Chapter 6. Working for Families

Susan St John

Introduction

In the run up to the 2011 budget, Working for Families (WFF) was portrayed in the media by various commentators as overly generous, something nice to have, and an ill thought out, costly election bribe that Labour had used to win the 2005 election. For example:

_Dropping Working for Families, interest-free student loans and "free" early childcare would be the fastest way to reduce the budget deficit._ (Hickey, 2011)

Yet the scheme is not nearly as generous, well-designed or inclusive as the Australian scheme (see Appendix 3). Moreover the changes announced in the 2011 budget, while subtle and masked with soothing words about ‘gradual change’, are profoundly bad for families.

WFF was not new in 2005 when it came in, but built on the existing framework of family assistance, and made a significant difference for families that met the work test. Without the improvement in weekly child payments by 2007 when WFF was fully implemented, child poverty would have been very much higher. Nevertheless WFF has by no means been an unqualified success, nor have the 2011 Budget changes been the kinds of reforms that were needed.

Left Behind (2008) outlined the horrendously complex system of child-related tax credits that now comprise WFF. Unbelievably, in 2011 the system has become even more cumbersome, with few families understanding all the various parts of the package and the different rules that apply. Worse still, the complexity has served to produce a new raft of anomalies and inequities. One problem is WFF was not designed for recessions or catastrophes. Another is that it is based on a model of the labour market that was more appropriate to the middle of last century than today. Still another is that WFF is inconsistent with other family policies such as Child Support.

But the needed changes are still possible. The Labour party in Opposition now is rethinking WFF:

_Annette King now admits Working for Families did not fully solve the child poverty problem, and that the children of beneficiaries also need to be lifted out of poverty. "There is an issue we’ve got to address now,” says King. “One hundred and thirty thousand kids were lifted out of poverty with Working for Families, but our work’s not finished. We’ve got another group of kids who haven’t benefited from that at all. And that’s people who are on benefits. We’ve got to rethink our policy in terms of how do we_

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2 CPAG would like to thank Valmai Copeland, Inland Revenue Department, for her constructive comments on Chapter 6. This does not in any way imply IRD endorses the views expressed in this chapter.
have an element of universality for our children in the way we give it to our old people. It’s unfinished business.” (Laugesen, 2009)

The biggest problem is that the design of Working for Families does not put the needs of the child at the centre. It manages to exclude the poorest children, and its critical purpose has become lost in a morass of arguments over entitlements, overpayments, abatements and work tests.

According to the OECD’s 2011 report on family well-being:

*Family benefits need to be well designed to maintain work incentives, but they need to be effective in protecting the most vulnerable, otherwise we risk creating high, long-term social costs for future generations. (OECD, 2011)*

**Summary of background**

Family assistance in the form of per child, per week payments that go to the caregiver are widely used in developed countries to alleviate family poverty and to provide some acknowledgment that children reduce the parents’ ability to pay tax at all income levels.\(^3\) Payments for children can be in the form of universal child benefits, tax exemptions, tax rebates or tax credits. *Left Behind* (2008) outlined how, by 1986, New Zealand had evolved a simple system in which all children, whether in families on benefits or in work, with high or low incomes, were entitled to a flat rate per child Family Benefit, and low-income families were entitled to an additional child-related tax rebate called Family Support. We had a nice balance between universal and targeted payments and most people understood the system. Moreover the payment was directly linked to the child and not to the source of parental income.

But then, in the radical 1991 Budget, the Family Benefit was added to Family Support, and all child-related financial assistance became income-tested against joint parental income. While this was an extreme policy, Family Support was at least paid to the caregiver, regardless of whether or not the family was reliant on a benefit. Unlike welfare payments, however, there was no automatic adjustment for inflation and income thresholds were rarely increased. Over the 1990s the real value of Family Support was eroded at the same time as child poverty emerged as a major social issue in New Zealand (St John & Craig, 2004).

Policy took a turn for the worse in the 1996 Budget. Families were given a much needed catch-up for inflation, but many low-income children were excluded from the bulk of the increase: while Family Support was increased by $20, $15 was separated off and denied to children whose parents were on a benefit. This $15 per week per child payment was initially called the Independent Family Tax Credit (IFTC), reflecting its role as a reward for not being ‘dependent’ on the state. In 1996 the IFTC was renamed the Child Tax Credit (CTC), and under WFF was reinvented to become the In-Work Tax Credit (IWTC).

By the late 1990s, child poverty in New Zealand had become an embarrassment and in 2002 the Labour government vowed to ‘eradicate it’ (Ministry of Social Development, 2002). Yet it was not until the 2004 budget that ‘Working for Families’ was announced, with a two-year phase-in for increased family assistance beginning in 2005. WFF included

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\(^3\) For example a two-adult and two-children household is not in the same ‘horizontal’ position as a two-adult household on the same gross income. The household with children does not enjoy the same standard of living and hence does not have the same ability to pay tax.
a range of improvements such as increased Accommodation Supplement and childcare subsidies. The major thrust, however, was a very significant increase in financial assistance for children in ‘working’ families.

CPAG provided a detailed analysis of this package in late 2004, welcoming the catch-up spending, but expressing alarm that many families in the poorest circumstances gained very little (St John & Craig, 2004). The package, managed by the Inland Revenue department (IRD) appeared to increase Family Support (later renamed the Family Tax Credit (FTC) significantly for all, but the Government had taken the opportunity to use this extra assistance to offset a range of cuts to benefits, so that many families were left simply ‘no worse off’.

The new In-Work Tax Credit (IWTC) that replaced the CTC from 1 April 2006 was much more generous, at $60 a week for families with up to three children and an additional $15 a week for the fourth and subsequent children. However, like the CTC before it, families on benefits were denied the IWTC; and those not on benefits had to meet new work tests to qualify. The requirement of 20 hours of work for a sole parent and 30 hours for a couple appeared to be a hangover from past policy and had not been thought through for the realities of the modern, more casualised labour market. The requirement of 20 hours for a sole parent is quite excessive when compared to only 30 hours for a couple where there is an extra adult to provide care.

Criticism of the WFF package in 2004 was not well-received politically. The argument that the poorest of poor children had been left out fell on deaf ears, and the Government claimed to have no money left to help beneficiaries further. Then in 2005, in a surprise show of pre-election generosity, an additional $500 million was found to raise the threshold for the joint parental income test from $27,500 to $35,000, and to reduce the rate of abatement from 30% to 20%. The effect of this was to push the IWTC well up the income scale as it is abated after the FTC.

The justification was that the previously higher effective marginal tax rates on low and middle incomes countered the work incentive thrust of the Government’s intentions. Nevertheless, if work incentives were the objective, it was also unfortunate that the opportunity was not taken to revisit the design of the IWTC, or its on-going relevance. In other words, if increasing the threshold and reducing the rate of abatement were now going to provide a work incentive, why was a separate IWTC necessary?

By the year ending June 2011, the total cost of WFF tax credits was $2.8 billion, made up of the FTC ($2.2 billion) and the IWTC ($592 million), with 2011 rates set out in Table 5.1. Adjustments for inflation for all parts, except the IWTC, occur when cumulative inflation exceeds 5%. However the 2010 Budget froze the threshold at $36,827 and the 2011 Budget made further changes discussed below.

