- 1.12 Regarding the helpline, **we recommend an urgent review of the escalation procedures between the helpline and the Tax Credit Office**, to ensure that claimants are able to speak quickly with someone who has authority to take over their case and follow it through to a conclusion (para 4.1.16).
- 1.13 **We also recommend separate helplines to deal with complex areas** (para 4.1.15), and **the adoption of 0800 or 0300 telephone numbers, or a normal regional number, to assist those on low incomes who rely on pay-as-you-go mobile phones** (para 4.1.17).
- 1.14 Despite assurances that the IT system is now stable, we are concerned by the numbers of claimants who remain on manual payments and by the prevalence of ‘technical problems’ which take months, sometimes years, to fix. We would like to see some limited re-opening of the on-line portal, perhaps to allow claims to be made by approved representatives on behalf of claimants (para 4.2.4 and Appendix A).
- 1.15 Despite what is said in the consultation document about improvements in response times, LITRG are experiencing delays of around 5 months in answering correspondence on overpayment disputes. This can lead to recovery proceedings when a dispute is still waiting to be dealt with. **We recommend that HMRC urgently examine the current processes, in conjunction with representative bodies, to reduce these significant delays** (para 4.3.7). **We also recommend a review of the hardship provisions in COP26** (para 4.3.9).
- 1.16 It is paramount to reduce the fear of overpayments. **We would recommend a thorough technical analysis of all those situations where it is possible for an overpayment to arise**. We believe it is possible to provide fixes to prevent overpayments arising where a genuine attempt has been made to provide an accurate and timely claim or change of circumstances notification (para 4.4).
- 1.17 We welcome all the initiatives set out under the Tax Credits Transformation Programme, but are concerned about the possibility of things going wrong. **We recommend that HMRC put in place adequate procedures for each of the initiatives to ensure that problems can be dealt with quickly by a**

**named caseworker, and that cases can easily be escalated to the appropriate person** (para 5.5).

- 1.18 On income banding, we believe that the benefits of such a model are outweighed by the further problems it would create (para 6.2).
- 1.19 We are generally supportive of more run-ons, if the administrative problems with the present four-week run-on of WTC can be overcome. **We recommend that new run-ons should only be introduced once the necessary administration is in place** (para 6.3.5).
- 1.20 We are concerned about the current problems in implementing the backdating of the disability element as intended by the legislation. It is wrong that the rights of disabled claimants should be prejudiced by the error or delay of a Government department. The legislation must be changed to restore its original purpose (para 6.4.7).
- 1.21 We are supportive of the aims of the proposals on household break-ups, but – again – have concerns about the administration. There is not yet enough detail available to comment fully on how the proposals will work in practice.
- 1.22 While recovery of overpayments through PAYE may be an attractive option for those in regular employment, the PAYE system does not work well for those with multiple income sources. There would also have to be better interaction between the Tax Credit Office and Debt Management & Banking to ensure PAYE is not implemented when an overpayment is under dispute; and between HMRC and DWP to ensure that the effect of the PAYE coding on net income was fed through to claimants' benefits entitlement.
- 1.23 Recovering debts via a lump sum may be attractive for a few claimants, but unsuitable for many. Communications by HMRC to overpayment debtors also fail to explain adequately that claimants can repay over 12 months or longer. **We recommend that such recovery methods be delayed until administration, communications and staff training are adequate** (para 6.7.7).
- 1.24 End of year top-ups are more likely to be affordable by those on higher incomes than those who need the extra money now (para 6.8).
- 1.25 To summarise our view on the proposed changes: the advantages to be gained by increasing choice are not great enough to risk the increased complexity. Once the current system is improved and working as efficiently as possible, and the IT system is able to cope with bigger changes, it may be sensible to revisit the options (para 6.9).
- 1.26 On childcare, we favour a solution outside the tax credits system that delivers the right amount of help when it is needed, perhaps by means of a system of vouchers or electronic payments to claimant or to provider. We also consider support for informal childcare, and improved support for those looking after disabled children (para 7,8).
- 1.27 We would not yet advocate returning to a straight system of fixed awards; but those for whom overpayments are a particular problem and whose circumstances change frequently may find a system of mini-award periods suits them better than one annual award period. Similarly, HMRC might find

that the cost of setting up such a system was quickly outweighed by a reduction in the volume of irrecoverable overpayments. We consider the merits of such a system in Appendix A, and points for and against fixed awards in Appendix B.

## **2. Introduction**

### **2.1 About us**

- 2.1.1 The Low Incomes Tax Reform Group (LITRG) was set up by the Chartered Institute of Taxation to give a voice to the unrepresented tax payer and tax credit claimant. Its members are practitioners in tax, social security and welfare rights and we seek to secure improvements in tax/benefits primary and secondary legislation, and in the administration of the tax/benefits system.
- 2.1.2 We have a long history of activity in the area of tax credits. We were involved in the early consultative meetings on the Working Families' Tax Credit (WFTC) and Disabled Person's Tax Credit (DPTC), and in the consultative process for the new tax credit system. Since then we have continued to be actively engaged with HMRC on the issue of tax credits, both via the Tax Credit Consultation Group (TCCG) and its various sub groups as well as more generally meeting with various arms of HMRC for one to one discussions on the current system.
- 2.1.3 We therefore welcome the opportunity to respond to this latest consultation document on tax credit delivery.

### **2.2 General comments on this consultation**

- 2.2.1 The first two chapters of the consultation document detail the improvements that the introduction of the new tax credit system has brought about. LITRG acknowledges that tax credits have indeed helped a great number of families and the take-up for tax credits is much higher than with its predecessors the WFTC and DPTC. Tax credits have been a positive step forward in reducing child poverty and improving work incentives.
- 2.2.2 However, whilst many families have benefited from tax credits, the problems of overpayments linked with poor customer service have cast a large shadow over the success of the system as a whole.
- 2.2.3 We believe that the tax credit system is failing to meet its full potential and that much more can be done to make the existing system work better for claimants. The additional challenge that now faces the Government is that millions of claimants have a negative perception of the system, and some fear it even to the extent of not claiming tax credits to avoid the risk of having to repay a large overpayment which they had not understood would arise. Going forward involves changing this perception and resourcing the tax credit system sufficiently to enable it to meet its potential.
- 2.2.4 In July 2001, we submitted a response to one of the early consultative documents on the new tax credits system.<sup>1</sup> In this document we said that it was vital that good customer service support should be at the core of the new system. We stated that this included accessible, functional better-off calculations, clear leaflets, informed helplines and expert face to face help in all points of contact between the Government and claimants.

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<sup>1</sup> <http://www.litrg.org.uk/reports/submissions.cfm?id=78> .

