Mitigation of the two-child cap

February 2025

Scottish Government
Riaghaltas na h-Alba

Ministerial foreword

The Scottish Government's most recent budget continues to deliver game-changing policies keeping children in Scotland out of poverty. There can be no acceptable number of children living in poverty, and this government will do everything within its powers and financial abilities to eradicate child poverty.

Eradicating child poverty in Scotland is the Scottish Government's top priority, and we make no apology for continuing to strive to meet the stretching child poverty targets we have set. Modelling published in February last year estimates that this Government's policies will keep 100,000 children in Scotland out of relative poverty in 2024-25, with relative poverty levels 10 percentage points lower than they would have otherwise been. Last month, the Joseph Rowntree Foundation published research showing that child poverty rates in Scotland remain much lower than those in England and Wales[1].

This is thanks in part to keeping an estimated 60,000 children out of relative poverty this year through investment in Scottish Child Payment (SCP). SCP is part of a new social security system built from the ground up in Scotland and delivering 15 benefits, 7 of which are only available in Scotland. It has a rights-based approach, grounded in treating people with dignity, fairness and respect – a system from which any of us may need help, and of which we can be rightly proud.

We are investing around £6.9 billion in Social Security benefits and payments in 2025-26, around £1.3 billion more than the UK Government gives to the Scottish Government for Social Security. This additional investment is forecast to reach almost £1.7 billion by 2029-30 – money which will go directly to people who need it.

The investment demonstrates our commitment to our national mission to end child poverty and to help low-income families with their living costs, support older people, provide vital assistance to Scotland's unpaid carers, and enable disabled people to live full and independent lives.

And social security is just one area where this Government is investing to ensure that we continue to do all we can within our powers to fight the scourge of child poverty in Scotland. The draft 2025-26 budget continues to allocate over £3bn a year to policies which tackle poverty and the cost of living for households. It takes a whole family wellbeing approach which, in addition to our investment in social security benefits, includes the expansion of free school meals for primary school pupils, £768 million for affordable homes, funding of £4 million for homelessness prevention pilots, and the expansion of breakfast clubs in primary schools across Scotland.

[1] UK Poverty 2025: The essential guide to understanding poverty in the UK | Joseph Rowntree Foundation

But our efforts to tackle child poverty are being undermined by the social security policies of the UK Government, not least the two-child cap. This policy prevents parents from claiming universal credit for more than two children except in some limited circumstances, and the Scottish Government has been one of many voices consistently calling for its abolition.

It is deeply disappointing that the UK Government has failed to take the opportunity to abolish the two-child cap, given the irrefutable evidence that the policy is increasing poverty and hardship across the UK.

The End Child Poverty coalition estimates that 12,500 children across the UK had been pulled into poverty by the two-child cap between the UK Government taking office in July and the end of October last year, with a further 16,000 children set to be pulled into poverty by the time their Child Poverty Taskforce reports this Spring.

These figures show just how big the problem created by the two-child cap is across the UK. Here in Scotland, the Child Poverty Action Group estimates that scrapping the two-child cap in Scotland could lift 15,000 children out of poverty. The Scottish Fiscal Commission estimates that 42,000 children in Scotland will benefit from mitigation of the two-child cap in 2026-27; this will help to keep thousands of children out of poverty, and reduce the depth of poverty faced for many more.

Our decision to invest in Scotland's social security safety net reflects the values that I think are fundamental to who we are as a nation. We know that inequality is bad for our health, bad for our communities and bad for our economy. Social security is an investment in Scotland's people, its communities, and its future.

That's why in the coming financial year we will develop the systems necessary to effectively scrap the impact of the two-child cap in Scotland in 2026. The draft budget announced a commitment to spend £3 million to develop the necessary systems. The First Minister has already provided two guarantees: that the first mitigation payments will be made in this coming year if we are able to safely get the systems up and running in this coming year, and that if the United Kingdom Government does the right thing and abolishes the two-child cap across the United Kingdom, the resources we have committed to this policy will continue to be used on measures to eradicate child poverty in Scotland.

While our work continues at pace, I want to hear from you, to help shape how we take this important part of our fight against child poverty in Scotland forward.

