Reforming the Child Poverty Act

Summary

This short paper sets out:

- Why the current government measures of poverty embedded in the Child Poverty Act 2010 are inadequate;
- What the likely consequences are of government not hitting the child poverty targets for 2020 set out in the Child Poverty Act;
- How the next Government should reform the Act in order to tackle the root causes of poverty.

Introduction

As the Centre for Social Justice has long argued, the current measure of child poverty is inadequate.[1] Crucially, it fails to acknowledge that poverty is about much more than income inequality. To construct a measure of poverty that is both accurate and useful, it is essential that the main drivers of poverty – family breakdown, economic dependency, educational failure, addiction and serious personal debt – are central to its calculation.

As our previous work on this has shown, the misconception of the nature of poverty as a simple income inequality measure has resulted in short-term, narrow, expensive and ineffective policies. These have focused only on redistributive policies that nudge households over the arbitrary poverty line of 60 per cent of the median equivalised income rather than on interventions that tackle the root causes of poverty.

A pressing concern for the next Government will be the fact that this inadequate measure of poverty is embedded in the Child Poverty Act 2010. This legislation requires government to reduce income inequality for households with children according to a range of measures by 2020:

- **Relative low income:** a target of less than 10 per cent of children living in households with an income that is below 60 per cent of the median;
- **Combined low income and material deprivation:** a combined target of less than five per cent of children living in households with an income that is below 70 per cent of the median, and experiencing material deprivation – the inability to afford goods and activities that are typical in society;
- **Absolute low income:** a target of less than five per cent of children living in households with an income that is below 60 per cent of the median, with changes to the value of money since April 1st 2010 taken into account;
- **Persistent poverty:** following a consultation that ended in August 2014, a proposed target of less than seven per cent of children living in households with an income that is below 60 per cent of the median, for at least three out of a four-year period.

[1] E.g. Centre for Social Justice, *Rethinking Child Poverty*, London: Centre for Social Justice, 2012

Because it is highly unlikely that these targets will be hit, the next administration will have to decide whether it will break the law, amend it, or repeal it.

This short paper sets out the flaws in the current measurement, the difficulties the next Government will face as the Act's target date approaches, and some of the options that could be adopted to create effective means of helping families.

The Child Poverty Measurement

The British Government defines child poverty by the four income-related measures, enshrined in the Child Poverty Act 2010.

Of these, the first – relative low income – is normally understood to be the standard measure of child poverty. The Act establishes that a child is considered to be in poverty if they live in a household with an income that is below 60 per cent of the median household equivalised income – currently £440 a week or £22,880 a year.[2]

Whilst this is certainly a measure of inequality, it is highly debatable as to whether it is an adequate or a useful measure of poverty. As the Labour MP, Frank Field, has said, one consequence of the Act and its definition has been to 'straightjacket our understanding of poverty to one particular financial manifestation.'[3]

This fixation on a purely financial measure of poverty has led to purely financial solutions being used to try to alleviate it. As a result, between 2003/04 and 2009/10, the last Government poured £170 billion into Tax Credits as a means of marginally increasing the income of individuals to try and take them over this arbitrary poverty line.[4] However, despite the enormous amount of money spent, this resulted in only a four percentage point reduction in the number of children deemed to be in poverty over the same period.[5]