<table>
<thead>
<tr>
<th>Table 5.1: WFF weekly child payments from 1 April 2011- children under 15*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weekly Support</strong>*</td>
</tr>
<tr>
<td>Family Tax Credit, first child</td>
</tr>
<tr>
<td>Family Tax Credit, each additional child</td>
</tr>
<tr>
<td>In Work Tax Credit, one to three children plus $15 for each additional child</td>
</tr>
<tr>
<td>Threshold, joint income</td>
</tr>
<tr>
<td>Rate of abatement</td>
</tr>
</tbody>
</table>

*Higher rates apply for older children. In 2011, the rates for a first child if 16 or over is $101, a subsequent child if 13-15 is $69 and a subsequent child if 16 or over is $91. See www.ird.govt.nz
In 2011, WFF abates from $36,827 at a rate of 20 cents for each extra dollar of family income. So, for example, a family with five children can still access some part of the IWTC up to an income of $145,042.\(^4\) It is possible for a caregiver in a five-child, high income family to be receiving some IWTC up to $90 a week without any paid work requirement from the caregiver. The extent of the wide difference in the treatment of those who are entitled to only the FTC is shown in Figure 5.1

![Figure 5.1: WFF Tax credits- Average entitlement with and without the IWTC*](http://www.ird.govt.nz/aboutir/external-stats/social-policy/wfftc/social-policy-wfftc.html)

*Note: Other minor work related tax credits are included in total.

2008 marked the end of New Zealand’s seven-year period of sustained economic ‘golden weather’, the beginning of the world financial crisis and a protracted recession. In the past, when parents on a low income needed to go onto a benefit, their Family Support could usually be expected to increase as a result of their lower income. Now, because the IWTC is tied to paid work, family assistance for low income families fails to provide this cushion. The caregiver loses $60 a week, or more for bigger families, just at the time when their children require more assistance, not less, to help escape the economic and social exclusion that undermines their future.

The IWTC appears to be difficult to administer fairly, and the take-up and compliance for low-income families are complex. As jobs are lost in the on-going recession, children whose parents access a main benefit can experience a sharp drop in living standards. However, the IRD may continue to pay the IWTC, but only in some circumstances. For example, in the aftermath of the Christchurch earthquake the website says:

*To get either the IWTC or MFTC payment, couples must normally work at least 30 hours a week between them, and single parents must work at least 20 hours a week. If, because of an earthquake, you don’t work these hours, you may still receive the in-work tax credit. If you’re not sure if your circumstances qualify you as “normally” working the required hours, please contact us.*\(^5\)

If a family loses work for reasons other than an earthquake, they may feel that they too deserve to be regarded as ‘normally working the required hours’. In fact, enquiries into the circumstances in which the IWTC is paid after an earthquake reveals limited applicability requiring an on-going employment relationship with the firm and on-going payments from the firm. There must be no benefit being paid from Work & Income. So, a

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\(^5\) See [http://www.ird.govt.nz/resources/a/a/a/a0069100442f22a4add9bf4e9c145ab7/ad70.pdf](http://www.ird.govt.nz/resources/a/a/a/a0069100442f22a4add9bf4e9c145ab7/ad70.pdf).
few families affected by the earthquake will be protected while others, whose children have the same needs, will lose out. The remodelled welfare state increasingly serves to provide a minimal subsistence safety net which operates in an arbitrary way rather than a social security safeguard.

**Other WFF tax credits**

So far the focus has been on two major tax credits: the FTC and the IWTC. In addition, families may also be entitled to the Parental Tax Credit (PTC) and the Minimum Family Tax Credit (MFTC). The relationships are set out in Table 5.2. Both the PTC and the MFTC are highly work-focused and problematic as a result.

<table>
<thead>
<tr>
<th>Tax Credit</th>
<th>Abbreviation</th>
<th>Nature of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family Tax Credit</td>
<td>FTC</td>
<td>Child-related weekly supplement</td>
</tr>
<tr>
<td>In-Work Tax Credit</td>
<td>IWTC</td>
<td>Child-related weekly supplement with work requirement</td>
</tr>
<tr>
<td>Minimum Family Tax Credit</td>
<td>MFTC</td>
<td>Minimum Family income top-up with 100 per cent abatement- with work requirement</td>
</tr>
<tr>
<td>Parental Tax Credit</td>
<td>PTC</td>
<td>NZ$150 a week for 8 weeks for new child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No receipt of benefit</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No paid parental leave</td>
</tr>
</tbody>
</table>

**The PTC** is discussed more fully in Chapter 6. Depending on the work-related income, up to $150 a week is payable for up to eight weeks when a new baby is born. This is added to the FTC and abated against annual income. Like the IWTC, it is not adjusted for inflation. The order of abatement is FTC first, then the IWTC, and finally the PTC. Just as the IWTC leaves out the poorest children, those babies whose parents do not satisfy the off-benefit rule are not eligible for the PTC.

**The MFTC** is not child-related but is paid only to families with children. It is designed to provide a guaranteed minimum family income for those working the required number of hours per week (20 for a sole parent and 30 for a couple). The level in 2011 is $22,204 net, regardless of the composition of the family, with FTC and the IWTC paid on top. The MFTC is reduced by one dollar for each additional dollar of disposable income earned. Thus it resembles a welfare benefit but with an even more severe abatement rate. Few families are receiving this payment.

The house of tax credits is illustrated in Figure 5.3. The tax credits above the minimum family income line are the means by which additional children are recognised.
It is difficult for families receiving family assistance to understand the impact of earning more income because rather than an itemised report, they are given a total WFF tax credit amount on their tax reconciliations, even though different credits are treated differently for abatement purposes. The severe abatement of the MFTC is of concern, as families may find at the end of year that they have to repay, dollar for dollar, any unanticipated income they have earned.

Table 5.3 shows the effect of moving from the Domestic Purposes Benefit (DPB) and working 19 hours per week at the minimum wage, to working 20 hours and getting the MFTC and the IWTC. The gain in disposable income from moving off the DPB is around $64 a week. However, there is no incentive for the sole parent to work any more than 20 hours a week until they can work around 35 hours a week, because the MFTC abates at 100 cents for each additional dollar of net income, resulting in no increase in income for the additional hours worked.

| Table 5.3 Sole parent working 19 hours on DPB and 20 hours on MFTC |
|------------------------|------------------------|------------------------|
|                        | DPB                    | MFTC                   |
| 19 hours               | $ 247.00               | $260.00                |
| tax                    | $43.23                 | $27.30                 |
| ACC*                   | $4.99                  | $5.20                  |
| net earnings per week  | $198.79                | $227.50                |
| DPB net max            | $288.47                | MFTC max               |
| net DPB after loss     | $225.10                | Net MFTC               |
| benefit $100-247       |                        | $199.50                |
| IWTC                   | $60.00                 |                        |
| FTC- 1 child           | $88.00                 | $88.00                 |
| disposable income      | $511.89                | $575.00                |
| Total government cost  | $313.10                | $347.50                |
| less tax paid on earnings | $43.23              | $27.30                 |
| Net government cost    | $269.88                | $320.20                |

*Different assumptions about ACC give slightly different results

It is very important to understand that while the move from being employed for just below 20 hours a week and in receipt of a benefit, to being employed for 20 hours and not receiving a benefit, is technically a move off welfare to ‘independence’, in reality is no such thing. A large amount of assistance is provided by the state in each case, and in the Table 5.3 example, the government actually pays more when the sole parent is on the MFTC rather than the DPB. The main difference is that the name for the assistance from the government has changed.

In both cases, the cost of the DPB and the MFTC respectively are offset by any Child Support paid by the liable parent. The total cost of the DPB in particular is given gross of these recovered payments and so overstates the expenditure by the state.

The Welfare Working Group Report

The Government-appointed Welfare Working Group’s (WWG) final report, Reducing Long Term Benefit Dependency, 2011, might have been expected to take a close look at the way the tax credits work and their role in relieving poverty by encouraging work.
However, the WWG’s terms of reference explicitly excluded WFF and any consideration of the adequacy of the benefit system, despite the Government-appointed Tax Working Group’s report including a plea for a thorough investigation of the tax/welfare interface.

The WWG’s final report uses the term ‘paid work’ 242 times while ‘unpaid work’ does not appear once. Caregiving of young children by their parents is invisible and unvalued. Parents are either paid workers or ‘jobseekers’, but not nurturers caring for the next generation of New Zealanders. For the WWG, the only way out of poverty is via paid work, and the only acknowledgement of the role of tax credits (as illustrated in Table 5.3) is a nod in the direction of expecting them to provide the necessary support.