Shirley-Anne Somerville MSP
Cabinet Secretary for Social Justice

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Introduction

The Scottish Government is currently responsible for delivering 15 benefits through Social Security Scotland, an executive agency of the Scottish Government.

All benefits in Scotland were controlled by the UK Government until April 2013, when Council Tax Reduction and the Scottish Welfare Fund were devolved to the Scottish Parliament. Following the Scottish independence referendum in 2014, the Smith Commission recommended that the Scottish Parliament be given autonomy to determine the structure and value of a range of disability and carers benefits, as well as the power to make limited changes to Universal Credit (UC), and to vary the UC housing cost element. It also recommended that the Scottish Parliament should be given powers to create new devolved benefits, and to top-up reserved ones.

These recommendations were made law by the Scotland Act 2016, and the framework legislation which underpins the Scottish system of social security, the Social Security (Scotland) Act 2018, received Royal Assent in June 2018.

Social Security Scotland was established in 2018. Its headquarters are in Dundee, with offices in Glasgow, and a local delivery service in each of Scotland's 32 local authority areas. Its Chief Executive is directly accountable to Scottish Ministers.

Social Security Scotland has been designed with the people who use it to ensure that processes are clear and inclusive, and that it delivers support to people across Scotland with dignity, fairness and respect. It administers £6.7 billion in benefits expenditure, an investment which will support around 2 million people this year - around 1 in 3 people in Scotland.

Some of the payments it makes are replacements for UK Government benefits, such as Funeral Support Payment, but seven are new benefits unique to Scotland, including the Scottish Child Payment and the Young Carer Grant.

The agency is on track to meet its ambitious timescale of completing case transfer for disability and carer benefits by the end of this year.

The two-child cap in Universal Credit

Existing work-related benefits paid to people in Scotland remain reserved to the UK Government. Universal Credit (UC) is a means-tested benefit which is in the process of replacing six existing benefits and tax credits for working age households[2]. The benefit is available to those who are in work on low incomes, as well as those who are unemployed or whose capability for work is limited by sickness or disability.

UC was introduced in 2013. It is administered by the Department for Work and Pensions (DWP) and has been available in every part of the UK since December 2018. Currently, it's the only option for any working-age individual or family wishing to apply for a means-tested benefit.

Part of the UC payment people get relates to children they are responsible for, and this part of the payment is called the 'child element'. The UK Government will however only pay the UC Child Element for the first two children in a family, except in some limited circumstances. If a third or subsequent child was born after 6 April 2017, then no UC child element will be paid in respect of that child, unless it was part of a multiple birth (for example, twins), part of a non-parental caring arrangement, or born as a result of non-consensual conception – known as the 'rape clause'.

DWP statistics show that in April 2024 a total of 1.6 million children in the UK were affected by the policy. The number of households affected by the policy has increased since the first statistics were published in 2018, as more children have been born since 6 April 2017 into families with at least two children.

The latest statistics show that in April 2024, 42,000 Scottish households with three or more dependent children were receiving Universal Credit or Child Tax Credit, of which 27,000 were in scope for the two-child cap due to having children born after 6 April 2017. Exceptions were applied for at least one child in 1,700 of these households, and 26,000 households had a child for whom the two-child cap had been applied. Some of these households will have four or more children, with more than one child in scope for the cap[3].

Allowing for some families having more than one child in scope, and for some children being exempt, the Scottish Fiscal Commission (SFC) estimates that in April 2024 there were around 32,000 children in Scotland recorded on claims for UC for whom no child element was being paid[4]. The Scottish Government considers that the scale of the problem indicates that action is needed as soon as possible.

[2] Universal Credit: What Universal Credit is - GOV.UK
[3] Stat-Xplore - Home
[4] Mitigating the two-child limit and the Scottish Budget - January 2025

Mitigating the two-child cap in Scotland

On 4 December 2024 the Scottish Government set out plans to mitigate the two-child cap in Scotland as part of the annual budget statement to the Scottish Parliament[5]. The proposal is for a payment equal to the UC child element for each third and subsequent child in Scotland impacted by the two-child cap – currently £287.92 each month, rising to £292.81 in April.