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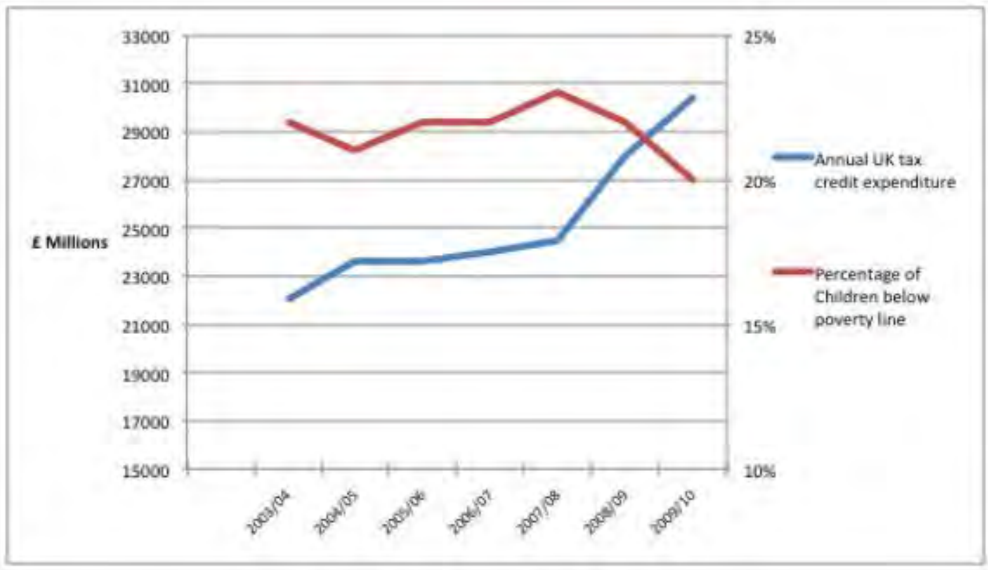
[2] Figure provided by the DWP, *Households Below Average Income Statistics: 1994/1995 to 2012/2013* p.3 [accessed via: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325416/households-below-average-income-1994-1995-2012-2013.pdf (03/02/15)]. This and all following figures are Before Housing Costs (BHC)

[3] Frank Field, *The Report of the Independent Review of Poverty and Life Chances*, London, HM Government, 2010

[4] DWP, *Consultation on the Child Poverty Strategy, 2014-17*, HM Government, 2014, p.22 [accessed via: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285387/Cm_8782_Child_Poverty_Strategy_Consultation_Print.pdf (13/03/15)]
DWP, Benefits expenditure and caseload tables 2014, *Outrun and forecast: Autumn Statement 2014*, [accessed via: https://www.gov.uk/government/statistics/benefit-expenditure-and-caseload-tables-2014 (02/03/15)]

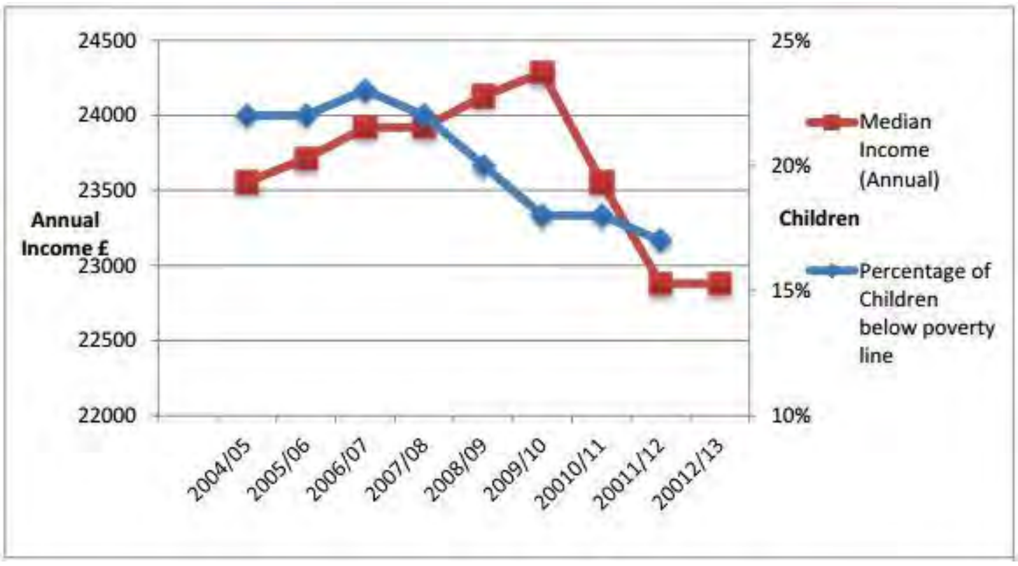
[5] DWP, *Households Below Average Income: An analysis of income distribution 1994/95 – 2012/13*, 2014, p.53 [accessed via: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325416/households-below-average-income-1994-1995-2012-2013.pdf (02/03/15)]



Source: DWP, *Households Below Average Income: An analysis of income distribution 1994/95 – 2012/13*, 2014, p.53; DWP, Benefits expenditure and caseload tables 2014, *Outrun and forecast: Autumn Statement 2014*

Other than its limited scope, the relative income measure has a number of obvious shortfalls.