The WWG proposes a range of reforms to sort out feckless sole parents. To illustrate how these would operate they create a composite case study of ‘Nikki’ who has two children, aged three and six, works part-time at night, and has just separated from her partner (Welfare Working Group, 2010, p. 59). Under the current rules, Nikki would receive the DPB and not be expected to work until the youngest child is aged 6. Under the WWG proposals she would become a ‘jobseeker’, and a benefit would be unnecessary because her ‘co-ordinator’ (a private sector case worker paid to move people off benefits) will arrange free childcare at the local kindergarten, an Accommodation Supplement, and help her claim WFF from the IRD, and claim Child Support from her ex-partner. As if by magic, Nikki “continues working and also looking after her children” (Welfare Working Group, 2010, p. 59).

This facile case study obscures the bothersome reality that Nikki actually faces, including dealing with the separation, interacting with the IRD, maintaining her expected output at her place of work, and finding affordable day-care that fits the limited daytime hours she is now able to work. When Nikki’s partner moves out, the family may continue to have the same financial arrangements for rent and other outgoings, and stay off a benefit as they attempt to work things out. Once notified of the separation, however, the IRD cuts off the IWTC, and bills Nikki for any overpayments because she is not working 20 hours per week.

If Nikki, now a ‘jobseeker’ finds the required 20 hours of paid work during day-care hours, her income is topped up, as described above, with the MFTC. With the IWTC of $60 each week plus the FTC, she is better off than on a benefit because the government is giving her a huge wage subsidy through the tax system. However, she is intensely vulnerable to any loss of hours of work that may render her ineligible for both the IWTC and the MFTC.

Under the current rules, if Nikki remained on a benefit, earning $100 a week would give her around $80.50 extra net income. Under the WWG proposals, extra earnings would be abated much more harshly in order to teach her that she should really be in full-time work. The WWG (p.108) recommends that the threshold be lowered from $100 to $20 a week and an abatement of 55% of net benefit apply for any extra income over $20. From earning an extra $100 per week, after tax and abatement, she would gain less than $40. It must be remembered also that GST at the higher rate of 15% is extracted when she spends this money.

The WWG’s reasoning appears to be: working full time at the minimum wage gives people much more money than they would get on benefits. Therefore beneficiaries need to work full-time and be sharply penalised for working only part-time to reinforce the point. For

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6 Tax at 17.5% and ACC at 2%. 
sole parents with child rearing responsibilities who can only manage a few hours of work a week, this policy suggestion is particularly perverse.

Oops we had a recession

When the Labour-led Government developed WFF, it did not factor in the possibility of a deep recession in New Zealand, nor did it envisage events such as the global financial crisis or disasters like the Pike River mine explosion in 2010, and the Christchurch earthquakes in 2010 and 2011.

In 2009 the National-led Government recognised that families were losing their jobs through no fault of their own and announced the ReStart Package. This package had several parts but for families the key part was called ‘ReCover’. This allowed families that had been made redundant to retain the IWTC for 16 weeks.

ReCover was a stopgap quick-fix creating two classes of unemployed: the deserving and the undeserving. A written question in parliament (Green Party, 4 March 2011) revealed that by January 2011 when it was phased out, only 2,281 families had received a full ReCover payment. The Minister was unable to give numbers for those who did not go on a benefit but became ineligible for the IWTC because their hours of work were too low.

As 2011 unfolds, rather than the promised economic bounce-back, it is clear that the Government’s tax shift (see Chapter 8) has been impotent to restart the economy. The economy has been severely crippled by the Christchurch earthquakes but no new Restart Package has been announced to support all affected families. As discussed above, while a few parents may have kept their entitlement to the IWTC because they fulfilled special limited earthquake criteria when they lost hours of work, other unfortunate families who needed to go on a benefit, or who lost an on-going relationship with the former employer also lost the IWTC.

The OECD cautioned several years ago that the conditionality on work may magnify some income losses for those whose earning or working hours fall below entitlement to in work benefits. New Zealand has ignored this caution.

Because severe economic downturns can have marked effects on the earnings distribution, policymakers should review whether the eligibility conditions and payment profiles of existing [in work benefits] are appropriate or should be adapted in order to exploit their potential as a measure that cushions income losses during a recession. (Immervoll & Pearson, 2009, p. 46)

Even without the recession, the requirement of a fixed number of hours of work a week is inappropriate with ‘just in time’ and casual employment very common in a modern labour market.

Evaluating Working for Families

The objectives of WFF conflate two goals: poverty reduction and work incentives. As noted earlier, the dramatic rise in child poverty in the 1990s led to the Labour-led Government’s pledge in 2002 to make eliminating it a top priority. This concern was clearly a factor in

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8 Those who were injured and on ACC may keep the IWTC. Anyone who was employed and has an accident after 1 January 2006 is treated differently to others who lose their jobs or had their accident before this time.
designing the IWTC, and is explicitly stated as a goal of the WFF package. Along with improved childcare subsidies, the IWTC was specifically designed to:

... make work pay by supporting families with dependent children so work effort is rewarded; ensure income adequacy, with a focus on low and middle income families with dependent children to address issues of poverty, especially child poverty. (Centre for Social Research and Evaluation & Inland Revenue Te Tari Taake, 2007)

Thus the IWTC part of the WFF policy was supposed to get sole parents back to work and to reduce child poverty. The unacknowledged trade-off was that using one instrument to achieve two goals was going to compromise at least one of the objectives. To ‘make work pay’ using a tool that was designed to meet the costs of children and reduce their poverty inevitably meant that some children would be treated differently to others. In the absence of a commitment to reducing the poverty of all children, some would be ‘left behind’ (St John & Craig, 2004). Moreover as Left Behind (2008) noted, moving sole parents off benefits is not an adequate or accurate measure of whether life has improved for them or for their children.

**Design issues**

The basic theory was that work provides the route out of poverty but that work incentives were required and they would be effective. Thus a work incentive should ‘make work pay’, by creating an income gap between those in paid work and those not in paid work. The designers of the IWTC paid no attention to international advice that care would need to be taken in creating such a gap so that the latter group were not made worse-off as that would simply increase poverty (Pearson & Immervoll, 2008, p. 2).

The IWTC is a most unusual ‘in work benefit’. It does not reward an extra hour of work, as would for example a lower tax rate, but provides a lump-sum to families who met the work-based criteria. The ‘income effect’ of the IWTC unambiguously acts to reduce work effort, while the ‘substitution effect’ towards more work is only operable if the qualification point of 20 hours a week for a sole parent and 30 hours for a couple can be achieved. The incentive is to reach the required hours of work, if that is possible, but no more.

There appeared to be no theory or international basis for applying an in-work benefit only for those with children. Few countries use a child-related work incentive (Human Rights Tribunal, 2008, p. 10). Almost no attention was paid to Australian policy where there has never been a child-related payment to encourage work, and where all low income children are treated the same (see Appendix 3).

Moreover the IWTC is unusual in being paid to the caregiver not the worker. In the development of the policy, the officials recognised both that: ‘payments of family assistance to the principal carer is in the best interests of the child’; and that: ‘payment of the [IWTC] cannot easily be untangled from the other elements of family assistance’. Thus confirming that, despite its name, the IWTC is just a part of weekly family assistance to be used in the interests of the child.

It is possible, and appears to have been the case in New Zealand, to be trapped by circular thinking as the following illustrates:

> [In Work Benefits] provide additional benefits to low-income families, so reduce the incidence of poverty among those families with children. They also increase the incentive to work, and as poverty rates among those in work are lower than those out

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of work, any increase in the number of parents moving into work would reduce child poverty. (Pearson et al, 2008, p. 13)

Is work itself the way out of poverty? Or is it the way out of poverty because the state makes it pay with sufficient subsidies? Sometimes the justification is the belief that any attachment to the labour force creates future opportunities for well-paid work that will eventually provide an unsubsidised path out of poverty. Recent research in Canada has thrown into doubt the value of work incentives for achieving any such long-term benefit, but this evidence was not adduced in the IWTC development (St John & Dale, 2010b). Nor was attention paid to the obvious: if work incentives are used as a major and direct method of addressing poverty, there is a risk of creating and perpetuating an underclass who cannot access the incentive and who thus must remain, by definition, in poverty.