The SFC estimates that the mitigation will be paid to 42,000 children at a cost of £3,609 per child per year in 2026-27 (equivalent to UC child element payments for a year), rising to 49,000 children and £3,845 in 2029-30. The forecast includes £3 million in 2026-27, rising to £9 million in 2029-30, for behavioural change: for example, families choosing to work fewer hours to remain eligible for UC, or parents choosing to receive a mitigation payment from the Scottish Government instead of applying to DWP for an exception. On this basis the SFC estimates the total cost of the policy for 2026-27 at £155 million, increasing to £198 million in 2029-30[6].

Mitigation of the cap is not a straightforward task. It will require significant policy and technical work to develop and implement an appropriate solution. This includes cooperation from the UK Government around systems development, data sharing and legislation. For context, the Scottish Government's initial roll-out of Scottish Child Payment for under-6s was delivered in around 18 months from its announcement to its delivery; such a timescale for benefit delivery is unprecedented in the UK.

The technical delivery of the mitigation must carefully consider risks, issues and dependencies such as data sharing with DWP. A design for the payment must be agreed, built, tested and released, all while ensuring that the 15 benefits that Social Security Scotland is already delivering continue to be paid on time, and that vital upcoming work to deliver Pension Age Winter Heating Payment and priority improvements in Carers Assistance takes place as planned.

The £3 million announced in the budget statement will fund the work necessary to begin designing the mitigation payments, and that work has already begun. The Social Security Programme has commenced the 'discovery' phase of the project, which will impact delivery options, including joint work with DWP to agree, build and test additional data sharing functions and create a joint delivery plan.

The responses to this consultation, alongside the outputs of that discovery process, will inform the Scottish Government's approach to drafting the legislation that will be necessary to deliver the payments, with draft regulations to be shared with the Scottish Commission on Social Security and laid in the Parliament later this year.

[5] Scottish Budget 2025 to 2026 - gov.scot
[6] Mitigating the two-child limit and the Scottish Budget - January 2025

Options for delivery

The Scottish Government's priority is to make payments as soon as possible, given the immediate impacts that the two-child cap is having on peoples' lives. It considers that inequality is bad for Scotland's health, its communities and its economy, and that social security is an investment in its people, its communities, and its future.

The Scottish Social Security Principles provide the foundation of the Scottish system of social security, and the Scottish Government has considered its approach to the delivery of mitigation payments against the background of those principles.

The eight core principles deliberately correspond to some of the fundamental aspects of the right to social security, as set out in key human rights instruments such as the International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights and the European Social Charter.
The principles are set out on the face of the 2018 Act, with strong stakeholder and public support, with the intention of embedding the more positive, supportive ethos of the Scottish system from the outset.

The principles include:

- **the Scottish social security system is to contribute to reducing poverty in Scotland,** and
- **the Scottish social security system is to be efficient and deliver value for money.**

Within this framework, the Scottish Government has considered whether it should ask to pay for the two-child cap to be disapplied in Scotland 'at source' as part of the Universal Credit system controlled by DWP, whether mitigation payments should be delivered by local authorities in a similar way to Discretionary Housing Payments (DHPs), or whether Social Security Scotland should deliver mitigation payments.

If DWP removed the two-child cap in Scotland at source in Universal Credit it would have multiple positive effects. If it returned to the position prior to the introduction of the two-child cap then earnings limits would rise in line with the real size of a household, which would likely make some people who are currently not in receipt of Universal Credit eligible for payments, and the traumatic experiences suffered by many women as a result of the 'rape clause', which forces mothers to disclose painful past experiences to qualify for benefit, would no longer be necessary. The Scottish Government has continued to press the UK Government to do this.

DWP removing the two-child cap in Scotland would require extensive work. It would require the UK Government to introduce legislation and make system changes in order to remove the two-child cap from Universal Credit calculations for families in Scotland. The introduction of the these payments would depend on the UK Parliamentary process, as well as DWP's timescales for making the necessary technical changes, which could mean slower progress toward delivering payments.

The Scottish Government already mitigates the UK Government 'benefit cap' using Discretionary Housing Payments, which are administered by local authorities. The Scottish Government has consistently opposed the benefit cap which unfairly restricts the amount of money a household can receive through the benefit system.