First, under this measure a family can be moved into or out of poverty without any change in their circumstances. If the median income falls, so too will the 'poverty line'. Between 2007/08 and 2012/13, due to the financial crisis, the median income fell from £23,920 to £22,880, a percentage drop of 4.35 per cent.[6] Consequently, during the same period, the percentage of children considered to be living in poverty fell from 23 to 17 per cent.[7]



Source: DWP, Households Below the Average Income: an analysis of income distribution 1994/95 – 2012/13

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[6] ibid, p.32

[7] Figure provided by the DWP, *Households Below Average Income Statistics: 1994/1995 to 2012/2013* p.53 [accessed via: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/325416/households-below-average-income-1994-1995-2012-2013.pdf (20/03/15)]

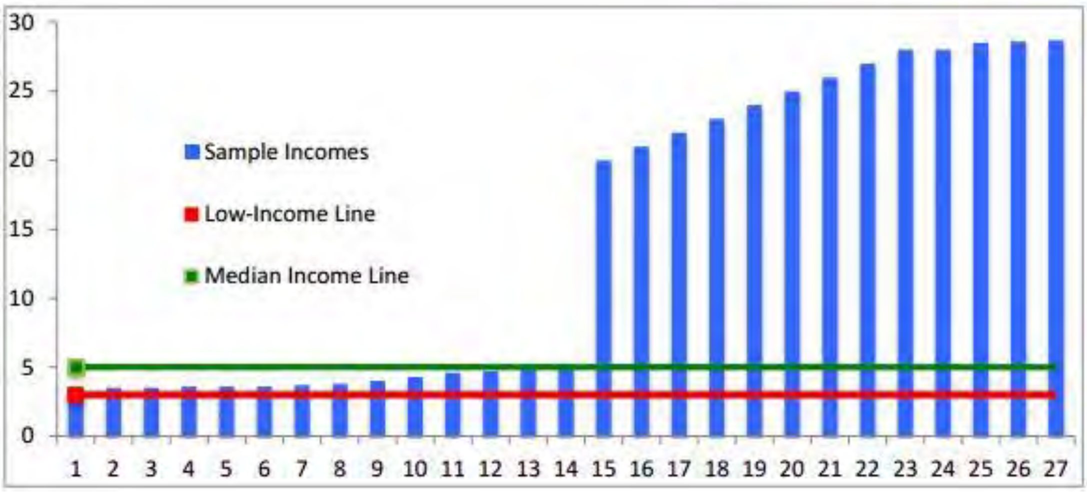
By the same token, a rise in the size of the state pensions will lift the median income and thereby push more children below the 'poverty line'. This approach effectively means that a child can go to bed in poverty and wake up out of it, despite nothing having changed in their lives.

Second, using a measure with this sort of 'cliff edge' approach fails to distinguish between those who are a long way from the line and those who are just above. In practice this incentivises government to push people just over the 'poverty line' – so-called 'poverty plus a pound'.

Third, crucially, the reduction of poverty to an arbitrary line tells us very little about the issues that are really affecting people's lives. Our own research has shown that poverty is caused by complex, interlocking factors such as worklessness, family breakdown, educational failure, addiction and serious personal debt.[8] A measure which fails to take account of the extent to which families are affected by these problems cannot give a nuanced picture of poverty in the UK.

Fourth, the current measure creates a rather misleading impression of poverty when figures are compared over time and with other countries. Relative low income is now higher than it was through the 1960s and 1970s, despite the fact that material living standards have risen substantially in the past 40 years.[9] Similarly, the UK could be said to have higher levels of poverty than other, much poorer countries where far more people are materially deprived, such as Hungary or South Korea. Interestingly, if relative low income is considered across the whole of the EU then a rather different picture emerges. The 2013 median equivalised income in the EU is obviously considerably lower than in the UK and is thought to be about £10,220; by this measure, only 2.55 per cent of UK children would be considered to be in poverty.[10]

Last, despite the fact that this is an inequality measure based around median income it would still, technically, be possible for enormous inequality to exist and for child poverty to be non-existent. In the following fictitious country, a slight minority of households earns significantly more than the median income, whereas the remainder earns just at or below the median weekly income. The result is the technical elimination of 'child poverty'.