- 2.2.5 Seven years on from our 2001 response, we still believe that excellent customer service is fundamental to making the existing system work. Whilst we have seen improvements in this area, the recommendations in our 2001 response have not yet been fully implemented and there is still a long way to go before customer service reaches an acceptable level.
- 2.2.6 LITRG believes that, with the exception of childcare which we discuss later in this response, the current tax credit system can be made to work better for claimants. Making fundamental changes to an already defective system, without fixing those problems first, would add more complexity and confusion for claimants.
- 2.2.7 Our response therefore focuses largely on how the current system can be made to work better, before going on to consider briefly the proposals in the document for changes to the actual system.

## **Achieving policy objectives**

### **3.1 Improving work incentives**

- 3.1.1 The consultation document states that the Government believes that work is, for those who are able, the best route out of poverty. Tax credits are considered to have played a major role as an incentive to move into work. The document attributes this in part to the generosity of tax credits which mean people face lower marginal deduction rates, and to the fact that tax credits are available to many more people than previously, including those who do not have children.
- 3.1.2 LITRG acknowledges that tax credits can act as a work incentive for some claimants. However, disincentives to work can well result from the complexities of the tax credits system and its interactions with the benefits system. Very significant numbers of low income people still face marginal deduction rates well in excess of 60% while for those on high incomes the marginal deduction rate is 41%.
- 3.1.3 In 2007, in conjunction with Community Links and Child Poverty Action Group, we published a report called *Interact: benefits, tax credits and moving into work* ('the Interact Report'). Part of this report involved interviewing claimants about their experiences and perceptions of the tax credits and benefits system. Respondents largely acknowledged the benefits of the tax credits system, but we also observed many adverse affects.
- 3.1.4 For instance, we found that loss of passported benefits caused claimants to be worse off when entering work from benefits, or at least created the perception that they were worse off. The reason was that interviewees did not include their passported benefits (such as free school meals or healthy start vouchers) in their calculation of income when on benefits because they were freely available. However, once the interviewees moved into work and lost those benefits, they realised their financial significance. Claimants had to use their income to pay for such items, which reduced the financial gains they received from moving into work.
- 3.1.5 Official better-off calculations also tend to ignore passported benefits. Indeed the latest proposals, in relation to lone parents, introduce a 'better off in work credit' which is calculated without any reference to passported benefits. The

reality is that passported benefits can make the difference as to whether someone is better off in work.

- 3.1.6 Not only is the current system difficult to navigate and inconsistent, there are some harsh disincentives, such as the loss of free school meals and/or healthy start vouchers as soon as someone receives Working Tax Credit (WTC).
- 3.1.7 Another example of a disincentive to work is in the cliff edge between working 16 hours a week and being entitled to WTC, or (say) 15 hours and missing out on tax credits entitlement. Technical studies for the Interact Report showed a disproportionate gap in net income for those working 15 or 16 hours per week, despite only one hour per week difference in working hours. The interviews confirmed this finding. Claimants found the interaction between increased hours and decreased tax credits (along with associated benefits) to be a disincentive to work, and the relationship between work and tax credits was a source of confusion.
- 3.1.8 We also note with interest, but no surprise, the recent DWP Research summary *Social housing and worklessness: qualitative research findings* which found 'The effects of the tax and benefit system emerged as a significant issue for both social tenants and those in the private sector and appeared to act as a work disincentive, many respondents struggling to get to grips with the complex interaction between earnings, tax credits and Housing Benefit.'
- 3.1.9 Our recommendation is that an urgent review be undertaken as to how tax credits interact with other parts of the benefits system so that work does indeed become the best route out of poverty and any financial disincentives that remain are eradicated.

## **3.2 Working Tax Credit take-up**

- 3.2.1 Whilst the figures show an increase in the numbers of claimants without children who have claimed WTC, there is great concern that many more people are eligible.
- 3.2.2 The consultation paper outlines the work that HMRC has done in targeting those who are eligible and who have not claimed. LITRG welcomes these campaigns as a positive step forward. But we have doubts as to their effectiveness and HMRC's perceived inability so far to communicate effectively with those who miss out.
- 3.2.3 We also have specific concerns about take-up for those who are disabled and qualify for WTC by working at least 16 hours per week, rather than the normal 30. The advertising materials that we have seen (and heard in the case of radio) have sent messages aimed at those who are aged 25 or over and work 30 hours a week or more, with no indication that those with a qualifying disability may be entitled to tax credits if they are aged 16 or over and work at least 16 hours per week.
- 3.2.4 In addition, we have over the last five years commented on the unsuitability of the fast track rules in helping people who become disabled in work to remain

in their jobs. We recommend that an urgent review of the fast track rules be carried out.

- 3.2.5 If HMRC is to double expenditure on WTC take up campaigns, the campaigns need to target all of those who qualify for WTC including people with disabilities.

## **4 Improving Tax Credits**

### **4.1 Improving customer service**

- 4.1.1 As we emphasised earlier, we believe that excellent customer service should be at the core of the tax credit system. With this in place, we believe that the current system would work better and more efficiently.
- 4.1.2 The consultation document refers to the programme of administrative improvements that were announced in May 2005 including a measure to improve communications with claimants about tax credit awards.
- 4.1.3 While some of those measures have had a useful impact (for example the increase in the income disregard to £25,000 has considerably reduced the incidence of income-related overpayments), none of the changes to improve communications have been sufficiently radical to make a real difference. In fact, developments since launch have made understanding even more difficult.
- 4.1.4 So we would like to expand upon our ideas for making the existing system work better. In Appendix A to this submission we outline a range of ideas for pilots to test how greater accuracy and understanding might be brought to the tax credits process. These would also assist in reducing overpayments and provide the enhanced customer service that we were looking for before the launch of the new tax credits.

#### ***Award notices***

- 4.1.5 Despite some improvements to the award notice, in our experience claimants still find it difficult to understand what they are entitled to, whether they are overpaid and why, and how their overpayment will be recovered.
- 4.1.6 We therefore recommend that work should be continued, in liaison with the representative bodies, in order to make sure that the award notice is as customer friendly as possible. Given the new requirements on claimants to check award notices and report errors within 30 days, it is even more important to continue work on making award notices easy to understand for all claimants. As we note in Appendix A we have been working on the design of a new award notice which would put claimants' needs foremost and we would welcome discussions with HMRC as to how we could work with them in a broader review of the communication strategy.

#### ***Accuracy in processing***

- 4.1.7 The consultation document mentions other significant improvements such as the increased accuracy rates in processing and calculating awards, but these statistics only relate to the accuracy of HMRC internal processes. It is still a matter of concern that HMRC can, off its own bat, generate new errors at the



rate of between 2% and 3% of claims. We would be interested to see further information about how the accuracy rate is currently calculated in order to comment further on the value of this figure. However even if the figure is accurate, we are concerned that this still leaves approximately 150,000 families, a very significant number, subject to inaccurate processing.