The draft budget contains £97m made available to local authorities to spend on Discretionary Housing Payments, an increase of nearly £7m over 2024/25. This is made up of £79.7m to fully mitigate the bedroom tax, helping over 94,000 households in Scotland sustain their tenancies, 14,000 of which are families with over 20,500 children, more than £9.4m to mitigate the UK Government's benefit cap as fully as possible within devolved powers, supporting around 3,400 families, with nearly 11,000 children, and £7.9m to mitigate against the impact of UK Government welfare cuts, including shortfalls in Local Housing Allowance rates.

There would however be a number of disadvantages to adopting a similar approach for mitigation of the two-child cap. The existing Discretionary Housing Payment scheme was not designed for mitigation of the two-child cap.

It is currently legally limited to housing costs, which means that some families would be excluded from receiving the payment. Finally, making payments through Social Security Scotland will allow for a consistent approach across Scotland, without putting further pressure on local authorities' resources.

The Scottish Government therefore considers that the best way to achieve its urgent aim of reducing child poverty through mitigating the two-child cap in Scotland is to deliver a payment through Social Security Scotland. The agency has a strong track record of delivery of payments at pace, such as the Scottish Child Payment.

The Scottish Government will also retain more control of the implementation timetable if the mitigation payments are delivered by Social Security Scotland, rather than by DWP, as implementation would not depend purely on being accommodated within UK-wide parliamentary processes and UK delivery mechanisms. Delivery through Social Security Scotland will however still depend on engagement with DWP to provide the data and pass any necessary legislation in Westminster.

The knowledge and experience built up by the Social Security Programme and Social Security Scotland can be utilised, in order to build the necessary systems and administer the payments. Social Security Scotland is committed to putting clients first, and the Scottish Government wants to make sure that, as far as possible, its approach gets money into peoples' pockets quickly and easily, while minimising any unnecessary administrative burden.

Q: Do you agree or disagree with the Scottish Government's assessment that Social Security Scotland should deliver payments to mitigate the two-child cap in Scotland?

Agree/ Disagree/ Don't know

Please give reasons for your answer:

Opportunities and challenges

The Scottish Government has consistently criticised Universal Credit due to the low levels of support it provides, particularly given the caps and limits imposed on it, such as the two-child cap, as well as the many years of benefit freezes, which have all eroded the value of social security and the effectiveness of the safety net it should provide. While the Scottish Government is committed to mitigating the two-child cap to the extent it can within the Scottish Parliament's powers, mitigation payments cannot fix all of the problems with Universal Credit.

Alongside the two-child cap, Universal Credit is subject to the bedroom tax, which is fully mitigated by the Scottish Government, and the benefit cap, which it mitigates as far as possible within devolved powers. People under 25, including those who are parents, receive a lower rate of Universal Credit, and people also have to wait for five weeks for their first payment, which leads to many of them taking out loans which have to be repaid.

In addition, the lack of a link between Local Housing Allowance rates and real-world rents means that many low-income households are left in an uncertain position, not knowing if they are going to receive sufficient support with their rent in future years. The Scottish Government has consistently called for LHA rates to be raised and the Housing Minister wrote to the Secretary of State for Work and Pensions on 31 January urging the UK Government to reverse its recent decision to freeze rates.

Overall, the Scottish Government would like to see the UK Government move towards an Essentials Guarantee for Universal Credit, which would ensure that it adequately covers the cost of essentials, including food, transport, energy; and to ensure that deductions, such as debt repayments to government, sanctions, or as a result of the benefit cap, can never pull support below this level.

The Scottish Government has considered a number of factors in developing its proposals, including practicability, cost and timescales for delivery. It also considered how fully each option would mitigate the cap, and of course the impact on people who have had their Universal Credit payments reduced through the two-child cap.

The Scottish Government considered whether or not the new Childhood Assistance powers introduced by the Social Security (Amendment) (Scotland) Act 2025 could be

used to create a new benefit. While this option would allow for the fullest range of policy opportunities, it would be considerably more complex to deliver.

The introduction of tapering, which in UC reduces the level of benefit paid to someone by 55p for every £1 earned over a certain allowance, and which can reduce entitlement to zero if income is high enough, would require both significant time investment and development costs.

