

# **Engender Response to the Scottish Government Consultation on the Mitigation of the Two-Child Limit**

April 2025

## **1. INTRODUCTION**

Engender is a leading feminist policy and advocacy organisation working to secure women's social, political and economic equality and realise women's rights in Scotland. We aim to make visible the impact of structural inequalities on women and wider society, and work at Scottish, UK and international levels to produce research, analysis and recommendations for intersectional feminist legislation and policy development.

## **2. CONSULTATION QUESTIONS**

### **Question 1**

**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.**

**Please explain your answer or provide further information.**

We strongly welcome the Scottish Government's action to mitigate the harmful and discriminatory two-child cap in Scotland. We agree that the best approach for the mitigation payment would be the approach proposed for delivering payments via Social Security Scotland. We appreciate that this proposed approach focuses on the quickest operational route to ensure payments can be made as soon as possible.

The Scottish government should recognise the delivery of this payment as part of improving the provision and levels of social security available to women. Mitigating harmful and misogynistic social security policies, such as the two-child cap, is essential to addressing gender inequality. The limit systematically discriminates against women, putting them in a position where they have to justify their reproductive choices and family circumstances to receive social security.

Evidence shows how the two-child limit disproportionately impacts women:

- 44% of households affected are headed by single parents, the overwhelming majority of which (92%) are women.

- 58% of those affected are in paid work, with women 72% of those earning below the real Living Wage in Scotland in 2023.
- Women are 70% of unpaid carers and are four times as likely to give up paid work in order to provide ‘sandwich care’ for children alongside disabled or older people.
- Women from some minority ethnic, faith-based and refugee communities are more likely to have three or more children.

This is why women’s organisations across the UK, including Engender, have campaigned for the removal of the two-child limit since its introduction on the grounds of sexist discrimination and harm to women and their children. This includes intersectional impacts, as we see shrinking and inadequate entitlements being acutely experienced by disabled, BME and refugee women, lone parents, unpaid carers and other marginalised groups who are at even greater risk of poverty and destitution.

As we have made clear in [our recent joint response with Scottish Women’s Aid and Close the Gap to inform the Tackling Child Poverty Delivery Plan](#), there is clear evidence that child poverty is women’s poverty.<sup>1</sup> It is not possible to deliver the First Minister’s mission on eradicating child poverty without taking targeted action to address the intersecting gendered inequalities which cause harm to women and constrain their participation and outcomes in life.

Women are much more likely to depend on social security than men to make up their income. As a feminist policy and advocacy organisation focused on women’s equality and rights, we are acutely concerned by changes to the tax and benefit system since 2010 that have entrenched and deepened women’s poverty and undermined women’s safety and human rights.<sup>2</sup> Analysis from the House of Commons Library predicted that 86% of net ‘savings’ between 2010 and 2020 came from women’s incomes, pensions, and services that are primarily relied upon by women.<sup>3</sup>

Acting swiftly to support women and their families impacted by the two-child limit is vital, as we see women shouldering the worst financial impacts of the cumulative crises of austerity policies, the Covid-19 pandemic and now the cost of living crisis.<sup>4</sup> This means thousands of women in Scotland are fundamentally

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<sup>1</sup> Close the Gap, Engender and Scottish Women’s Aid (2025), Joint Response from Close the Gap, Engender and Scottish Women’s Aid to the Call for evidence on the Tackling Child Poverty Delivery Plan 2026-2031. Available at: <https://www.engender.org.uk/content/publications/Final-CtG-Engender-SWA-joint-response---call-for-evidence-on-the-Tackling-Child-Poverty-Delivery-Plan-2026-31.pdf>.

<sup>2</sup> Engender (2016), Securing Women’s Futures: Using Scotland’s New Social Security Powers to Close the Gender Equality Gap. Available at: <https://www.engender.org.uk/content/publications/Securing-Womens-Futures---using-Scotlands-new-social-security-powers-to-close-the-gender-equality-gap.pdf>.

<sup>3</sup> R. Keen and R. Cracknell (2017), Estimating the gender impact of tax and benefits changes (House of Commons Library Briefing Paper SN06758). Available at: <https://researchbriefings.files.parliament.uk/documents/SN06758/SN06758.pdf>.

<sup>4</sup> Engender (2022), Women and the Cost of Living: A Crisis of Deepening Inequality. Available at: <https://www.engender.org.uk/content/publications/Women-and-the-cost-of-living---updated-copy.pdf>.

struggling, with recent evidence from the UK Women's Budget Group showing that the poorest women are set to face a staggering 21% drop in living standards, equivalent to £5,404 per year, due to tax and benefit changes and public spending cuts since 2010.<sup>5</sup>

## Question 2

**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.**

**Please explain your answer or provide further information.**

We agree that existing powers under section 79 of the Social Security (Scotland) Act 2018 should be used to deliver the mitigation payment as a top-up benefit. However, this must come alongside continued work, longer-term, to address the pernicious impacts of the two-child cap remaining at the UK level. The Scottish Government must continue to put pressure on the UK Government to scrap this cruel policy at source and review other aspects of Universal Credit design that are deeply misogynistic, such as household payments.<sup>6</sup>

As the consultation points out, the continued application of the cap at source can only be mitigated to an extent by a devolved mitigation payment, such as the unfair impacts the cap has on a household's income threshold for Universal Credit and the prevention of earnings limits being increased to take account of any subsequent children impacted by the cap.