- 4.1.8 We would like to see HMRC measure the accuracy of tax credit claims by taking a random sample of claims and then, with the co-operation of claimants, testing their accuracy by reference to whether the claimants are actually receiving the full value of their entitlement (including passported benefits). We believe a similar process is undertaken by the DWP.
- 4.1.9 Another indicator of improvement given in the consultation document is that in 2007-2008 less than 5 per cent of disputed overpayments had an element of official error. We are very doubtful as to the accuracy of this figure and concerned about the lack of official statistics on the causes of overpayments. Most of the cases we see involve initial letters from the disputed overpayments team stating that a mistake or failure on the part of the claimant caused the overpayment, but upon examination we find that the explanation is wholly or partially incorrect, and often the overpayment is attributable to HMRC error rather than claimant error. For this and other reasons, we find that many decisions on disputed overpayments made by HMRC in the Department's favour are subsequently revised by HMRC in favour of the claimant.

#### ***The causes of overpayments***

- 4.1.10 Overpayments have been the largest source of problems for tax credit claimants. The Treasury Select Committee has previously recommended that HMRC carry out more research into the specific causes of overpayments. Whilst the number of overpayments significantly decreased in 2006-2007, it is still unacceptably high.
- 4.1.11 Analysis of the cause of overpayments is vital in order to highlight the areas of the system that are problematic for claimants. Resources should be directed to those areas which are problematic based on hard and accurate evidence. We support the recommendation of the Treasury Select Committee.

#### ***The helpline***

- 4.1.12 Paragraph 4.3 of the document states that HMRC is seeking to improve further the quality of its helpline service through better guidance and training for staff.
- 4.1.13 The tax credit helpline has become the single most important contact point for tax credit claimants. Virtually every part of the HMRC tax credit website, leaflets and other advertising points claimants to the tax credit helpline. If a claimant has a problem, whether relating to an overpayment or establishing whether they are entitled, their one and only point of contact is with the helpline.
- 4.1.14 We believe that the tax credits helpline is not currently able to provide the excellent customer service that should be standard. We welcome HMRC's commitment to work with representatives to improve the service.

4.1.15 In addition, we recommend that work be undertaken to look at whether the helpline as it is now is best placed to deal with the whole spectrum of tax credit issues adequately. We have repeatedly called for separate helplines to deal with complex areas such as childcare and migrant issues and believe that dedicated helplines are a good way forward to improve customer service and ensure claimants get accurate answers from knowledgeable staff.

4.1.16 One of the most common areas of complaint from claimants and advisers alike is about how queries are passed or escalated from the helpline to the Tax Credit Office (TCO). Despite many assurances from HMRC that there are appropriate escalation processes between the helpline and the TCO, we repeatedly have problems brought to our attention. We therefore recommend that an urgent review of the escalation procedures be carried out in liaison with representative bodies to ensure that claimants are able to speak quickly with someone with authority to take over their case and follow it through to a conclusion.

4.1.17 The cost of telephone calls to the helpline is very considerable for those on low incomes, in particular because very many of them have to use mobile phones and pay the higher charge which that implies. We have previously recommended that HMRC adopts 0800 or 0300 telephone numbers for callers generally and gives mobile users the alternative of a normal regional number: this recommendation is particularly important in respect of the tax credit helpline.

## **4.2 The tax credits IT system**

4.2.1 The early years of the tax credit system were plagued by IT problems which we believe contributed to many of the early overpayments. The consultation document states that the IT system is now stable and delivering the right payments to customers at the right time (see para 4.4).

4.2.2 Nevertheless, we remain concerned about the numbers of claimants who remain on manual payments and encounter problems with passported benefits as a result. We also still see instances of technical problems which take months, sometimes years to fix, again seemingly with no transparent escalation route or case ownership system in place to support claimants.

4.2.3 We also continue to see a fairly strict approach to recovering overpayments caused by IT failures in the past. We believe that such cases should be written off given the complexity of the award notices and the difficulties that claimants faced at the time because of the IT system.

4.2.4 The ability to make tax credit claims online was lost with the closure of the online claims portal. Whilst we acknowledge that HMRC has to guard against fraud, we believe that some form of online claim facility is feasible. One such possibility is to allow claims to be made by approved representatives on behalf of claimants and we incorporate this suggestion in one of our proposals in Appendix A. This would strike a balance between alleviating fraudulent claims by limiting access to only approved bodies, but also allow claimants access to a quicker claim route.

### 4.3 Improved processes for disputed overpayments

- 4.3.1 The consultation document refers to improvements in methods of dealing with disputed overpayments, in particular the new Code of Practice 26 published in January 2008.
- 4.3.2 LITRG, with some reservations, welcomed the new test. We have yet to analyse how it is working for claimants. However, the introduction of a new test does not, in our opinion, improve the processes for dealing with disputed overpayments if the administration of such disputes remains in disarray.
- 4.3.3 We have evidence of unacceptably long delays in answering correspondence with average times for disputes currently running at around 5 months. This is at odds with the consultation document which states that the number of complaints and disputes has dropped by around a third (see para 4.5). If this is the case, then one would expect response times to have improved rather than worsened significantly as we are experiencing.
- 4.3.4 The Parliamentary Ombudsman's Report *Tax credits: Getting it wrong?* (October 2007) and the Adjudicator's 2008 Annual Report both referred to improvements in administration through the merger of the dispute and complaints teams. It was envisaged that the new teams would improve customer service by allocating a named caseworker with a contact number and by giving claimants a date by which a reply would be sent, with a follow up if this date could not be met.
- 4.3.5 Our own evidence is that these teams are plagued with the same backlog problems as the separate teams were, and are currently running months behind in dealing with correspondence. Claimant confidence in getting a reply from the TCO is at an all time low, and poor communication between the TCO and Debt Management & Banking can lead to recovery proceeding when a dispute is still waiting to be dealt with.
- 4.3.6 The new COP 26 test also fails to take account of the problems claimants have in getting explanations as to why overpayments have occurred. In order to dispute an overpayment effectively, claimants need to know why it has occurred. Current policy is that recovery will not be suspended whilst an explanation is sought. The helpline are often unable to give explanations, advising claimants to write instead. Claimants are left months without answers to questions about why an overpayment occurred, and recovery continues. We believe this is another example of poor customer service and needs addressing urgently.
- 4.3.7 All of this is highly unsatisfactory for claimants. We therefore recommend that HMRC, in conjunction with representative bodies, make it a priority to examine the current processes and reduce the significant delays that are occurring. For example, a fast-track system might help to remove the backlogs.
- 4.3.8 Finally, the consultative document refers to the COP 26 hardship sections under which HMRC should consider writing off an overpayment if repayment would cause hardship. LITRG have long been concerned about the operation of the hardship provisions of COP 26. There is little transparency about when they can be invoked, no detailed information about how to invoke these

procedures and indeed what factors will be considered. It is also unclear how many debts have been written off under these hardship provisions.

- 4.3.9 We therefore recommend an urgent review of the operation of the hardship provisions.