To deliver similar functionality the Scottish Government would need income-based data from HMRC as well as the data on impacted households from DWP, and to build a significantly more complex system to deliver the payments.

As well as employment income, the Scottish Government would also need to consider capital, self-employed earnings and relevant unearned income. As well as additional HMRC and DWP data, it would also need data that cannot be obtained in that way to be supplied direct by the applicant. This would have implications both for the time taken to start making payments, and the cost of system build and delivery.

The policy intent of tapering in UC is to ensure earning more through paid work is always worth it to clients and that it avoids disincentives to work when someone is in receipt of the benefit, by mitigating against losing the benefit entirely as their earnings from work increase. The taper is applied to the overall UC award, rather than being applied individually to distinct elements.

The Scottish Government's proposal is a flat-rate payment equal to the UC child element for each affected child: £287.92 each month, rising to £292.81 in April.

There are academic analyses and some empirical evidence of how 'cliff edge' designs of benefits (e.g. where awards are not tapered) can result in behavioural effects[7]. However, the Scottish Government is not aware of any evidence around for example, Scottish Child Payment, that a lack of tapering acts as a widespread barrier to people working. SG analysis of how Scottish Child Payment interacts with the labour market, published in July 2024 concludes that it is not negatively affecting work incentives at scale in the economy[8]. The SFC's report[9] on the proposals on the two-child cap states: *"it is likely that the proposed mitigation payments would not generate large behavioural responses over and above the ways that families may already have adapted to the Scottish Child Payment*.".

The Scottish Government intends to carefully monitor the impact of the two-child cap mitigation when it is introduced in order to keep this under review, but it considers that the benefits of the increased income for families who will receive the payments will outweigh any negative behavioural impacts which might result.

[7] The IFS Green Budget 2016
[8] Scottish Child Payment and the labour market - gov.scot
[9] Mitigating the two-child limit and the Scottish Budget | Scottish Fiscal Commission

The Scottish Government considers that the potential benefits of taking the time to develop a new, bespoke, means-tested benefit in Scotland are likely to be outweighed by the additional time and cost required to build it, which would almost certainly push back the date when people begin to receive mitigation payments. It does not consider that such a payment would represent value for money, nor that it would move quickly enough to effectively tackle child poverty as soon as possible.

The Scottish Government's intention is therefore that the payments will be made using the powers at section 79 of the Social Security (Scotland) Act 2018, which allows top-up of a UK qualifying benefit.

This opportunity offers the quickest operational route to delivery, and that speed means that the Scottish Government considers s79 the most appropriate type of payment for Social Security Scotland to use in delivering the mitigation payments. This is the same power that was used to deliver the Scottish Child Payment in 18 months, which is unprecedented in the UK.

Using the powers at s79 does mean that the payments can only be made to people who are in receipt of a reserved UK benefit. Unfortunately, the design of the UK Universal Credit system means that some people will not receive Universal Credit, and as such it would not be possible to make a payment under s79 to them.

For example, a person can become ineligible for Universal Credit because of the way the DWP applies the two-child cap. A person's income can take them over the Universal Credit income threshold only because they do not receive the Child Element for every child or qualifying young person they are responsible for, as the level of the income threshold varies according to the number of children a person is responsible for. Each of the first two children in a household raises its UC earnings limit, but the operation of the two-child cap prevents the earnings limit being increased to take account of any subsequent children not subject to an exception.

In circumstances like these, there is no 'qualifying benefit' to top-up, and as such no mitigation payment can be made using the powers at s79.

DWP allows a number of exceptions for the two-child cap: for multiple births, for people responsible for a child via adoption or kinship care and where a third or later child has been conceived non-consensually. The Scottish Government is considering how the mitigation will interact with the existing exceptions people have and for those who will be subject to the two-child cap if they have another child.

Since the purpose of the policy is to mitigate the impact on individuals of not being entitled to the child element due to the two-child cap, people who in fact receive that element, whether by operation of an exception or otherwise, are not within scope. As such, data on exceptions is a key area for close co-operation with DWP, to make sure that interactions between the two systems are as smooth as possible.

