

10 questions for Damian Hinds on the 'rape clause'

Media Release
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Today, alongside Rape Crisis Scotland and Engender, we've written Damian Hinds, Minister of State for the Department of Work and Pensions asking ten questions about the implementation of the so-called 'rape clause'.

[Read more in the Daily Record here.](#)

Full letter:

Dear Minister,

Re: Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017 and Child Tax Credit (Amendment) Regulations 2017

Seven weeks after the implementation of the two-child limit for tax credits and Universal Credit, we are writing to you to seek urgent clarification on a number of outstanding questions about the operation of the 'rape clause'.

You may be aware that Scotland's two national violence against women organisations, Rape Crisis Scotland and Scottish Women's Aid, have refused to act as third-party referrers. This is on the grounds that forcing women to choose between disclosure and impoverishment breaches their right to privacy, and that of their child or children, and is intrinsically traumatising.

We do, however, need clear information about the implementation of the 'rape clause' so that we can develop guidance for local rape crisis and women's aid services, and for the national rape and sexual assault and domestic abuse helplines that we operate. We are mindful that although international evidence is very clear that few women will disclose experiences of sexual violence and domestic abuse in order to increase their income from social security, some women accessing our services may require to do so.

Along with Engender, which is working around women and social security in Scotland, we therefore seek clarity on the following issues:

- 1.** Have any third-party referrers in Scotland been confirmed? The only third-party referrers identified on the DWP's website are organisational members of the Survivors' Trust. We have spoken to some of the listed members for Scotland and they have told us they have not agreed to act in this capacity. We are also aware that Shona Robison MSP, Cabinet Secretary for Health, has confirmed that NHS Scotland staff will not act in this capacity.
- 2.** How will third-party referrers be trained in responding to disclosures? What is the content of this training, and what budget has been identified for its delivery?
- 3.** How will DWP staff assess applications for exemption on the grounds on 'non-consensual conception'? What is the appeals process for applications that have been declined?
- 4.** Where will the burden of proof lie in completion of the form claiming the exemption, and will third-party referrers be deemed to be party to benefit fraud if they accept what DWP later determines to be a 'weak case'?
- 5.** What are the ways in which the information that a child has been conceived as a result of rape will be recorded? Which agencies will have access to this information and under what circumstances? Will this data be destroyed or removed when the claimant is no longer in receipt of CTC?
- 6.** Medical records are often sought by defence solicitors acting in rape and sexual assault

and domestic abuse cases. How will the DWP respond to a request for specification of documents in criminal cases?

7. How will CTC awarded under this exemption be notified or coded within a claimant's award letter or other notification(s)?

8. What does DWP anticipate will be the interrelationship between the claim form and statutory declaration of parentage? For example, in the circumstance that women who are raped and become pregnant have a partner to whom they are not married who wishes to parent the child and be formally recorded as the father?

9. What is the DWP's assessment of the differential impact of the 'rape clause' on women and men, and on women's equality with men?

10. In order to facilitate advocacy planning, how many pregnancies does DWP estimate will occur as a result of rape in families that already have at least two children? How many of these pregnancies does DWP estimate will be terminated?

We look forward to your early response to these questions.

Emma Ritch

Executive Director, Engender

Sandy Brindley

National Co-ordinator, Rape Crisis Scotland

Marsha Scott

Chief Executive, Scottish Women's Aid