#### **4.4 Removing the fear of overpayments**

- 4.4.1 While implementing our suggestions above might reduce the number of disputes, and hence the backlogs, enduring benefits can only be achieved by attacking the root cause of the overpayment problem.
- 4.4.2 There is a widespread fear of overpayments which leads to mistrust and lack of confidence in the tax credits system among the claimant population. People who have had overpayments in the past are reluctant to rejoin the 'tax credits club', and few understand that overpayments are a normal part of the design of the system, not an aberration.
- 4.4.3 We believe that if the fear of overpayments can be removed, the scheme can be explained and relaunched in a much more positive light.
- 4.4.4 We would recommend a thorough technical analysis of all those situations where it is possible for an overpayment to arise. This would also be facilitated by an analysis by HMRC of existing overpayment disputes.
- 4.4.5 Such an analysis might pay particular attention to situations such as underestimates of current year income, non-renewal following separation (e.g. one partner engages and the other doesn't), delays by HMRC in processing changes of circumstances, or cases where entitlement is reduced by a change which it is not obligatory to notify.
- 4.4.6 It would also highlight situations where overpayments arose through uncertainty (e.g. it is not known precisely when a separation took place, or 'normal' working hours fell below 30 or 16 hours a week), or through inability to predict the future (such as where current year income is underestimated because of a subsequent rise in income).
- 4.4.7 We believe it is possible to provide 'fixes' within the existing system to cope with the circumstances above (and others that are likely to arise from a more detailed analysis) to protect against an overpayment arising. Some such fixes are canvassed within the consultative document. They might take the form of run-ons (provided the administrative problems we discuss at 6.3 can be overcome), or de minimis exceptions, or the proposals to which we respond at 6.5.
- 4.4.8 Another possibility might be an option for fixed awards for short periods during the tax year (see Appendix A for a suggested pilot). Other possible solutions might be those already canvassed in the consultative document.
- 4.4.9 If we could reach a position whereby a genuine attempt to provide an accurate and timely claim or subsequent change notification would guarantee no overpayment, then there would be a massive and positive change in the perception of tax credits. The message could then be 'what you get is yours to spend'.

## **5.1 Tax credits transformation programme**

- 5.1.1 LITRG welcomes all of the initiatives set up under the tax credits transformation programme, all of which will be of benefit to claimants and a step closer to better customer service.
- 5.1.2 We do however have some concerns. Consider, for example, the programme to provide assistance with claims. This is based on evidence that suggests claimants make mistakes with the claim forms, and therefore proactive intervention by HMRC should help reduce these errors. However, this proactive help assumes that the staff who are assisting will have in depth knowledge of a very complex system of technical rules to make sure people fill in the correct information. Our experience of the helpline is that they cannot always deliver at such a level. It is therefore essential that HMRC can deliver what is promised in each of the initiatives by making sure that staff have adequate training, including knowing when technical questions should be escalated.
- 5.1.3 A further example mentioned in the consultation document is improved communications products, demonstrated by the web-tool to help customers understand their tax credits entitlement. We welcome the web-tool and think it is a good step forward; however, our own testing has revealed defects for those with disabilities working more than 30 hours and for those with lower previous year incomes. Any tools and programmes that are created need to make sure that they apply to all tax credit claimants, and certainly without creating additional steps for those with disabilities. To do otherwise risks breaching HMRC's statutory obligations under the Disability Discrimination Acts and the Department's own Disability Equality Scheme.
- 5.1.4 We are also concerned about what happens when things go wrong. For example, the household breakdown telephone claims initiative is an excellent idea and clearly beneficial for claimants. However, we have already encountered situations where the new single claim has, for some reason, become stuck in processing. The claimant is left to call the helpline repeatedly, but (as mentioned at 4.1.16) the helpline seems not to have an adequate escalation route.
- 5.1.5 We therefore recommend that HMRC make sure that adequate procedures are in place for each of the initiatives to make sure (a) that problems can be quickly dealt with by a named caseworker as soon as they occur, and (b) that helpline staff can engage with claimants to escalate the case to the appropriate person.

## **6.1 Giving customers more choice and certainty**

- 6.1.1 As stated in our introductory paragraphs, we are of the view that the current system can be made to work better. We are therefore cautious about making fundamental changes to a system that currently has many defects. We think it is more appropriate to fix the defects in the current system to allow it to reach its full potential before determining whether more fundamental change is needed.
- 6.1.2 The consultation paper sets out various proposals and suggestions for the future and, subject to this significant caveat, we give our views on each of them in turn.

## **6.2 Responding to changes in income**

- 6.2.1 In the early years of the tax credit system, many overpayments were caused by a lack of reporting up to date income figures. The introduction of the £25,000 disregard has clearly helped reduce these income related overpayments.
- 6.2.2 However, in our experience there is still a lack of understanding on the part of tax credit claimants about how the tax credit system works by comparing actual income against previous year income at the end of the year. This complexity makes it difficult for someone to understand how changes in their circumstances, such as a new job or increased salary, will impact on their tax credits.
- 6.2.3 We frequently see income-related overpayments arise when people move their award to estimated current year income because they are expecting a fall in income, but the estimate turns out to be too low. Many people believe that they are protected by the £25,000 disregard, but this only operates above the level of the previous year's income so that those whose income falls below that level, then starts to rise again, are left with a recoverable overpayment.
- 6.2.4 We believe that this problem could partly be remedied by better helpline advice when someone reports a fall in income, along with more work towards helping claimants understand how income relates to their tax credit award.
- 6.2.5 The consultation document suggests an income bands model, similar to that used in New Zealand.
- 6.2.6 Looking at the figures in Box 6.2 of the document, the gains in reducing overpayments if bands are £500 or even £2000 are not significant. Whilst this would help those who may over-estimate income falls, the wider the bands, the less reactive the system becomes to changes. Those on lower incomes may find it difficult to manage without the extra money, and it is possible that the bands may act in some way as a disincentive to work more hours initially.
- 6.2.7 We believe that the benefits of an income band model are outweighed by the further problems it would create.

## **6.3 Run-ons of entitlement**

- 6.3.1 We are generally supportive of the current run-ons that exist in the system, as they act as a buffer against overpayments which can help people when their circumstances are changing.
- 6.3.2 We would support the introduction of a four-week run-on for those claimants whose weekly working hours fall below 30.
- 6.3.3 Our concerns about the introduction of more run-ons are in the administration. The existing four-week run on has been introduced manually, and not automatically. Reports have come to us of lengthy delays in paying out the run-on entitlement. In addition, the letters that are sent out explaining the run-on are confusing for claimants, leaving many of them not at all sure of the status of a run-on or indeed when they will receive it.

- 6.3.4 If a new run-on was introduced, and it similarly could not be implemented automatically, those who remain on tax credits (who drop working hours below 30 a week but remain above 16) could face much confusion if they continue with ongoing system payments, in addition to receiving a manual payment of the run-on.
- 6.3.5 We therefore recommend that any new run-ons should only be introduced once the necessary administration is in place to enable claimants to receive accurate, easy to understand information and to make payments automatically. If the IT is not flexible enough to cope with automatic payments at this time, any manual system needs to be responsive so that there are no continued delays in payments.