Prior to implementation, studies showed the expected impacts of WFF on employment could be expected to be minimal. Sole parents would have a small increase and second earners in dual-income households a small decrease [in hours of work] (Ministry of Social Development, 2004, p. 29).

Then, before the policy was implemented, the Government announced the increased threshold and lower abatement as described above. A priori, this was expected to provide a strong incentive to increase work effort to the new threshold. For those above the new threshold the effect was more ambiguous. By the time the complete WFF package was fully implemented in 2007 there was no clear connection between the original rationale for the IWTC and its final form.

Official evaluation

When WFF was introduced, the MSD and the IRD were given a very large budget to monitor and evaluate Working for Families (Dalgety, 2010a, 2010b; Dalgety, Dorsett, Johnston, & Spier, 2010). St John and Dale (2010a) concluded that the economic evaluation became an endpoint of the process, and there was little broader critical analysis that might suggest improvements, or even a fundamental rethinking of policy. The wrong questions were asked, and the researchers were too easily satisfied with their statistical analysis without asking if their results were meaningful. In essence the evaluators were happy to show, using a standard statistical technique, a marginal increase in the numbers of sole parents working that they attributed to the IWTC.\(^\text{10}\) However the figures (Table 5.4) clearly show that by December 2010 the numbers on the DPB were back to their pre-WFF levels.

If the sustained increase in employment due to the IWTC is in fact zero, then the cost of over $500 million means that this in-work benefit has an infinite cost per extra job. If the purpose was also to ‘make work pay’ it is still difficult to justify. The IWTC is paid well up the income scale. A caregiver with several children on a family income of over $100,000 may still receive it, even though s/he does not do any paid work and where the primary earner does not need a payment to make work pay.

<p>| Table 5.4. Numbers on the various benefits as at December, 2000-2010 |
|----------------------------------|----------------------|------------------|-----------------|-----------------|-----------------|------------------|</p>
<table>
<thead>
<tr>
<th>End of quarter</th>
<th>Unemployment Benefits</th>
<th>Domestic Purposes Benefits</th>
<th>Sickness Benefits</th>
<th>Invalids Benefits</th>
<th>Other main benefits</th>
<th>All main benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Source: Work &amp; Income website)</td>
<td></td>
<td></td>
<td></td>
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\(^\text{10}\) While the technique, using difference-in-differences analysis may have been standard, the choice of the comparator of unemployed people aged 15-65 years in this case is highly questionable (St John & Dale, 2010).
December 2000 | 146,692 | 109,663 | 33,560 | 56,711 | 45,681 | 392,307  
December 2002 | 118,139 | 109,290 | 39,426 | 65,779 | 34,825 | 367,459  
December 2004 | 65,969  | 109,339 | 45,648 | 72,543 | 26,200 | 319,699  
December 2006 | 38,796  | 100,309 | 48,650 | 76,816 | 22,070 | 286,459  
December 2007 | 65,969  | 118,139 | 41,549 | 72,543 | 26,200 | 319,699  
December 2008 | 30,508  | 100,282 | 49,808 | 80,082 | 20,989 | 269,732  
December 2010 | 67,084  | 112,865 | 59,988 | 85,105 | 27,665 | 352,707

Even between 2004 and 2007 when numbers on the DPB fell, there were numerous other factors at work. The labour market was exceptionally tight and unemployment itself was falling rapidly. The minimum wage was increased a total of 33% from NZ$9 per hour to NZ$12 between 2004 and 2008. In addition, the WFF tax credits threshold was higher and abatement lower than it had been, child-care subsidies and access improved markedly, and case management can be expected to have helped.

Exits from benefits may not have entailed a significant increase in hours of work as the fall in numbers of DPB recipients was greatest among those people with an existing attachment to the labour market. As Table 5.3 illustrates, merely getting off the DPB and into 20 hours’ low-paid paid work may actually cost the government more and the argument that ‘work is the way out of poverty’ is only true when tax credits are used to make work pay.

It is also highly likely that some employment of those who are subsidised may be at the expense of those who are not. Displacement may also occur between partnered women and sole parents as the incentives for partnered women to work under WFF are, in fact, reduced. This appeared to have been borne out in the official evaluation:

*The difference-in-differences and longitudinal regression modelling results provide evidence that couples with children were less likely to both be in employment after WFF, by around two percentage points.* (Dalgety, 2010a)

Is it less important that partnered women work? Are their children’s needs different? Do they not face the same risk of losing touch with the labour market? As with other aspects of the evaluation the Ministry did not seem to understand that a ‘statistically significant’ result is not the end point of an evaluation that should be concerned with whether the social outcomes are worth the money spent (McCloskey & Ziliak, 2008).

**Was the child poverty goal achieved?**

In terms of meeting poverty objectives, by 2008, the WFF package had reduced child poverty on official measures (see Chapter 2). The fall in child poverty rates from 2004 to 2007 for children in ‘working’ households was large (39% to 12%). Thus WFF helped to significantly reduce the proportion of poor children who came from ‘working’ families. Nevertheless about one in three of all poor children still came from families where at least one adult was in full-time work. It is clear that without WFF, hardship rates would have been even higher, but they still remained above the EU-25 median (Perry, 2010).

For 2008 the MSD reported that one in five children (19%) was still in the lowest two categories of living standards:

*They are without a doubt .....experiencing serious hardship and unacceptably severe restrictions on their living conditions for citizens in a developed nation like New Zealand.*  
(Perry, 2009, p. 46)

Importantly:
...child poverty rates in workless households are consistently several times higher than those for children in working households (three to four times higher in 1992 to 2004, six to seven times higher in 2007 and 2009 after WFF). WFF had little if any impact on the poverty rates for children in workless households. (Perry, 2010, p. 109)

The extent to which poor children, in benefit-dependent or ‘workless’ families who by definition miss out on a substantial part of the WFF tax credits, experience poverty is illustrated in Figure 5.4.

The problem is not that the IWTC failed to reduce child poverty but that the reduction was selective. It applied only in those families who met the work criteria, and excluded those children who needed it most: the poorest children. Even the official evaluation concedes:

*The WFF changes met the “income adequacy” objective as low and middle income families received the bulk of the increased expenditure, and child poverty rates were reduced for lower income families with at least one adult in paid work. However there was no significant change in hardship rates for beneficiaries with children.* (Dalgety, 2010b, p. ix)

**Human Rights Breaches by the IWTC Alleged**

The IWTC is a significant payment for children but is denied to the poorest children, in effect leaving them behind, in poverty. The IWTC is not insubstantial, for example it is worth 40% of total WFF tax credits for a family with one child (NZ$60 out of NZ$148 per week) and its net value is around 20% of the sole parent benefit. One way of looking at the size of the problem is to see that since the introduction of the IWTC, families that have been denied this payment for their children have had a cumulative loss from their asset base of around $2.5 billion.

Rebuilding the asset-base and reversing debt accumulation by poor families will now be a very challenging task requiring strong redistributive policies on many fronts. However, removing the discrimination by adding the IWTC to the FTC would provide a targeted payment to families below the median income and would have an immediate and significantly positive effect on the measured child poverty rate.
In a challenge to the Government, a class action: CPAG v Attorney General, was heard in the Human Rights Review Tribunal in mid-2008. CPAG claimed the IWTC constitutes unlawful discrimination under Part 1A of the Human Rights Act 1993 and breaches New Zealand’s obligations under the United Nations Convention on the Rights of the Child. The history, documents and decisions of this protracted legal challenge can be accessed at www.cpag.org.nz and a summary is provided in Appendix 1.