We also appreciate that using the powers at s79 means existing exceptions to the two-child cap will continue to apply, and we agree that the Scottish Government must carefully consider how the mitigation payment will interact with exceptions.

In particular, the so-called 'rape clause', which has been widely condemned by human rights and equality advocates, requires focused work to address. The exemption implies a difference between the humanity and rights of planned and 'unforeseen' children. It demands that women disclose a trauma at a time and in circumstances not of their choosing in order to avoid or minimise poverty for themselves and their children.<sup>7</sup>

It is not possible for the state to gather information regarding rape from women that does not seriously risk re-traumatising women and breach their and their children's right to privacy. Between 2017 and 2020, almost 1,000 women across

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<sup>5</sup> Women's Budget Group (2024), Where do we go from here? An intersectional analysis of women's living standards since 2010. Available at: <https://www.wbg.org.uk/publication/where-do-we-go-from-here-an-intersectional-analysis-of-womens-living-standards-since-2010/>.

<sup>6</sup> Engender (2016), Gender Matters in Social Security: Individual Payments of Universal Credit. Available at: <https://www.engender.org.uk/content/publications/Gender-matters-in-social-security---individual-payments-of-universal-credit.pdf>.

<sup>7</sup> Engender (2023), Parliamentary Briefing: The two-child limit. Available at: <https://www.engender.org.uk/content/publications/Engender-parliamentary-briefing-2-child-limit.pdf>.

the UK went through this process in order to access needed income.<sup>8</sup> This data represents only those able to go through the process of disclosure, or those for whom the alternative is even graver.

The mitigation payment should be explored as an option which could prevent women in Scotland from having to go through the exceptions process for children resulting from rape, as well as from having to engage with the decision-making around this appalling application process. There will also need to be specific consideration of the impact of the rape clause on women in the communication and information provided to raise awareness to encourage benefit-take up.

We support Scottish Women's Aid's position that the mitigation mechanism developed must be domestic abuse-competent, to support and empower victim-survivors. This must include robust equalities impact assessment of the payment's design and delivery, and recognition of the significantly gendered impacts of the rape clause's impact on victim-survivors.

### **Question 3**

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

**Agree.**

**Please give reasons for your answer or provide more information.**

We agree that the UK Government should disregard any form of mitigation payments as income. Those receiving mitigation payments should not be prevented from accessing other forms of support they may be entitled to.

### **Question 4**

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

As stated, it is vital that equality impact assessments of the design of any mitigation payment adequately recognise and address the gendered dimensions of the two-child cap's impact on women.

The Scottish Government must recognise that the current two-child limit systemically discriminates against women and is part of a wider, entrenched misogyny within the design and delivery of Universal Credit. System-wide design flaws with UC and wider UK Government social security policy embed and deepen women's inequality and insecurity. The two-child limit is a key aspect of this.

The UN's Special Rapporteur for Extreme Poverty described Universal Credit (UC) as misogynistic, suggesting that "if you got a group of misogynists together in a

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<sup>8</sup> S6M-09977. Available at: <https://www.parliament.scot/chamber-and-committees/votes-and-motions/S6M-09977>.

room and said ‘how can we make a system that works for men but not women?’ they wouldn’t have come up with too many other ideas than what’s in place.”<sup>9</sup>

The two-child limit does not account for women’s fundamental rights to reproductive autonomy, religious and conscientious views on the use of contraception, the fallibility of contraception, bereavement, family breakdown, new relationships and blended families, economic uncertainty and countless other factors that shape women’s lives. The policy also ignores realities about women’s choices in pregnancy, as domestic abuse commonly includes elements of reproductive coercion.

Anecdotal evidence tells us that the two-child limit forces women to terminate wanted pregnancies, a serious affront to human rights. Meanwhile, international evidence shows that ‘family caps’ do not result in reducing the number of children born to recipients of social security but instead push families into deeper poverty.<sup>10</sup>

The delivery of a mitigation payment is a vital opportunity to address child poverty and women’s poverty via social security support. The two are inextricably linked, and this must be considered in the design and delivery of the payment.

## **FOR FURTHER INFORMATION**

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## **ABOUT US**

Engender is Scotland’s feminist policy and advocacy organisation, working to increase women’s social, political and economic equality, enable women’s rights, and make visible the impact of sexism on women and wider society. We work at Scottish, UK and international level to produce research, analysis, and recommendations for intersectional feminist legislation and programmes.

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<sup>9</sup> Ward, V. (2018), ‘UK’s welfare system is cruel and misogynistic, says UN expert after damning report on poverty’, The Telegraph, 16 November. Available at:

<https://www.telegraph.co.uk/news/2018/11/16/welfare-system-cruel-misogynistic-un-expert-warns-damning-report/>.

<sup>10</sup> Engender (2016), Engender submission of evidence on the two-child limit for Tax Credits & Universal Credit to the Scottish Parliament Social Security Committee. Available at:

<https://www.engender.org.uk/content/publications/Engender-submission-of-evidence-on-the-two-child-limit-on-Tax-Credits-and-Universal-Credit-to-the-Scottish-Parliament-Social-Security-Committee.pdf>.