#### **6.4 The disability element**

- 6.4.1 LITRG has been actively involved with HMRC in examining ways of simplifying the rules to make claiming the disabled elements easier.
- 6.4.2 The current rules make it extremely complicated for claimants to secure backdating, and communications about what steps claimants need to take have been inadequate. At present the legislation requires a cumbersome notification when a claimant applies for a qualifying disability benefit, and again within 3 months of it being awarded. HMRC have communicated this requirement very poorly to claimants, meaning that many of the most vulnerable tax credit claimants have missed out on substantial backdating.
- 6.4.3 We are fully supportive of the ongoing work by HMRC in looking at the potential to remove this requirement. However, we would urge HMRC to take steps to remove the obligation to make the initial notification, and leave only the requirement to notify once a qualifying benefit has been awarded.
- 6.4.4 The problem that remains, even if the initial notification requirement is removed, is that there are circumstances in which HMRC are unable to grant the full backdating clearly intended by the regulations. The reason given is that where a decision about a disability benefit is made in a later tax year than that in which the claim was made, the earlier year cannot be re-opened to grant the backdated disability element once a final award for that year has been made.
- 6.4.5 We believe that the rules should be made as simple as possible, without disadvantaging disabled claimants in any way. The reason backdating of the disability element is required is that the Department for Work and Pensions have either delayed in making the initial decision or indeed have made an incorrect decision that has been overturned on appeal.
- 6.4.6 It is clearly wrong that the rights of disabled claimants should be prejudiced by the error or delay of a Government department, while those who do not experience such error or delays receive their full entitlement. If such discrimination is truly the effect of the legislation, then the legislation must be changed in order to give effect to its original intention.
- 6.4.7 Any changes that are made must retain full backdating of the disability and severe disability element.

## **6.5 Household break-ups**

- 6.5.1 The consultation document announces (para 6.15) that, from 2009-2010, HMRC will start to give customers who wish to do so the opportunity to resolve any issues relating to their old joint award at the time that they report a household break-up.
- 6.5.2 We are supportive of the aims of this change, as a large number of problems are caused for people who separate mid-year and find they have to renew two claims rather than one.
- 6.5.3 Our initial concerns are that it is not clear what happens where one party engages and the other does not engage until later – the award would be open to the possibility of being finalised using two different amounts which could cause confusion.
- 6.5.4 Again, we are concerned about how this will be administered. It appears from the document that one partner may engage at the time of the break up and choose one path, whilst the other may choose to engage at that time and finalise later, or indeed choose not to engage at all.
- 6.5.5 We feel that there is not enough detail in the consultation document to comment fully on how these proposals will work in practice and possibly alleviate some of the concerns we have. We would welcome the opportunity to meet with HMRC to discuss this in more detail.

## **6.6 Recovery via PAYE**

- 6.6.1 The consultation document (para 6.20) offers the PAYE option as a convenient way for customers who are in regular employment to repay a tax credit overpayment.
- 6.6.2 Whilst we understand this may be an attractive option for some in principle, we have concerns about the implementation of such a recovery method.
- 6.6.3 In our experience, PAYE codings are a source of many problems within the tax system. We therefore anticipate that adjusting a claimant's codings to recover tax credit overpayments will contribute to the problems that already exist in getting correct codings. Problems will occur if there are multiple sources of income, and our evidence suggests that the error rate on codings with multiple employments is already at around 50%.
- 6.6.4 We would also be concerned about how Debt Management & Banking (DMB) would implement this in light of the existing problems of disputed overpayments. Recovery of overpayments in dispute should be suspended, and therefore we believe better interaction between DMB and TCO are needed to make sure that PAYE is not implemented at the wrong time.
- 6.6.5 In addition, communications with claimants need to be clear and consistent, explaining to them how this will affect their coding. We are concerned that claimants will find it very difficult to check whether their coding is correct and whether the correct amount is being paid back. We are also concerned that no thought has been given to what the impact of amending codings will be upon the DWP who rely upon net incomes under PAYE for assessing means-tested benefits. It may well be that the result will be increased benefit for



many because of the decrease in net income, but we are not satisfied that sufficient thought has been given as to how the proposed change will be administered between the two departments.

## **6.7 Repaying debts via lump sum**

- 6.7.1 The proposal in paragraph 6.23 of the consultation document is to offer all customers, those with ongoing awards as well as those in direct recovery, the option to repay an overpayment in a lump sum.
- 6.7.2 Whilst we understand that some claimants may find this an attractive option, it will not be suitable for very many of them.
- 6.7.3 In the past, communications from DMB have failed to explain adequately that claimants can repay over 12 months or longer if their circumstances warrant it. We have seen instances where frightened claimants have paid in full by taking loans because the options were not adequately explained to them. We are therefore concerned about how the repayment via lump sum will be operated and offered to claimants.
- 6.7.4 Paragraph 6.25 states that tax credit contact centre advisers will be equipped to advise customers on the effects of choosing each of these options. It is absolutely essential that this includes not only the effects on tax credits, but also the effects on other benefits. Choosing to repay by way of lump sum rather than by deduction from ongoing tax credits can have implications for DWP means-tested benefits such as housing benefit and council tax benefit.
- 6.7.5 If HMRC staff are truly to advise on the effects of choosing each option, the interactions with these benefits cannot be ignored.
- 6.7.6 As stated in the earlier part of this submission, the current tax credit award notices are far from ideal in relation to explaining overpayments and how they are being recovered. Any options for repaying debts, whether via PAYE or via lump sum, need to be transparent on award notices.
- 6.7.7 We recommend that any such recovery methods should be delayed until they can be administered correctly; until communications adequately reflect them; and staff are fully trained on the consequences of accepting different recovery methods.

## **6.8 End of year top-ups**

- 6.8.1 As with the income bands model, those who are on higher incomes are more likely to be able to afford to wait for an end of year top-up than those who are on lower incomes.
- 6.8.2 The current practice of holding back underpayments when someone reports a fall in income gives a similar effect, in that if circumstances stay the same, a lump sum payment will be paid at the end of the year. This is likely to have helped reduce overpayments for some claimants.
- 6.8.3 However, the underpayments that accrue in these situations are for a time that has already gone by. If claimants report falls in income quickly, then the underpayment will most likely be small. The proposals in the paper are that

part of the award would be withheld, presumably even if the claimants' income is fairly stable.

- 6.8.4 Whilst we can see the potential benefit for those who over-estimate income falls, there is little benefit for others who are on low incomes and who cannot afford to wait until the end of the year for money that is vital to them. Introducing this would lead to loss of responsiveness which is a key feature of the tax credit system.
- 6.8.5 We would also be concerned about the increased complexity that would be introduced, and aside from the fact that the IT system could not implement this at present, it would clearly create a more difficult system for claimants to understand.
- 6.8.6 It would be possible to offer this only to those who are on no more than the family element, as such families may prefer to receive this at the end of the year. However, this would again create a much more complicated system for claimants to understand, and for helpline staff to explain and administer.
- 6.8.7 We therefore do not think that the gains achieved by keeping back payments and offering more choice offset the pitfalls for those on low incomes.