CPAG’s argument was that the IWTC is part of weekly family assistance to help meet the needs of low income children but access is determined by the parents’ employment status and hence the payment is discriminatory. The outcome is to reduce the poverty of those children whose parents are in work while leaving the children of those who do not qualify further behind. Māori and Pacific Island children are disproportionally affected.

A profound issue that human rights ought not be conditional on paid work is illustrated by the CPAG case, as discussed by Amanda Reilly (Bedggood & Gledhill, 2011): .... it is suggested that caution should be exercised when characterising the right to work as the fundamental underpinning of other rights. Unless it is possible to guarantee paid work to every single person regardless of the state of the economy, and individual’s state of health or their care responsibilities, tying the enjoyment of other rights too closely to the right to work can lead to injustice. It should also be noted that Article 11 of the International Covenant on Economic, Social and Cultural Rights separately guarantees a right to an adequate standard of living which is not contingent on paid work. The decision of the Tribunal in the Child Poverty Action Group case that the discrimination and disadvantage suffered by the children of beneficiaries by the In-Work Tax Credit is justified because of the work incentive it provides to the parents of such children seems at odds with the Covenant read as a whole. (Reilly, 2011)

In a 100-page judgment, the Tribunal upheld the claim of discrimination against 230,000 of the poorest children in New Zealand (22% of all children under 18) who do not benefit from the IWTC:

We are satisfied that the WFF package as a whole, and the eligibility rules for the IWTC in particular, treats families in receipt of an income-tested benefit less favourably than it does families in work, and that as a result families that were and are dependent on the receipt of an income-tested benefit were and are disadvantaged in a real and substantive way. (Human Rights Tribunal 2008: para 192)

While the decision that discrimination has been proven is significant and of international interest, the declaration CPAG was seeking: that the IWTC was illegal under the Act, was not achieved. The decision has been appealed and is to be heard in the High Court in September 2011.

2011 Budget changes

As noted, in the lead-up to the 2011 Budget, WFF was repeatedly painted in the media as too generous, and a suitable target for axing in order to reduce the Government’s budget deficit. In the budget the Minister of Finance announced that the WFF threshold is to be reduced from $36,827 in 2011 to $35,000 by 2018, and the rate of abatement of the WFF payments is to rise from 20% to 25% over the same period.

The various business comments on the changes were approving if disappointed that they were not more dramatic. The changes were claimed by the media to created ‘winners and losers’. For example, Simon Collins wrote in the NZ Herald that a low income, four-child family was to gain around $14 by 2012 while a top income family lost only around $8. This
analysis was quite simplistic but added to the reassurance from the government that the sacrifice required was minimal and manageable. A family on a high income with multiple children was even found to proclaim that ‘Cut in tax credits good move’ (NZ Herald, 20th May).

Unfortunately, in reality, these changes signal a harsh direction, especially as the government has promised that there will be no further changes (presuming continuous election until 2018). In justifying the changes the Minister of Finance claimed:

The cost of Working for Families has roughly doubled from about $1.5 billion in 2005/06 to about $2.8 billion this year. That kind of growth is no longer sustainable and without changes the scheme would quite quickly become unaffordable. (Bill English, Beehive news release, 19th May)

However the data from the budget (Figure 5.5) tell a different story. The strong growth shown to 2008 was a result of WFF being phased in from 2005. WFF was in large part a catch up programme as family assistance had fallen far behind in real terms, and far behind comparable countries such as Australia.

![Figure 5.5. Working for Families expenditure](Source: Budget 2011)

Far from showing rapid growth, nominal expenditure on WFF slowed markedly between 2009 and 2010, was static between 2010 and 2011, and for the financial year 2012 growth was projected to be zero. This is surprising as one might have expected a growth in nominal expenditure given the GST inflation adjustments to WFF in 2010 and lower family incomes in the recession. The lack of expenditure growth may reflect in part that the threshold was frozen in 2010 and the IWTC is not indexed. However, it is likely also to reflect that as WFF is currently designed, the Government actually saves money when low-income families lose work as entitlement to the IWTC is lost at the same time. A properly designed family assistance programme would provide a cushion in a recession and protect children.

Table 5.5 sets out the actual impact of the budget policy direction and contrasts it with that in Australia. The figures are illustrative only, using the example of a one-child family sitting at the current threshold. The 2011 New Zealand Budget projected a cumulative 5% inflation adjustment in 2012, 2014, 2016, and 2018. Although the Australians adjust annually, the same method has been used for both Australia’s and New Zealand’s calculations. By 2018, wages will have risen with inflation and growth, but it is assumed conservatively that gross wages grow only as fast as inflation.

The results indicate that by 2018 this illustrative family is getting only $120 a week (including the IWTC) as compared to $180 with full indexation. The 2018 threshold of $35,000 in New Zealand is the equivalent of $29,000 in 2011 dollars which is only slightly over the minimum wage.
A family in Australia who gets the maximum of their tax credits today by 2018 gets A$206 per week as the full entitlement. The 2011 New Zealand threshold is already only 81% of the Australian threshold or 61% if compared in New Zealand dollars. By the time we get to 2018 the New Zealand unadjusted threshold is 64% of the Australian one.

The contrast is even more stark if one of the children is a newborn. For that first year of the child’s life, by 2018 a New Zealand family who today sits at the current threshold gets $143 per week with abatement from NZ$35,000. An Australian family gets $311 per week with abatement of only part of it from A$55,000.

<table>
<thead>
<tr>
<th>Year ended March</th>
<th>2011</th>
<th>2012</th>
<th>2014</th>
<th>2016</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Zealand (NZ$)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Threshold if indexed</td>
<td>$36,827</td>
<td>$38,668</td>
<td>$40,602</td>
<td>$42,632</td>
<td>$44,763</td>
</tr>
<tr>
<td>Threshold as per 2011 Budget</td>
<td>$36,827</td>
<td>$36,350</td>
<td>$35,900</td>
<td>$35,450</td>
<td>$35,000</td>
</tr>
<tr>
<td>Abatement</td>
<td>20%</td>
<td>21.25%</td>
<td>22.5%</td>
<td>23.75%</td>
<td>25%</td>
</tr>
<tr>
<td>Effect of inflation on wages</td>
<td>$36,827</td>
<td>$38,668</td>
<td>$40,602</td>
<td>$42,632</td>
<td>$44,763</td>
</tr>
<tr>
<td>1 child&lt;15 if benefit paid</td>
<td>$88</td>
<td>$92</td>
<td>$97</td>
<td>$102</td>
<td>$107</td>
</tr>
<tr>
<td>1 child &lt;15 full WFF if fully indexed</td>
<td>$148</td>
<td>$155</td>
<td>$163</td>
<td>$171</td>
<td>$180</td>
</tr>
<tr>
<td>Pre-budget indexation FTC only</td>
<td>$88</td>
<td>$92</td>
<td>$97</td>
<td>$102</td>
<td>$107</td>
</tr>
<tr>
<td>Pre budget FTC+IWTC</td>
<td>$148</td>
<td>$152</td>
<td>$157</td>
<td>$162</td>
<td>$167</td>
</tr>
<tr>
<td>Family on $36,827 WFF post budget</td>
<td>$148</td>
<td>$143</td>
<td>$137</td>
<td>$130</td>
<td>$120</td>
</tr>
<tr>
<td>If new born and no PPL* Assuming child qualifies for PTC</td>
<td>$171.08</td>
<td>$166</td>
<td>$160</td>
<td>$153</td>
<td>$143</td>
</tr>
<tr>
<td><strong>Australia (A$)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Threshold indexed</td>
<td>$45,112</td>
<td>$47,368</td>
<td>$49,736</td>
<td>$52,223</td>
<td>$54,834</td>
</tr>
<tr>
<td>Abatement</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Effect of inflation on wages</td>
<td>$45,112</td>
<td>$47,368</td>
<td>$49,736</td>
<td>$52,223</td>
<td>$54,834</td>
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<tr>
<td>Full tax credits 1 child (under 5)</td>
<td>$170</td>
<td>$178</td>
<td>$187</td>
<td>$196</td>
<td>$206</td>
</tr>
<tr>
<td>If child is new born and no PPL</td>
<td>$270</td>
<td>$283</td>
<td>$292</td>
<td>$301</td>
<td>$311</td>
</tr>
</tbody>
</table>

It goes without saying that the Tasman gap, between what the poorest one-child family gets because they don’t qualify either for the IWTC or the PTC, is dire. In New Zealand such a family gets $107 per week by 2018 whether or not there is a newborn. In Australia, the poorest family’s amount is $206 per week, and $311 per week with a newborn.