Raising awareness will be a key priority. Social Security Scotland has a commitment to encourage benefit take-up, and this payment will be no exception. The Scottish Government considers the first step will be to make it as easy as possible to receive the payment, and is currently exploring ways in which it might achieve that aim.

For example, take-up of School Age Payment in Best Start Grant has risen from 77% to 97%[10] since the introduction of automatic awards, and Social Security Scotland might already hold some of the information it needs to identify eligible people.

Q. Do you agree or disagree that to mitigate the two-child cap, the Scottish Government should use the powers at s79 to top-up Universal Credit?

Agree/ Disagree/ Don't know

Please give reasons for your answer:

Provisions exist in the Fiscal Framework between the UK and Scottish Governments to ensure that benefits provided in Scotland provide additional income, and these provisions have been relied upon with previous payments made in Scotland.

The Scottish Government considers that the mitigation payments should be disregarded by the UK Government, like other forms of assistance delivered by Social Security Scotland, as income for benefit and tax calculations, and that the benefit cap should be adjusted to accommodate them. Scottish Child Payment is disregarded as income and disregarded when applying for legal aid and council tax reductions. This helps ensure that receipt of Scottish Child Payment does not rule out recipients from receiving other forms of support which they may be entitled to.

The Scottish Government is seeking early engagement with the UK Government so that any mitigation payments against the two-child cap are also treated in this way. Legislation will likely be required in both Scottish and UK Parliaments to achieve this.

Q. Do you agree or disagree that payments to mitigate the two-child cap should be disregarded as income by the UK Government?

Agree/Disagree/Don't know

Please give reasons for your answer:

[10] Take-Up Strategy Update - Take-up rates of Scottish benefits: November 2024 - gov.scot

Impact Assessments

An Impact Assessment is an evidence-based process used by the Scottish Government during the development of proposals to consider the possible effects and outcomes on people, businesses and communities. A range of Impact Assessments are undertaken to consider the impacts proposals will have on different groups of people, different communities and different businesses.

Undertaking impact assessments helps to address any unintended consequences at an early stage and develop proposals to mitigate any potential negative impacts.

Any legislation for mitigating the two-child cap in Scotland will be subject to the full suite of impact assessments. The Scottish Government wants to make sure it captures as much information as possible, including through this consultation process and associated events, and using any existing research and evidence.

Equalities Impact Assessment

In developing its plans to mitigate the two-child cap the Scottish Government has looked at equalities information to identify where changes could affect some groups more than others, either positively or negatively, and where there are opportunities to make changes which would improve equality. It paid particular attention to groups of people with protected characteristics as identified in the Equality Act 2010. The protected characteristics covered are age, disability, gender reassignment, pregnancy or maternity, race, sex, sexual orientation and religion and belief.

Commitment to equalities is central to the Scottish Government's approach to delivering new benefits in Scotland. The Scottish social security principles state that social security is a human right and essential to the realisation of other human rights. As indicated by the high prevalence of women claiming the five family payments – a range of payments for low-income families delivered by Social Security Scotland, including SCP – poverty and gender are inextricably linked.

The first Tackling Child Poverty Delivery Plan highlighted that women are more likely than men to be in poverty, more likely to access the social security system and more likely to be lone parents[11]. Analysis of the latest client survey data for the five family payments shows that 82% of respondents identified as women[12].

The people likely to benefit from mitigation of the two-child cap will be people in receipt of Universal Credit who have more than two children in their household and who do not have any exceptions to the two-child cap applied by DWP.

[11] Every child, every chance: tackling child poverty delivery plan 2018-2022 - gov.scot
[12] Social Security Scotland - Client Survey: Five Family Payments (December – March 2024)

From DWP data it is known that in August 2024 (latest available data) there were 30,535 families in Scotland that had 3 or more children with their youngest being aged 7 or younger and therefore likely to be affected by the two-child cap[13]. Of these families 59% (18,046) were single parent families, 29% (8,844) have a disabled child and 16% (4,759) have an adult with limited capacity for work/related activity[14].

The Scottish Government is aware that limited data is available on the equalities impacts of the two-child cap. The Scottish Government would therefore like to hear suggestions about the potential equalities impacts of the proposed approach, and would like to receive any available evidence in support of those suggestions.