## **6.9 Choice vs. complexity**

- 6.9.1 Chapter 6 of the consultation document finishes by posing the question whether the overall advantages of giving customers more choice are outweighed by the risk of increased complexity in the system.
- 6.9.2 Increasing choice more often than not results in added complexity as the above comments show. However, that in itself is not a problem if the claimant is unaware of the complexity because the system is being operated well and smoothly.
- 6.9.3 However, given the current state of the IT systems and customer service, we do not believe that any of the proposals in Chapter 6, possibly with the exception of income bands and run-ons, could be implemented without massively increased complexity for the claimant.
- 6.9.4 We started off this document by saying that we believed the current system could be made to work better and indeed should be enabled to reach its full potential before any more 'bells and whistles' are added. The current system is already hugely complex for both claimants and helpline staff, and these complexities should be addressed before any new ones are added.
- 6.9.5 Much of the complexity in the current system could be relieved by better staff training so that claimants could rely on the helpline for accurate advice, and better communications so that claimants understand what they need to do and how their tax credits are affected by changes.
- 6.9.6 For those on low incomes, our view is that the advantages gained by the increased choices in the document are not great enough to risk the increased amounts of complexity. Whilst you may relieve the cause of overpayments through one change, added complexity means it is more likely overpayments will accrue for other reasons.

- 6.9.7 Once the current system is improved and working as efficiently as possible and the IT system is able to cope with bigger changes, it may be sensible to revisit these options. For the purposes of discussion, we have included some discussion of the merits and demerits of a fixed award system in Appendix B.

## **7 Reforming the delivery of childcare support**

### **7.1 Problems with the current system**

- 7.1.1 The childcare element in working tax credit is unprecedented in its generosity. Making it part of the tax credit system means that anyone who qualifies for WTC automatically gets the childcare element, provided they fit the specific requirements. To that extent access to affordable childcare for those claimants who wish to work is made a lot easier.
- 7.1.2 Nevertheless, association with the tax credits system can give rise to correspondingly large overpayments if mistakes are made in calculating entitlement, or in understanding the complex and rigid rules about eligibility. Overpayments so generated are frequently out of proportion to the claimant's ability to repay.
- 7.1.3 The calculations of the childcare element are currently based on averaging which, as the consultation document observes at para 7.15, few claimants are confident in working out. In addition, if childcare costs fluctuate, averaging does not deliver what is needed, at the time it is needed, when costs are running above average. To compound the difficulties, the booklet WTC5 on childcare gives five different methods of computing entitlement. And if claimants find it difficult to work out their average childcare costs by one of those five methods, it will be equally difficult for them to tell at what point they must inform HMRC of a change in their average childcare costs.
- 7.1.4 The whole issue is complicated by the fact that most claimants will not be aware of the existence of WTC5 as it is not mentioned in the claim form notes as something which could give useful guidance on calculation of childcare costs. Additionally, tax offices and enquiry centres generally do not stock it.
- 7.1.5 The childcare element is tightly targeted so that if a person ceases to qualify for WTC, they also cease to be eligible for childcare credit. This can disqualify many who may otherwise be regarded as deserving of support, including people who – while not actually working – may be putting themselves into a position to work.
- 7.1.6 This may include a person who has lost their job and is trying to get back into the workplace, or a lone parent who chooses to study or train to improve her/his work prospects.
- 7.1.7 Couples are also excluded if, for example, one of them is working and the other is caring for a disabled child, or studying, or abroad for a short period.
- 7.1.8 If a claimant makes a mistake, and has to repay the ensuing overpayment, they may no longer be able to afford to pay for childcare as well, and therefore have to stop work altogether. Extreme hardship can result; indeed in such instances the design of the childcare element can operate as a work disincentive, against the Government's broader counter-poverty objectives.

**Possible solutions and methods of payment**

- 7.2.1 Any solution must address the situations described where childcare support is needed but unavailable under the present rules, and the overpayment problem. Because underpayments and overpayments are currently inevitable within tax credits, we believe that a solution outside tax credits which would pay the claimant directly as costs are incurred, or pay the childcare provider, has considerable merit. This need not compromise the level of support, and overpayments need only arise where there was misrepresentation or non-reporting on the part of the claimant.
- 7.2.2 But if childcare is to be kept within tax credits, we would seek either some protection from overpayment recovery for households below a certain income level, or a system of vouchers or electronic payments if it could be delivered without being unduly susceptible to fraud.
- 7.2.3 One way of protecting more vulnerable claimants would be to put a ceiling on overpayment recovery, analogous to the system of student loans. Overpayments would remain on the claimant's account, as it were, but recovery would be suspended in certain circumstances. For example, there would be no recovery at all where household income was less than x amount, partial recovery where income was more than x but less than y, full recovery above y.
- 7.2.4 This would protect those who could least afford to repay large overpayments, but would not of itself decrease the volume of overpayments in the system. Nor would it release the funds necessary to bring within childcare support carers, and those others whose circumstances might merit help of that kind. Also, there would need to be adequate protection against any possible abuse.
- 7.2.5 Paragraph 30, Box 7.7 of the consultative document illustrates how an income bands system would work. Replacing the smooth system of tapered withdrawal with one of stepped income bands would, as para 7.31 makes clear, create cliff edges that would become steeper the wider the bands. If however the 80% support band gave way to 60% at household income of £22,000, that would ensure that most low-income households would be protected from the cliff edge effect. Nevertheless, £22,000 is still a relatively low household income for a family with children, and the effect of a sudden withdrawal of support amounting to 20% of childcare costs could well function as a disincentive to improve work prospects if the prospective increase in pay was less than the loss of support. The £25,000 disregard would ameliorate the effect in the short term, only to postpone it until the following tax year.
- 7.2.6 While paying childcare support in arrears based on actual costs would get rid of overpayments, we worry that paying the first few weeks in arrears would put the claimants at risk of losing their place with the provider unless they were able to afford to pay those costs themselves. One solution might be to provide the claimants with a 'float' with which to start the year. We do not think that basing an estimate of childcare costs on the previous year would work, because the circumstances of the claimants could well be very different from year to year.
- 7.2.7 One method of payment within the tax credits system which we think does have merit would be issuing vouchers at the start of the tax year based on

80% of a forward estimate of childcare costs. Something along these lines is mooted at para 7.48 of the consultation document.