Compounding this gap is the tax payable on low incomes (see Chapter 8) including the effect of GST. Appendix 3 sets out the range of other benefits for families and explains how the Australian system is far more generous to middle and higher income families, and to sole parents. Even recent budget changes in Australia have only impacted minimally, focusing on freezing the upper income threshold of A$150,000 as the cut out point for some payments.11

**Unintended consequences of bad policy**

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11 This is not to imply the Australian policies are perfect. They have, for example, increased the paternalistic control over benefits for teenage and indigenous families.
WFF is far too complicated. Navigating the maze of benefits, supplementary payments, family tax credits, abatements, shared care rules, hours of work requirements, reassessments, demands for payments, and penalties, is hugely demanding even for the most expert. Without understanding how the various tax credits work, a sole parent is supposed to respond by getting a job, any job. The IWTC, the FTC, and the MFTC have different criteria and abatements. The required fixed weekly hours of work are far too difficult to police and monitor consistently in a modern, casualised labour market.

Work & Income wants to know about every single extra dollar that comes the way of the sole parent, including any helpful payments from the other parent or from the extended family. The IRD and Work & Income definitions of what constitutes a relationship are inconsistent, with Work & Income keen to say there is a relationship if there is evidence of financial support. Work & Income peers into the bedrooms of the poor to see if the sole-parent is co-habiting and therefore not entitled to a benefit; on the other hand, the IRD, even less qualified in social matters, peers into the bedrooms of the poor to see if she is not co-habiting so that she can be denied the IWTC for her children. Families can receive a terrifying torrent of letters from different parts of the IRD and Work & Income and become totally confused and very anxious, especially when overpayments of WFF are alleged along with demand for interest payments on debts accrued.

The IWTC can be paid to a mother while she is in a relationship even if she is not in paid work, providing her partner works 30 or more hours. However, any overpayment becomes her debt even when it is an increase in his income that has caused it. If they split up, and even if they remain independent from the benefit system and he continues as before to support her in a full-time care-giving role, she loses entitlement to the IWTC and is thus liable for repaying any so-defined ‘overpayment’. The work-based logic appears to be that because she is living on her own she should now be expected to work 20 hours a week outside the home. There is no regard for the needs of the young child, nor for her primary duty of care. The interests of the child have completely vanished from the policy.

It is possible for a sole parent to receive demands for reassessed WFF tax credits for previous tax years. While the IRD will write off such assessments in cases where she has no money, this is a very scary time for her. Furthermore, under the newly adopted definitions of ‘family scheme income’ payments from grandparents trying to assist their struggling children and grandchildren may also be treated as family income for abatement.

Shared care has emerged as another issue. If a couple is separated, the WFF is apportioned provided the other parent provides care 5/14th of the time in each fortnight. This might be every second weekend and some overnight stays. It is therefore possible for a sole parent to get a reduced WFF of only $56.37 even though s/he has the child all of the days of the entire working week and cannot work, while the other parent gets $91 because the IWTC is not apportioned for shared care and only those in work are entitled. If the couple are not separated, the at-home parent would be paid all of the WFF money. There is no justice in the in-work parent getting the bulk of the child payments based on spurious definitions of entitlement.

As the Human Rights Tribunal decision clearly states, the IWTC is a payment for children.

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12 Legislation designed to reduce the ability of higher-income families to reorder their affairs and use vehicles such as trusts and PIEs to limit their income and maximise their WFF.
The Crown’s argument that the challenged tax credits cannot be described as ‘child-related’ has no basis whatsoever in the evidence we heard. (Human Rights Tribunal, 2008, p. 63)

It is also noted that the criteria for shared care are different for WFF and Child Support (see Chapter 8). This causes an enormous amount of confusion. If the tax credits were associated solely with the child rather than work status of the parents, they could be left un-apportioned, with only Child Support adjusted and then, only if genuine shared care of a significant nature was in place.

Conclusions and key recommendations

Almost all developed countries offer generous tax relief related to family size, and often a universal child benefit is also provided (see Appendix 1 for a discussion of universal child benefits). New Zealand has a flimsy ‘house of tax credits’, with far too much child-related assistance conditional on meeting a fixed ‘hours of work’ requirement that is no longer appropriate in the modern labour market. In fact, the reality for many families is ‘just in time’ employment with uncertain hours, low wages, short-term contracts and long hours spent traveling to and from child-care and multiple workplaces. If children are sick, uncertain employment arrangements add to the stress faced by many parents. Families with uncertain incomes also face the possibility of an end of year tax liability if they take the complicated WFF tax credits.

If we could start with a clean slate it might be possible to design the ideal system. Unfortunately, policy-makers must take existing policy and start with that. To begin to deal effectively with child poverty, the first requirement must be to remove the insidious discrimination in the IWTC. While the IWTC has never been indexed, it is still a very significant element of WFF. If $60 were added to the Family Tax Credit (formerly Family Support) for the first child, and the IWTC was abandoned, those currently excluded from the IWTC would receive a significant boost to their incomes. If approximately 150,000 low-income families are currently not in receipt of the IWTC, the annual cost would be about $450 million. This would be highly targeted redistribution, as only the poorest families would gain. The Parental Tax Credit must likewise be unhinged from its work-based criterion and focused on the needs of all new-borns in low income families.

Once this discrimination is removed, consideration should be given to bringing New Zealand back to a more balanced approach by universalising part of the FTC. That way, less income is subject to abatement. Also, all parts of WFF must be properly indexed, although there is a case for a smaller rise in the threshold.

The pretence of being independent from the state by the use of the MFTC should be abandoned along with its draconian abatement rate and hours worked requirement. The formula for the abatement of benefits when there is additional income needs to be improved. The threshold needs to be raised substantially to reflect inflation and the rate of abatement reduced. This way, families with children, especially sole parents, can supplement their incomes seamlessly without working the long hours stipulated by current policy. Such an approach would be more in keeping with the realities of the labour market, and would provide greater security of income as well as giving parents greater flexibility to prioritise their children’s needs. This does not preclude mentoring parents back into the full-time paid work or study, once the needs of their children have been met. It does
however require greater community commitment to helping parents with young children through the first years of their children’s lives.

**Recommendations**

- Remove all ‘hours worked’ requirements from child-based family assistance;
- Reverse the decline in WFF as set out in the 2011 budget for the years 2012-2018;
- Simplify to make WFF more understandable;
- Abolish the IWTC and add $60 per week to the first-child FTC;
- Fully adjust the FTC for inflation every year. Leave the rate of abatement at 20%;
- Administer all payments of the FTC through the IRD and pay the full amount to one caregiver. No shared care apportionment;
- Abolish the MFTC and allow more flexibility for those on part benefits;
- Raise the first $100 market income threshold for abatement of the DPB to $180 per week and the second $200 threshold to $250. Extend the 30 cents in the dollar abatement of net benefit, effective between $180 and $250, to all beneficiaries with young children;
- Eventually **universalise** $20 of the Family Tax Credit for each child under 5 as part of a return a commitment to the principle of inclusion; but only if accompanied by an increase in the progressivity of the tax scale and not at the expense of meeting poverty reduction among the poorest.
Appendix 1. CPAG V Attorney General: Background to the case 2002-2011

Since the Labour Government first introduced discrimination against the children of beneficiaries into its family assistance policies in 1996, CPAG has been concerned with the impact of these policies on child poverty. While CPAG complained to the Human Rights Commission in 1996, the Government was not at that time subject to the Human Rights Act 1993 (HRA). However, on 31 December 2001, an amendment to the HRA came into effect which made the Government, its agencies and anyone who performs a public function, accountable for any unlawful discrimination under the HRA (Part 1A).