Childs Rights and Wellbeing Impact Assessment

The Scottish Government is committed to ensuring that children's rights, as determined by the United Nations Convention on Rights of the Child, are recognised, respected and promoted.

In order to facilitate this, new legal requirements to extend and protect children's rights came into effect on 16 July 2024, under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 – also known as the UNCRC Act. The Act places duties on all Scottish Ministers to take steps to give better or further effect to the rights of children.

A Child Rights and Wellbeing Impact Assessment helps ensure that policies and measures protect and promote the wellbeing of children and young people. A child is defined as anyone under the age of 18 as per Article 1 of the United Nations Convention on the Rights of the Child.

Mitigating the two-child cap will have a significant positive impact on children in Scotland. The mitigation is forecast to benefit around 42,000 children in Scotland, according to the SFC's forecasts. This is expected to have a knock-on effect in reducing the number of children in poverty in Scotland, with CPAG estimating around 15,000 children could be lifted out of poverty as a result.

The Scottish Government considers that this interacts with the following UNCRC articles:

- Article 2 - Non-discrimination. Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s)

[13] Note that as the age of the children does not breakdown further some of these 7 year olds would have been born prior to the policy coming into place. Additionally the 30,535 figure includes those claims that while active did not receive a payment in August.
[14] Stat-Xplore - Home

- Article 3 - Best interests of the child. Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing – and that the institutions, services and facilities responsible for their care and protection conform with established standards.

- Article 4 - Protection of rights. Governments should undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the UNCRC.

- Article 18 – Parents or legal guardians to have primary responsibility for the upbringing of the child. Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best for the child. Governments must provide appropriate assistance to parents and carers to help them.

- Article 23 – Children with disabilities. A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.

- Article 26 – Social security. Every child has a right to benefit from social security, taking into account the resources and circumstances of those who have responsibility for the child.

- Article 27 – Adequate standard of living. Every child has a right to a standard of living adequate to their physical, mental and social development. Governments should take measures to assist parents and carers who cannot afford to provide this, and in particular to provide assistance and support with food, clothing and housing.

No negative impacts on children's rights have been identified at this stage of the policy development, however the development is ongoing, and the Scottish Government will continue to consider as the exact detail of the policy is refined and it engages further with relevant stakeholders and those affected by the policy.

Business and Regulatory Impact Assessment

A Business and Regulatory Impact Assessment analyses the potential costs, benefits and risks of policy changes that may impact on the public, private or third sector. The aim is to use evidence to identify the proposal which best meets the objectives while keeping costs and burdens to a minimum.

The Scottish Government is considering the potential impact on the public sector, third sector and businesses of creating and delivering a payment to mitigate the two-child cap. It recognises that there is likely to be a small impact on these sectors as a result of this proposal.

The Scottish Government considers there may be some impacts on the public sector, including the DWP, HMRC and Social Security Scotland, due to the potential introduction of additional administrative burdens due to the development of systems needed to deliver the payment. There may also be the need for training of staff in these organisations in order to ensure they are aware of the mitigation and able to carry out any tasks necessary to deliver this.

It should be noted that the policy is still at the early stages of development and as such the exact delivery mechanism has still to be agreed, therefore the impacts to each of these organisations may vary dependent on the final agreed solution. The Scottish Government does not expect there to be any impacts on local authorities.

It is possible there may be a small impact on welfare rights organisations once more information around the mitigation of the two-child cap is made public, as individuals may seek advice on their entitlement. There may also be an additional impact on these Welfare Rights organisations, in upskilling staff about the new payment. The Scottish Government intends to utilise appropriate communications to inform individuals about entitlement and delivery, which would aim to reduce the impact on welfare rights organisations and on Social Security Scotland via incoming queries.

The payment is targeted at low income families and larger families living in poverty, which includes marginalised and seldom heard groups. It is envisioned that giving these families additional funds, which can be spent on any number of essential or non-essential items, could result in a small positive impact for businesses.

The payment may result in more money being spent in local economies thereby creating a more stable environment for businesses.

As the options for delivery are considered and developed the Scottish Government will pay close attention to the potential burdens, costs and benefits to these businesses. It aims to work with stakeholders to better understand any potential impacts on their businesses and to ensure that, in advance of future changes, it provides sufficient information in order to reduce any potential impacts.