- 7.2.8 Once issued, the vouchers would be available to claimants to spend on registered or approved childcare for the rest of the tax year. If the estimate at the beginning of the year proved too low, the claimants could apply for more. If the estimate proved too high, no overpayment would result, because the money would not be spent until the voucher was presented for payment. At the start of the next tax year the claimants would again estimate their forthcoming expenditure, and the process would be repeated. Eligibility would still be linked to the working tax credit; there would be no need to keep track of average expenditure over a cycle; and the overpayment problem would be resolved because however many vouchers were issued, only those presented for payment would be counted.
- 7.2.9 Clearly, a scheme of this type would need to be designed carefully to prevent fraud, and also the development of a secondary market in vouchers. It would also be necessary to link the issue of vouchers to current award levels in order to determine how much of the credit should be subject to the 39% tapered reduction – unless that were simply fixed for a year on the basis of preceding year's income.
- 7.2.10 Whether payment directly to the provider would work is primarily a matter for providers, though we can foresee difficulties where childcare providers change. We think however that reservations based on stigma, or lack of financial control for the family, are probably more theoretical than real. A system that produces reliability and accuracy is greatly to be preferred to one that is unpredictable, potentially giving rise to overpayments out of all proportion to the claimant's means, and does not always target help accurately where, or when, it is needed.

### **7.3 Support for informal childcare**

- 7.3.1 There is no support in the UK for parents who prefer to look after their own children, despite the resulting loss of income from employment or self-employment. Nor is there support for those who are able to leave their children with a member of their family, most obviously their own parents, unless very restrictive conditions are fulfilled. Indeed the assumption in para 7.42 appears to be that care by a member of the child's own family is not 'safe' childcare, an assumption which many would find objectionable.
- 7.3.2 If a more even-handed approach were adopted towards parents who choose to care for their own children, perhaps it would ameliorate the economic circumstances which require many couples and lone parents to choose work instead, thus having to find paid childcare provision by non-family members.

### **Disabled children**

- 7.4.1 Because conventional childcare facilities are generally unable to accommodate many children with disabilities, childcare for them can be hard to find and disproportionately expensive once found. We would like the system to recognise the extra costs of obtaining care for disabled children by, for instance, increasing the eligible % to 100% from 80% and increasing the maximum costs eligible for the credit.

- 7.4.2 This proposal, as that in the previous section, would tackle a major inequity in the current tax credit system. While they possibly go a little wider than the coverage of the consultative document, they focus on issues which – along with improving considerably the administration of the present system – are of considerable greater priority than, childcare apart, complicating it yet further in the ways discussed in the document.

## APPENDIX A

### Suggested pilot schemes

The Tax Credits Transformation Programme envisages a series of Pilot schemes to analyse problems and come forward with better working solutions. LITRG would propose that the following ideas should be subject to pilots (or at least detailed debate).

These pilots are as follows:

- A. Getting things right early on
- B. Making understanding easier
- C. Mini-breaks
- D. Money shops
- E. Migrant issues

None of these ideas have been debated or scoped to any degree by LITRG. But our dealings with many advisers from a range of welfare rights organisations, together with our active casework, lead us to think that such pilots might show the way forward in a number of difficult areas.

#### **A Getting things right early on**

##### **Perceived problem**

In any complex system with multiple points of customer contact, the accuracy of data is crucial to smooth working. We have the perception that a large proportion of the most vulnerable claimants are not confident in their abilities to complete the initial claim forms accurately.

This lack of confidence, even with the support of the helpline, can be a deterrent to initial take-up, especially if there is a view that there is not much money in it and the process is a hassle.

We have not seen any qualitative research undertaken to show whether poor initial data is being supplied by first time claimants. However, once mistakes have been made on an initial claim they are likely to be repeated on renewal. We have seen through our casework many examples of disputes arising through initial misunderstandings.

Such disputes and the subsequent re-working are expensive for all concerned.

##### **Proposed pilot**

HMRC should fund a pilot whereby the voluntary and local authority sector would provide face to face help to complete claims for new claimants (or those still in the first year of award). Whilst we acknowledge the increased assistance HMRC plan to offer through the transformation programme, we do not believe that that HMRC can

hope to provide it in full with their current structures, and in any event it might have a greater take-up if thought to be outside of HMRC.

We also hope that a limited re-opening of the HMRC tax credits online claim facility (closed due to fraud) for the voluntary or local authority organisations active in the pilots would be made available. In this way another step in processing (and scope for error) is removed.

We would expect the accuracy of the pilot scheme awards (and any re-working) to be measured against the accuracy of a sample completed outside the pilots.

## **B Making understanding easier**

### **Perceived problem**

The tax credits system is particularly complex for vulnerable claimants with chaotic lives. These are likely to include many people whose educational attainments are low and whose first language is not English.

Arguably it is impossible to design literature, such as claim forms, award notices and general guidance, which will enable such people to understand the workings of the tax credit system, the likely impact of daily decisions that they might make (such as taking on another job, reducing hours etc) and to have sufficient understanding of the information they need to provide accurately and in a timely fashion.

The likely solution for such claimants may be a personal guide from either the voluntary sector (as in pilot A) or from the State sector (as provided by the Pensions Service).

But a large number of other claimants might be able to self-serve so much better if the HMRC approach to forms, literature and notification were coherent, imaginative and forward-thinking.

### **Proposed pilot**

We would propose that, for a limited pilot amongst a cross section of the more vulnerable claimants, the complete suite of HMRC forms/guidance and processes be re-designed with their needs uppermost in mind.

This should be done jointly with volunteer claimants and the voluntary sector.

For example, LITRG has already started to develop a prototype of a new Award Notice to make it easier for such people to understand what they have been given and to enable them to identify mistakes sooner.

The pilot would explore how to make the very long guidance notes more accessible and relevant to the populations concerned; possibly by segmentation of that population or by prior learning of the customer's individual needs.

In addition, the pilot would explore how ready this population might be to enter into communication with HMRC online, or by e-mail or textphone, so increasing speed and accuracy of response.



## **C Mini-breaks**

### **Perceived problem**

Where claimants' income is low and their awards correspondingly high, any overpayment is likely to be commensurate with their award and therefore completely disproportionate to their ability to repay. This represents a considerable debt problem for HMRC and source of deep anxiety for the claimants. The problem is compounded if the overpayment is wrongly calculated, or generated through official rather than claimant error.

The recognition of these issues prompts re-consideration of a fixed award system which has been commented upon in the consultation paper. As LITRG is keen to see what can be achieved using the existing framework rather than adopting radical change at this juncture, we would like to suggest a pilot which explores the feasibility of elective mini-breaks.

### **Proposed pilot**

We suggest that a selected group of tax credits claimants with a history of frequent changes in their lives be offered a trial of what we have described as a mini-break approach.

The mini-break proposal would require accounting by the claimant in the form of a mini-claim, say three times a year on the 5 August, 5 December and 5 April.

In exchange for these mini-claims the claimant would be assured that the payments deriving from those interim assessments would be fixed for four months and would never give rise to an overpayment, provided claimants disclosed their income and circumstances fully and accurately at the start of each such period.