In 2002, CPAG formally challenged the Government under Part 1a of the Human Rights Act 1993. CPAG argued that children, denied part of their family assistance based on the work status of their parents, were denied the support they needed to keep them out of poverty. At that time the discriminatory policy in question was called the Child Tax Credit.

In 2004 in recognition of the growing problem of child poverty in New Zealand and concerns about benefit dependency the then Government announced a package of social assistance for families called ‘Working for Families’ (WFF) as described in Chapter 6. The policy reforms had two relevant primary purposes: child poverty alleviation and providing a work incentive. One aspect of the WFF package was the In-Work Tax Credit (IWTC), a payment for families of $60 per week that replaced the Child Tax Credit. The IWTC was designed to both alleviate child poverty and provide a work incentive. The Government enacted legislation making eligibility for this payment dependent on being ‘off-benefit’ and working a required numbers of hours: 20 hours a week for a sole parent and 30 hours a week for a couple. Before it came into force, the Government amended the legislation to make the IWTC payable to families higher up the income scale (by increasing the abatement threshold and lowering the abatement rate). From 2006, the case was about the IWTC as that had replaced the Child Tax Credit.

There was a series of arguments from the Crown both about the substantive issues and arguments of a legal nature, including an argument that CPAG could not take a case under the HRA because CPAG was not itself directly affected. The Office of Human Rights Proceedings (OHPR) acted on behalf of CPAG and provided the legal advice. In 2005 the Tribunal ruled that CPAG did have a right to take the case. The decision is an important human rights law precedent because it affirms the right of non-government organisations to challenge policy on human rights grounds, without the organisations themselves having to be affected by any discrimination. The Crown appealed this decision, but the High Court Judge ruled that the decision did not lie within his jurisdiction and the Tribunal’s decision was, therefore, in order.

The case was heard in mid-2008 by the Human Rights Review Tribunal in Wellington. The record of the Tribunal proceedings in 2008 amounts to nearly 10,000 pages. This includes 21 statements of evidence (totalling over 300 pages), which refer to more than 250 documents (totalling nearly 8,000 pages) and a transcript of over 1,000 pages, which was produced contemporaneously at the hearing.

13 Full details of the steps along the legal process and associated legal documents are available at www.cpag.org.nz.
The Tribunal found that the IWTC is discriminatory because it is available to working families but not beneficiary families and this disadvantages children in beneficiary families. The test of discrimination includes proving that harm is caused and the Tribunal was satisfied it was. However, the Tribunal also found that the discrimination was justified in a ‘free and democratic society’. Therefore, the Tribunal refused to issue a Declaration of Inconsistency.

Following the Tribunal’s decision, CPAG filed an appeal in the High Court. As the appeal was inadvertently filed several days late, CPAG needed to seek leave to appeal out of time. In 2009, the Court granted this application and the appeal was set down for hearing in 2010. However, in mid-2010, the Crown sought to recall the Court’s decision allowing the appeal to proceed (on the basis of a later Court of Appeal decision). The hearing date had to be abandoned while this issue was considered by the Court. In late 2010, the Court rejected the Crown’s recall application, which meant that the appeal could proceed.

CPAG is appealing the Tribunal’s finding on justification and the Crown has appealed the Tribunal’s finding that the IWTC is discriminatory. The appeal is set down for a hearing in the High Court commencing 5th September 2011. CPAG argues that the legislative measure is inconsistent with the right to be free from employment status discrimination, guaranteed in the New Zealand Bill of Rights Act 1990. Even when due deference is given to the executive and legislative branch of the Government of New Zealand for its capacity and competence to determine legislation in the area of social and economic policy, this discrimination is still not able to be demonstrably justified, in a free and democratic society.

CPAG wishes to thank the Human Rights Proceedings Office, and the lawyers Frances Joychild, Jenny Ryan and Cathy Rogers for their exemplary work on this important case.
Appendix 2. Is a universal child benefit the answer?

It is tempting to answer that a universal child benefit should be considered for New Zealand. Historically, New Zealand’s universal child benefit supported egalitarianism and strengthened social inclusion. The unfortunate fact, though, is that starting from where our tax and welfare systems are in 2011, a universal child benefit could not provide an immediate solution to child poverty.

While many on both sides of the political spectrum understand and appreciate the merits of a universal child benefit, there is a lot of confusion about the nature and purpose of family financial assistance. It is important therefore that we understand the history of New Zealand’s original universal Family Benefit and assess the calls to return to a universal Child Benefit in the context of how society and the economy has changed since the post-war period when the Family Benefit was actually worth something and meant something.

Tax exemptions for children were introduced in 1914 but were of benefit to only a few higher income families. Means-tested family allowances were introduced in 1926 under the Family Allowances Act:

*The distinctive features of the New Zealand scheme lie in its being financed wholly at the expense of the general taxpayer and in providing for all families below a stated income-level, regardless of the employment or otherwise of the parents.* (Campbell, 1927, p. 369)

It was not until 1946, after the end of World War II, that family allowances were extended to all children on the same basis. The Family Benefit was a per child cash payment that went to the mother. A tax exemption could still be claimed by the principal income earner in the family for the children (McClure, 1998).

Unfortunately, those on the highest tax rate with the most money got the most advantage from having a tax exemption. If your extra income is taxed at 60% an exemption of $100 saves you $60, but if you earn less and are taxed at 10%, you only save $10. This inequity was recognised in 1979, when the exemption, worth on average about $3 per child per week, was added to the Family Benefit of $3 per child per week. From 1979, New Zealand’s universal Child Benefit was a flat, $6 per child per week.

In 1979, $6 per child per week\(^\text{14}\) was a meaningful amount of money. When abolition of the Family Benefit was announced in 1990, it had lost considerable value because it was never adjusted for inflation. Perhaps because it had been reduced to only a token payment it was an easy target for those who wanted to get rid of it.

People who remember when the Family Benefit was in place as a universal family payment are right to see its advantages. They remember it was very simple and accessible, with a very high take-up rate; and it was paid to the mother exclusively so there was never any argument about whether or not it should be divided in shared care arrangements. It was for the mother to use for the benefit of the child, but often it featured as the only income that she controlled in her own right, so it was very popular amongst women. Another fondly remembered feature was that the Family Benefit could be capitalised for the purchase of the first home, and it enabled many low income families in New Zealand to become proud home-owners.

\(^{14}\) $33 a week in 2011 terms according to the Reserve Bank’s inflation calculator.
By 1990 we were making two kinds of payments to families. One was a targeted per child per week tax-credit called Family Support, which started to reduce at quite a low level of total family income. The other payment was the universal $6 per week Family Benefit. It appeared that extra money we could save by not paying the $6 at the top end could be used to improve what we were doing at the bottom end. Unfortunately, when the National Government abolished the Family Benefit in 1991, it did so by simply adding it to Family Support so that the whole of family assistance became a targeted payment that did not give one extra dollar to those at the bottom. All it did was to save the state money, the extra saved was not re-distributed to the poorest families.

The silence over the demise of the universal Family Benefit was very hard to understand. One would have thought that women’s groups would have been vocal in supporting the retention of that benefit, properly adjusted for inflation. The first lesson to be learned was that arguing that an existing universal payment ought to be continued and expanded is far easier than arguing for it to be re-instated once it is gone. The second is that more targeting of existing payments does not mean the poor will be better off.