[8] See, e.g. *Breakthrough Britain*; *Breakthrough Britain 2015*
[9] IFS, *Living Standards, poverty and inequality in the UK: 2012*, p.77 [accessed via: http://www.ifs.org.uk/comms/comm124.pdf (13/03/15)]
[10] For the EU median income see Eurostat, *Mean and Median Income by household type* [accessed via: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_di04&lang=en (13/03/15)]; for the percentage of UK children below the respective poverty thresholds: DWP, *Households Below Average Income: An analysis of income distribution 1994/95 – 2012/13*, 2014, data behind table 4.5 p.52.

The Child Poverty Act 2010

Ten weeks before the 2010 General Election, the Labour Government passed the Child Poverty Act with cross-party support. This bound its successors to substantially reduce child poverty according to the four income-related targets listed above by 1 April 2020.

Given the financial crisis and the large amounts of debt the Government had been forced to take on to rescue the banks, it was already extremely unlikely that future administrations would be able to meet these targets. In 2009, the Institute for Financial Studies (IFS) estimated that reducing the child poverty rates to 10 per cent in 2020 solely through the tax and benefit system would cost something in the order of an additional £19 billion.[11] It would also greatly damage work incentives within the benefit system.

More recently, Alan Milburn, Chair of the Social Mobility and Child Poverty Commission, has said:[12]

> *We have come to the reluctant conclusion that there is no realistic hope of the statutory child poverty targets being met in 2020. None of the main political parties have been willing to speak this uncomfortable truth. They are all guilty in our view of being less than frank with the public. It is vital that the next Government comes clean.*

As 2020 approaches the next Government will need to decide how it will deal with the fact that it will be unable to hit these targets set down in law.

The CSJ has taken legal soundings on the likely consequences of government failing to hit the poverty targets. We have been told that whilst there is little chance that any legal action against the Government could result in an award for damages by children left in relative low income – the Act makes no explicit promises about who will be taken out of relative low income, and allows for up to 10 per cent of children to remain there – there would still be potential legal problems.

It is highly plausible that government policy in this field will become open to legal challenge. We have been told that the Government will find itself increasingly more susceptible to judicial review as the 2015 Spending Review, each annual child poverty report, and each child poverty strategy are published in the run up to 2020. As that date nears, it will be possible to argue that a strategy published in advance of 2020 could not rationally result in the Government meeting its duty to hit the targets and, consequently, it may be possible to persuade the courts to require the Government to take action that would lead to the duties being met. This was certainly the intention of the Government which passed the Act. In 2009, then Financial Secretary to the Treasury, Stephen Timms MP, told the Work and Pensions Select Committee that:[13]

> *In the way the Bill has been drafted, the commitment to hit those four targets is binding by 2020 … the only way to avert the possibility of a judicial review forcing a future government to take whatever steps are needed to hit the target would be for the legislation to be repealed.*

[11] IFS, Child Poverty *During the Recession and Beyond*, 2009, p.4 [accessed via: http://www.ifs.org.uk/economic_review/fp271.pdf (13/03/15)]

[12] 'State of the Nation 2014', 20 October 2014, [accessed via: https://www.gov.uk/government/speeches/state-of-the-nation-2014 (20/03/15)]

[13] Then Financial Secretary to the Treasury, the Rt Hon Stephen Timms MP, to House of Commons Work & Pensions Committee, Child Poverty, 17 June 2009, www.publications.parliament.uk/pa/cm200809/cmselect/cmworpen/702/9061702.htm

Although English courts are normally reluctant to interfere in the economic management of the country, it might be possible to argue that, for example, tax cuts for higher earners applied at the same time as cuts in benefits for poorer households, would make it impossible for the Government to meet its legal obligations. While such a claim would not be without its difficulties, the consequences of a successful challenge could have profound implications for government policy and spending plans, and could also cause deep political embarrassment to any Government that slept walked into such a situation.

If attempted judicial reviews fail and the Government is not obliged to change its spending plans to hit the targets, then, once the deadline has passed, the Act will become defunct and its functions obsolete. So either the Act will achieve its purpose of reducing relative low income at the expense of everything else or it will fail to have any effect at all. This makes reform of the legislation highly necessary. Indeed, as the risk of successful judicial review is likely to increase as 2020 approaches, it is important to make changes as soon as possible.

Reforming the Child Poverty Act

The options for the next Government are threefold:

- Leave the legislation as it is;
- Repeal the legislation;
- Amend the legislation.

As discussed above, the first option brings with it considerable risks of government being obliged by judicial review to change its spending plans, and the second would miss the opportunity to turn the Act into something which could assist and encourage government in undermining disadvantage (it is also highly unlikely to be politically acceptable). The question then, is how best to refine the Act.