The tax-year basis of tax credits is undoubtedly difficult for people whose circumstances can vary from week to week or even from day to day. A system of mini-breaks would help them to plan and budget over a shorter period than 12 months.

In order to avoid a complete lack of responsiveness within the four-month window it would be possible to specify certain extreme events which would generate re-consideration at the request of the claimant, for example a death or a separation of partners.

The key to this proposal would be to make it elective to the claimant. It is likely to be adopted by those who would wish to exchange greater certainty for the sometimes illusory greater responsiveness. This is unlikely to appeal to those whose normal pattern is to interact with HMRC perhaps once a year, at renewal time. But, those who foresaw more frequent interaction with HMRC and/or lacked confidence in the existing system might well wish to adopt the mini-break alternative.

## **D Money shops**

### **Perceived problem**

There is much evidence in research reports undertaken by government (particularly the DWP and the Cabinet Office) that inter-departmental working within government

leaves a lot to be desired. These deficiencies impact upon tax credit claimants who very often have to understand not only the tax credits system but also how that system interacts with many other government systems, notably housing benefit, council tax benefit, free school meals, prescription charges, child trust fund, education maintenance allowance, home energy improvements and many more.

We believe that holistic and inclusive advice is becoming more difficult to obtain and the additions to the contingent help list are growing; for example, the new savings gateway will introduce a new set of complexities on its introduction in 2010.

Admirable services, such as Citizens Advice, try to fill the void of a coherent government advice service, but even they struggle to cover within a single location some of the specialist issues that can arise.

It is the most vulnerable, and often the least equipped for the task, who are left to try and make sense of the inter-relationships between government provisions. In our experience, they have very little chance of doing so on their own. Not only that, none of the government helplines which exist attempt to cover the range of issues that need to be grappled with. In any event, complex relationships cannot be effectively dealt with by phone and what is needed is face to face help.

Very often it is tax credits which are at the centre of this web.

### **Proposed pilot**

We propose that a pilot scheme be established whereby people on low incomes might visit an integrated advice centre which would consist of personnel drawn from HMRC, the DWP, local authorities and the voluntary sector. We have called them Money Shops for shorthand. There an individual might obtain advice on any government-provided benefit and establish the appropriate interactions and passporting opportunities.

It may be that this pilot could be linked in to the developments occurring at the instigation of the Ministry of Justice in bringing together Community Legal Advice Centres. Indeed, it could also be linked in to HMRC's and the DWP's rationalisation of their respective estates and their reconsideration of their face to face presence.

## **E Migrant issues**

### **Perceived problem**

Migrants to the UK are generally entitled to receive tax credits; but there are many exceptions to this broad statement. The exceptions are complex because the underlying immigration and status rules upon which they are based are ever-changing and difficult to understand.

HMRC has become notorious amongst welfare rights advisers for the delays, poor advice, cumbersome procedures and incorrect decision-making surrounding migrants to the UK.

We have some sympathy for HMRC in trying to grapple with the immigration status overlay which sits on top of the general tax credits system. It also does not help when income tax rules for migrants continue to diverge from tax credit rules.

In order for an efficient and coherent approach to migrant issues to succeed within HMRC there is a requirement to integrate procedures between the UK Border Agency of the Home Office (who determine status issues), the Department for Work & Pensions (who have some of the earliest contact with migrants) and the Tax Credit and the Child Benefit arms of HMRC.

Although there are contacts, exchange of information and broad co-operation between the various arms of government, it does not seem to have been sufficient to produce a logical and coherent system for the benefit of tax credit claimants.

### **Proposed pilot**

We would like to see a pilot which takes migrants across the spectrum of refugees, A8 and A2 workers and non-workers, those falling within the new points-based system and some special categories and tracks the processes which apply across each of the government agencies.

We would wish the pilot to analyse the communications which come from each of the agencies at the various points of contact and see the whole experience from the claimant's perspective. We would also want to analyse the information flows from the migrants to the authorities and how that information is shared across authorities at the critical times.

The objective of the pilot would be to suggest streamlined and integrated procedures, to remove duplication and to provide a coherent and understandable claimant experience.

We are convinced this would also save HMRC manpower and allow a better service to tax credit claimants.

## APPENDIX B

### **The merits and demerits of traditional fixed awards as against new tax credits**

The question to consider is whether to continue with the tax credits model of allowing entitlement to change along with income and circumstances, or to revert to the traditional benefits model of fixed awards, thereby giving claimants certainty but denying them the flexibility inherent in tax credits. It is either certainty or flexibility but not, apparently, both.

The question has been raised periodically during the life of tax credits because of the huge cost, both human and financial, of overpayments. If tax credits were operated on a fixed award basis, claimants would know what they were getting week by week and be able to budget. Provided information about their income and circumstances was recorded accurately, they would be less likely to face an unexpected reduction in their award. On the other hand, they would not be able to secure an increase in their entitlement if their circumstances were to deteriorate.

Where claimants' income is low and their awards correspondingly high, any overpayment is likely to be commensurate with their award and therefore completely disproportionate to their ability to repay. This represents a considerable debt problem for HMRC and source of deep anxiety for the claimants. The problem is compounded if the overpayment is wrongly calculated, or generated through official rather than claimant error.

But just how flexible and responsive is the tax credits system? The PBR 2005 reforms, in reducing the volume of overpayments, have introduced greater rigidity. In particular, if income drops below the previous year's level, there is no protection from the £25,000 disregard; and since last tax year any accrued entitlement on income fall is withheld until the year-end. But then the system has never been responsive to income because of the averaging rule. So at present we have:

- the advantages of a fixed award system for those whose incomes stay the same, or increase within the £25K disregard;
- certain disadvantages akin to those in a fixed award system for those whose income drops in-year, in that they have to choose between a higher award with the concomitant risk of an overpayment, or making do with a reduced award to avoid being overpaid;
- the advantage of flexibility, combined with the drawback of uncertainty, for those whose circumstances change rather than their income.

Much work has been done already to ameliorate the effects of overpayments on claimants. But considerable hardship is still caused in situations where an overpayment cannot be recovered from an ongoing award by instalments, but has to be collected directly from the claimant. As we argue elsewhere in this response, and as we have said frequently in consultation meetings and other forums, we believe there is potential to improve the system further in this respect.

Our suggestion for optional mini-breaks, or mini-awards, is described in Appendix A. We think such a system would combine certainty for the claimant during the period of the mini-award, with the responsiveness inherent in an automatic review of the

claimant's situation at the beginning and end of each such period. But they would need to be optional, so that those who would normally interact with HMRC less frequently could stay with the full tax-year basis.

Our conclusion is that we would not advocate returning to a straight system of fixed awards before tax credits have been given a chance to reach their full potential. But those for whom overpayments are a particular problem, and whose circumstances change frequently, may find a system of mini-award periods suits them better than one annual award period; and HMRC might find the initial cost of setting one up was outweighed quite quickly by a reduction in the volume of irrecoverable overpayments.