The Scottish Government does not foresee the proposals having any impact on the legal aid fund, as it intends to work to ensure that the payment is disregarded as income when calculating assistance to legal aid.

Fairer Scotland Duty Impact Assessment

The Fairer Scotland duty places a legal responsibility on particular public bodies in Scotland to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

The Scottish Government is considering how the proposals set out in this paper could help to reduce the challenges that people can face as a result of socio-economic disadvantage – which includes having a low income, low wealth, living in an area of deprivation, or having a background which gives them fewer advantages.

The Scottish Government expects that the policy to mitigate the two-chid cap will have positive impacts on reducing child poverty in Scotland. The Tackling Child Poverty Delivery Plan[15] identifies three main drivers of poverty reduction: increasing income from employment, reducing costs of living, and increasing income from social security and benefits in kind.

The Tackling Child Poverty Delivery Plan identifies six 'priority families', more likely to experience poverty and are therefore more likely to require social security support: lone parents; disabled people; families with more than three children; minority ethnic groups; families with a child under one; and mothers under 25.

The SFC estimates that 42,000 children in Scotland will benefit from mitigation of the two-child cap in 2026-27. Child Poverty Action Group estimate that the policy could lift around 15,000 children out of poverty. The policy also has the potential to reduce the depth of poverty faced for many more.

As there is limited data published by the DWP on the demographics of those affected by the two-child cap, the Scottish Government is unable to assess exactly how the mitigation payment will interact with the priority groups outlined in the Tackling Child Poverty Delivery Plan. It is considering which data sources can be utilised as a proxy for this information, and how to best monitor the impact.

Consumer Duty Impact Assessment

There is expected to be a small impact on consumers as a result of mitigating the two-child cap. The payment may affect the goods and services market due to a small sub-section of the population having more money to spend.

The payment does not: affect essential services; market competitiveness; involve changes in how consumer data is used; increase opportunities for consumers to be targeted by unscrupulous suppliers; affect the information available to consumers; or affect routes for consumers to seek advice or raise complaints.

Island Communities Impact Assessment

The Scottish Government recognises the importance of considering the unique needs of our islands when developing any new policy, strategy or service that may have a significantly different effect on island communities.

[15] Best Start, Bright Futures: tackling child poverty delivery plan 2022 to 2026 - gov.scot

Completing an Island Communities Impact Assessment helps identify any particular considerations or challenges for those living on the islands, and make sure that these perspectives are captured as part of the policymaking process.

Mitigating the two-child cap is likely to have positive impacts for families living in island communities who have lost the child element for at least one child. Although there is limited DWP data on the demographics of those affected by the two-child cap, across the Shetland Islands, Orkney Islands and Na h-Eileanan Siar, there are 240 households not in receipt of the child element for at least one child.[16]

Increasing the rate of social security assistance available to impacted households by mitigating the two-child cap is expected to lift families out of poverty across Scotland, and this enhanced financial support could have a positive impact for island communities, where the cost of living may be considerably higher and where barriers to leaving poverty may be greater.

The Scottish Government has not identified any adverse impacts or barriers for its proposal that are specific to the islands at this stage. It will take care to consider any challenges or constraints for islanders as the proposals develops, and will take action to improve and mitigate any barriers identified, drawing from consultation findings, stakeholder engagement, and existing research and evidence.

Q. Do you have any information you wish to share about any additional potential impacts of the proposed approach outlined in this consultation?

[16] Universal Credit and Child Tax Credit claimants: statistics related to the policy to provide support for a maximum of 2 children - April 2024

Responding to this consultation

We are inviting responses to this consultation by 18 April 2025.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 18 April 2025.

If you are unable to respond using our consultation hub, please return the completed Respondent Information Form to:

Social Security Policy Division
Scottish Government
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Email: socialsecurityCL@gov.scot

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our Privacy Policy.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on the Scottish Government consultation page.

If you use the consultation hub to respond, you will receive a copy of your response via email. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at socialsecurityCL@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives the Scottish Government the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online on the Scottish Government consultation page. Each consultation details the issues under consideration, as well as a way for you to give the Scottish Government your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. A report of this analysis will be published for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

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