The New Zealand welfare system changed from a balanced mix of targeted and universal income support to a highly targeted system following the radical policy upheavals of the early 1990s. By eliminating payments that could be claimed by the better-off, many people believed that redistribution to the poor would become more generous and effective. Such an expectation was held by at least some social liberals in the 1980s. In the 1990s, it became clear that the targeting process marginalises welfare recipients while facilitating wage and tax cuts. The reason for the observed result of diminished rather than enhanced social provision for the poorest is clear. The more that social assistance is means-tested, the longer the income range over which benefit abatement (ie clawbacks) must occur, and/or the higher the rate of abatement must be. To limit this undesirable impact of targeting, benefits must be kept as low as possible. Hence the position of the poor worsens over time. (St John & Rankin, 2009)

During the 1990s the Government’s method of expansion of Family Support was of concern to CPAG. For example, in 1996, the introduction of the so-called Child Tax Credit was the beginning of the discrimination against families in receipt of welfare assistance within the Family Tax Credit System.

In 2001, CPAG argued that the Child Tax Credit, then a $15 per week payment for those not on a benefit, should be replaced with a universal family benefit set at $15 per week per child. Child Poverty Action Group estimated that this would cost $510 million per year, and children from low income families would receive an extra $250 million. The problem now is that we are in a completely different world to that of the first half of the twentieth century. If we were to make the In Work Tax Credit universal now, it would be prohibitively expensive with unjustified gains at the top end for families who have already had their incomes enhanced by generous tax cuts.

During the first decade of the new millennium, the over-all income inequality in society has become much more pronounced (see Chapter 3). There is a huge divide between the poorest families and the wealthiest families who are living lives of extravagance that could hardly be dreamed of in the post war egalitarian period. Today, in 2011, there is severe child poverty amongst 20% of New Zealand’s children, many of whom are children of parents that are denied the In Work Tax Credit.

What, then, can we do? Should we pay every child, say, $50 per week to help solve this problem? If we did that as an addition to Working For Families, it would be extraordinarily expensive: $50 is about $2,500 per year, and we have 1 million children so that is roughly
$2.5 billion annually to give every child in New Zealand an extra $50 a week on top of Working For Families. That much money is simply not available in the 2011 or foreseeable future budgets. Although on the surface it might appear to address child poverty, it is unrealistic, especially given the low tax rates that now apply to the top incomes.

Another option would be to do away with Working for Families and re-distribute those funds as a universal payment. Unfortunately, doing the calculations shows that Working for Families costs $2.8 billion annually, and divided among 1 million children is just over $50 per week per child. Currently, the poorest working family in New Zealand gets $148 a week for the first child, and another $61 for the second child under 15 and more for older children. Clearly, a universal payment would deliver far less than Working for Families for those low income working families. Even for those not getting the IWTC, such a payment would make them worse off than they are currently.

While universal provision is desirable, it is not sensible or fair to argue for that until we are adequately providing tax credits at the lowest end of the income distribution. Extending the In Work Tax Credit (cost $450 million) as suggested in this chapter, is a much more cost effective policy. If we argue for a universal component now, we are arguing to pay child benefits to the wealthy who have become considerably more wealthy than they were a decade ago, while those who were poor have become comparatively and often actually, poorer.

**In summary**

There are very good arguments for a universal payment, but in 2011 we have very wide income disparities and we do not have progressive taxation to fund redistribution. In addition, the poorest children miss out on payments in the current system because payments are tied to their parents’ paid work activity, not solely to income.

A universal payment alone is incapable of addressing child poverty with the current restrictions: fiscally it would mean that in order to make a payment to children that alleviated poverty, the payment level would have to be so high that we could not do it without either raising the top tax rates considerably to pay for it, or sacrificing some other worthy spending. Eliminating poverty has to be the first priority and this requires targeting assistance to the lowest income families. It would be possible (and desirable) to have a universal dimension, comparatively small initially, but the most significant assistance in the immediate future will need to be targeted at the poorest children.
Appendix 3. Lessons from Australia

New Zealand has long been described as a ‘laggard’ in family assistance compared to other OECD countries (Bradshaw, Finch, & Eardley, 2003). Despite Working for Families, New Zealand now falls well behind Australia both in the generosity and in the design of family assistance. In addition there are many niggardly and unsatisfactory aspects to WFF as outlined in this chapter. Profoundly different to New Zealand, in Australia child-related weekly payments are the same for all children, regardless of the source of their parents’ low income, just as they were in New Zealand before 1996.

There are a number of features of the Australian system that make it far simpler, far more generous and humane than New Zealand’s. One critical feature is that most aspects are adjusted annually for inflation. But that is just the start.

Families are entitled to a range of benefits and tax credits, a major one is the Family Tax Benefit A (see Table 5.6). The maximum amount of Australian Family Tax Benefit A does not begin to reduce until parents have an income of A$45,211 and the reduction is only 20 cents for every dollar of income received over the threshold until a base weekly amount of around $40 a week per child is left. Above $94,316 (plus an additional $3,796 for each child after the first) the abatement recommences at a rate of 30%. The income thresholds are annually adjusted for inflation.

<table>
<thead>
<tr>
<th>Table 5.6. The maximum amount of Family Tax Benefit A (Australia) Rates for 2011 (Source: Family Assistance Office (Australia))</th>
</tr>
</thead>
<tbody>
<tr>
<td>For each child Per week*</td>
</tr>
<tr>
<td>Aged under 13 A$94.32</td>
</tr>
<tr>
<td>Aged 13-15 A$118.48</td>
</tr>
<tr>
<td>Aged 16-17* A$39.65</td>
</tr>
<tr>
<td>Aged 18-24* A$48.42</td>
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</tbody>
</table>

Note: payment includes the Family Tax Benefit Part A supplement (A$726.35 per child for the 2010–11 financial year). The supplement can only be paid after the end of the financial year. The Australian dollar figures have not been converted to $NZ dollars, in 2011 the rate is around NZ$1 = A$0.75.

*The budget 2011 increased the payment for older teenagers to the 13-15 rate.

In addition, as shown in Table 5.7 Family Tax Benefit B is paid on a per family basis to families where the principal earner’s income is less than A$150,000 pa.

For two–parent families it is the income of the lower earner that affects how much Family Tax Benefit B the family will receive. The lower earner can have income up to A$4,745 per annum and still receive the maximum rate of Family Tax Benefit Part B. Payments are reduced by 20 cents for each dollar of income earned over A$4,745. Single parents automatically receive the maximum amount of Family Tax Benefit Part B if they have an income of A$150,000 or less per annum.

<table>
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<tr>
<th>Table 5.7. The maximum amount of Family Tax Benefit B (Australia) Rates for 2011 (Source: Family Assistance Office (Australia))</th>
</tr>
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<tbody>
<tr>
<td>For each family where the youngest is aged Per week*</td>
</tr>
<tr>
<td>under 5 A$75.18</td>
</tr>
<tr>
<td>Aged 5-15 A$54.47</td>
</tr>
</tbody>
</table>

Note: the principal earner’s income must be under A$150,000.
If the child is a new baby and the family do not qualify for paid parental leave there is a further A$5,294 Baby Bonus payable equivalent to A$102 a week for the year. The cut out income for the baby bonus is a family income of A$150,000.

All up, the maximum annual assistance for a family with one-child under 13, including families on benefits, is either A$14,108 if there is a baby bonus paid, or A$8,814 if the child is aged 1-4 and A$7,738 if the child is aged 5-13. If the child is aged 13-15 the maximum rate is A$8,993.

The figures for large families and older children are not produced here but also show how much more generous the Australian system is. The only changes made in the Australian 2011 budget were to freeze the annual supplements in the tax credits paid and to freeze the top cut-out threshold of A$150,000 where applicable and bring older children into alignment with younger teenagers. The Family Tax Benefit Part A for older teenagers is to increase by up to A$80 a week, on top of the A$460 million extension of the Education Tax Refund to cover school uniforms.

In addition to the major family tax credits, paid parental leave and the baby bonus, there is a maternity immunisation allowance of A$251 paid without an income test, a healthcare card for those on incomes under A$45,114, and a range of rent assistance, childcare rebates and benefits, all fully indexed.

It is also noteworthy that, to prevent overpayments, part of the Family Tax credits is paid as a bonus at the end of the year.
References