The CSJ has heard that there will be a strong temptation for the next Government simply to change the target date to, say 2030. This would be extremely unfortunate as it would not tackle the underlying weaknesses in both the measure and the legislation. In framing poverty in a narrow, financial way, the Act fails to encourage government to tackle the root causes of poverty. Yet, as the legal discussion above shows, even though the previous Government intended this to be 'a strongly binding target' and that 'the obligations to hit the target will be mandatory', in practice this has not led to the target being met.[14] This exposes the grave limitations of this type of legislation.

However, the CSJ believes that a reformed Act could be used to encourage government to tackle the root causes of poverty which hold families back. For this reason we recommend that government overhaul its whole child poverty strategy by:

1. Changing the measures of poverty to metrics that can ascertain who needs what help;
2. Amending the Child Poverty Act to reflect these measures.

The measures should take account of children's and families' life chances in specific areas (discussed below). The reformed Act should not set ineffective targets in legislation, but instead oblige

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[14] Then Financial Secretary to the Treasury, the Rt Hon Stephen Timms MP, to House of Commons Work & Pensions Committee, Child Poverty, 17 June 2009, www.publications.parliament.uk/pa/cm200809/cmselect/cmworpen/702/9061702.htm

incoming governments to:

- Set out a five-year strategy to reduce disadvantage as defined by the new measures;
- Publish annually national and local data on each of the measures;
- Report annually to Parliament on its progress.

The work of the CSJ has repeatedly shown that the major barriers that families face are:[15]

- Unemployment (and long-term unemployment) in the household;
- Family breakdown;
- Educational failure (both of parents and children);
- Addiction;
- Serious personal debt.

The CSJ therefore recommends that the Child Poverty Act be reformed to include the following measures for children whose parents are eligible for, or have recently been eligible for, Jobseekers Allowance or Employment and Support Allowance:

- **Worklessness:**
    - Number / proportion of children growing up in households in which:
        - no one works;
        - no one has sustained work (e.g. out of work for four of five last years);
        - no one has ever worked;
- **Family breakdown:**
    - Number / proportion of children growing up;
        - in lone parent households;
        - in care;
- **Educational failure:**
    - Number / proportion of children:
        - entering school aged four who are not school ready;
        - attending a school which is Inadequate or Requires Improvement;
        - at 11 who do not reach the required level in English and mathematics at Key Stage 2;
        - at 16 who do not achieve five A* to C grades at GCSE;
        - in households with an adult who is functionally illiterate or innumerate;
- **Addiction:**
    - Number / proportion of children:

[15] E.g. *Breakthrough Britain*; *Breakthrough Britain 2015*.

        - in households with an adult who is addicted to drugs or alcohol;

- **Serious personal debt:**
    - Number / proportion of children:
        - in households with problem debt;
- **Other issues, e.g.:**
    - Number / proportion of children in households with:
        - an adult who has mental health problems;
        - poor housing conditions.

In addition to considering those children whose parents are eligible for, or have recently been eligible for, JSA or ESA, the measures should also capture the number of children living in households in which:

- no adult receives an income equivalent to the Living Wage;
- no adult has received an income equivalent to the Living Wage for two or more years.[16]

Conclusion

The Child Poverty Act is very likely to fail in its attempt to oblige governments to eliminate relative low income. It is time to stop playing a game that pretends otherwise. The limitations of this sort of legislation must be recognised and the opportunity must be taken to reframe the argument about what problems government and should – and, practically, can – solve.

Reframing the Child Poverty Act to push government towards tackling the root causes of poverty, rather than just to focus on the short-term redistribution of money, would lead to government implementing policies that will improve the lives of poor families, and strengthen British society as a whole. The next Government will need to act swiftly, ideally within its first year in power. It may find itself susceptible to judicial review once the 2015 Spending Review is published – it will certainly be more open to legal action after the 2017 Poverty Strategy appears. But more importantly, it should want to seize the opportunity to refocus future administrations' efforts on tackling poverty's root causes, not simply its symptoms.[17]

[16] For the CSJ's recent work on low pay, see Skelton, D, *Tackling Low Pay*, London: Centre for Social Justice, 2015

[17] The CSJ would like to thank Ben Silverstone and Stephen Robins for their help.