



WCWF's Response to the Coronavirus Self Employment Income Support Scheme.

We recognise the sense behind a threshold test for those eligible to apply for the Coronavirus Self Employment Income Support Scheme¹.

It is reasonable to assume that people who have historically earned high amounts can afford to ride out 3 - 4 months' of a drop in income.

However, setting the threshold test at profits of below £50,000 (in the last tax year or averaged over the last 3 tax years) does not take in to account the reality of the costs of generating such profits for primary carers at the Bar.

Primary carers are predominantly women: Of the members of the practising Bar who stated to the BSB that they had primary caring responsibilities for children, 63% were women (Bar Standards Board information to WCWF). The vast majority of single parents are women.

Moreover, the drop of income over these few months is likely to be significantly more severe amongst primary carers/ women at the Bar than others.

Thus, the scheme will disproportionately effect women who do not have the reserves or the earning capacity to ride out a period of depressed income.

This matters because it is likely to lead to a further attrition of women from the Bar who would otherwise have been future leaders of the profession and members of the Judiciary.

The threshold test to qualify for the Coronavirus Self Employment Income Support Scheme will have a disproportionate effect on female barristers because:

The Threshold test for Applicants unfairly discriminates against female barristers:

- The assessment of "profits" does not take in to account the expenses involved in childcare.

- To generate above £50,000 of profits, a barrister who is a primary carer of children has had to ensure childcare in excess of normal full time childcare, often requiring a fully employed Nanny (50 hours per week).
- A full time nanny in London costs an employer, on average, £48,647. Average Childcare costs in Bristol in 2017 were £1,142 per month, £13,704 per annum per child. In Plymouth, our members tell us nurseries are in the region of £1,100 per month per child.²
- To apply the same profit cap for all applicants will discriminate against primary carers, predominantly women, who have had to pay significant sums in order to generate past “profits”, many without realistic prospects of saving.
- For those who can claim, there may be a disproportionate effect of depression of earnings and so the level of grant for women who have had parental leave/ interrupted practices over the 3 preceding years.

Disproportionate effect of the corona virus on women’s ability to continue to earn money:

- The support scheme allows the self-employed to continue to generate income whilst receiving the grant.
- However, primary carers are very limited in their ability to continue to generate income. School closures mean primary carers are providing home schooling and care required by school age children which prevents them from undertaking telephone/ video hearings and conferences and detailed forensic preparation/drafting/written advice during school hours.
- The emergency legislation and the virus prevent most childcare providers (gratuitous or commercial) from attending and caring for pre-school children or school age children out of school hours.
- The emergency legislation makes parents legally responsible for breaches of the regulations by their children. Thus primary carers need to exercise authority over older children who are not inclined to follow the regulations/ advice.
- This will have potentially long lasting effects on their careers, as they are unable to continue to support existing clients/ cases and lose them to others and makes it all the more important that the scheme is not closed to primary carers whose profits are realistically under £50,000 when childcare costs are taken in to account.
- The above also assumes that primary carers are able to generate an income. A high percentage of women barristers practise in family law. Most cases at the time of writing are being adjourned or otherwise not proceeding as effective hearings. Those with financial remedy practices or who have contested private children law or public family law hearings are currently seeing most of their work taken out of their diaries.

Why it Matters:

This matters for all of the reasons articulated most recently/ comprehensively in the WCWF Back to the Bar Survey:³

- Only 29% of self-employed barristers over 15 years call are women, and only 13% of these are QCs. There is no trickle-up effect; women are still leaving en masse. There are factors embedded in self-employed practice which make it difficult for some women to remain.⁴
- The Bar Council Momentum Measures Report in 2015 concluded that on current patterns gender equality could never be achieved: ‘The attrition is such that it would require a very long period of substantial imbalance in favour of women at Call to achieve a balance of women in practice.’
- The career of many women at the Bar hangs by a thread.
- There is a substantial risk that the additional pressures of this crisis will cause still further attrition of many potential female leaders of the Bar and the Judiciary.

Potential Solutions:

The cost of support to minimise the impact and to prevent that is relatively modest.

We suggest:

- **When considering eligibility for the scheme, allow primary carers to calculate profits after deduction of childcare costs; and**
- **When calculating grants under the scheme, allow primary carers to calculate average profits by excluding years which included periods of parental leave.**

WCWF Steering Committee

27/03/2020

¹ <https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme>

² <https://www.moneyadviceservice.org.uk/en/articles/childcare-costs>) and https://www.nannytax.co.uk/employing-a-nanny/paying-your-nanny/salary-calculator?gclid=EAlaQobChMIitPsrNS66AIV1vhRCh3mzwt4EAAYASAAEgK_L_D_BwE#calculator.

<https://www.pixielanddaynurseryseries.co.uk/pixieland-mannamead>; <https://www.kingsschool-plymouth.co.uk/admissions/fees/>

<https://www.bristolpost.co.uk/news/bristol-news/bristol-parents-pay-most-childcare-751908>

³ <https://westerncircuit.co.uk/wp-content/uploads/2018/11/WCWF-Back-to-the-Bar-Final-version.pdf>