



Lord Trefgarne
Chairman
Secondary Legislation Scrutiny Committee
House of Lords
London
SW1A 0PW

20 March 2017

Dear Lord Trefgarne,

Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017 (Statutory Instruments 2017 No. 376)

We write as a group of national women's organisations in Scotland concerning the *Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017* (Statutory Instruments 2017 No. 376), which will have operational implications for Scotland. We urge the Secondary Legislation Scrutiny Committee to use its powers to draw to the special attention of the House the concerns that have yet to be addressed by the UK Government with respect to these regulations.

Engender is Scotland's women's equality policy and advocacy organisation, and we have a vision for a Scotland in which women and men have equal opportunities in life, equal access to resources and power, and are equally safe and secure from harm. Over the past two years, Engender has been actively working with a coalition of women's and anti-poverty organisations to influence the Scottish Government to develop a social security system based on equality and the progressive realisation of economic and social rights. Rape Crisis Scotland and Scottish Women's Aid are the national organisations representing the rape crisis and women's aid sectors in Scotland.

We have substantial concerns regarding the UK Government's plan to pursue its two-child limit for tax credits and the child element of Universal Credit (shorthand as the 'family cap') and particularly the operation of the exemption for children conceived as a result of rape (shorthand as the 'rape clause').

Engender and Rape Crisis Scotland submitted evidence to the Department of Work and Pensions in November 2016 in response to their hasty consultation on the proposals. For ease of reference, our response is enclosed. Engender, Rape Crisis Scotland, and Scottish Women's Aid oppose both the 'family cap' and the 'rape clause' on the following grounds:

- The 'family cap' will exacerbate women's and children's poverty by reducing family income, and will have a disproportionate impact on families where larger numbers

of children are more usual, including those from some religious communities, black and minority ethnic families, and refugee families;

- The 'rape clause' will re-traumatise individual women who have survived rape by forcing them to disclose sexual violence at a time and in a context not of their own choosing, on pain of deeper impoverishment, even though evidence shows that plans such as the forced disclosure of sexual violence can exacerbate post-traumatic stress disorder and increase a sense of shame and isolation;
- The introduction of the 'family cap' and 'rape clause' cut across the UK Government's international obligations, including those under the European Convention on Human Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Convention on the Elimination of all forms of Discrimination Against Women;
- Various UK commitments to eradicate violence against women and girls will be undermined by these proposals, as women's economic inequality creates a conducive context for violence against women; and
- The implementation of 'family caps' in foreign jurisdictions, specifically the United States in the 1990s, were assessed as a failed public policy which pushed families into further poverty, worsened health and social outcomes for children, and increased the risk of homelessness.

Engender, Rape Crisis Scotland, and Scottish Women's Aid urge the Committee to draw to the special attention of the House these substantive areas of concern. In addition, there are several procedural concerns with the manner in which the 'family cap' and 'rape clause' were developed and passed through Parliament. The UK Government provided little, if any, explanation of its rationale for the policy. It is our view that inadequate explanatory materials were provided, including the lack of a robust equality impact assessment, to ensure that Parliamentarians were able to exercise their scrutiny function. Despite the fact that Alison Thewliss MP raised the issue 25 times in the House, including at PMQs, departmental questions, and elsewhere, the information provided by the UK Government was scant and ambiguous. In addition, the Department for Work and Pensions provided insufficient time for a robust consultation on the 'family cap' and 'rape clause'. At the time of submitting its consultation response, Engender highlighted that a month-long consultation period was inadequate for hearing expert views on the still-vague proposals.

Further, the draft legislation was pushed through the UK Parliament without debate, thereby shielding the Government from its obligation to explain its policy and the rationale behind it, and denying Members an opportunity to ask questions of the Government. At the least, Members should be made aware of the proposal which will require women to disclose sexual violence to gain access to social security, and be given an opportunity to debate the policy and its intended objective. As women will be disproportionately affected by ongoing cuts to social security, the 'rape clause' and 'family cap' warrant a review and debate by Members to ensure that the rights of women are protected and that UK Government policies do not further exacerbate women and children's poverty.

There are also critical operational concerns that warrant the attention of the House. The 'rape clause' implementation relies on 'third party' assessors to confirm that women have conceived children as a result of rape. At the time of writing, there is no plan of which our

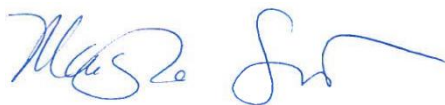
organisations are aware for providing this capacity in Scotland. As a national organisation, Rape Crisis Scotland will not be performing this function, and contends that forcing rape survivors to disclose sexual violence in order to access social security payments is inhumane. Scottish Women's Aid has just been approached by the Department for Work and Pensions to discuss implementation and has agreed to a discussion. Their existing stance, however, is that this policy cannot be made 'acceptable' to anyone who values women's and children's dignity and rights. We are collectively aware that other professional bodies and agencies that appeared to be proposed by the Department for Work and Pensions as 'third party assessors' have yet to hear from UK Government on this.

We call on the Secondary Legislation Scrutiny Committee to use its report to draw to the special attention of the House these substantive outstanding concerns.

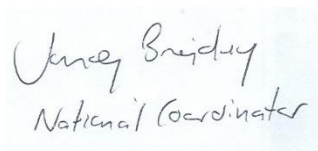
Yours sincerely,



Emma Ritch
Executive Director, Engender



Dr. Marsha Scott
Chief Executive, Rape Crisis Scotland



Sandy Brindley
National Co-ordinator, Rape Crisis Scotland