

## **POLICY NOTE**

### **THE WELFARE REFORM (CONSEQUENTIAL AMENDMENTS) (SCOTLAND) REGULATIONS 2017**

#### **SSI 2017/182**

1. The above instrument is made in exercise of the powers conferred by section 1(1) of the Welfare Reform (Scotland) Act 2012. The instrument is subject to negative procedure.

#### **Policy Objectives**

2. The purpose of this instrument is to amend the qualifying benefits, receipt of which allow a child to become eligible for both free school lunches and the funded early learning and childcare entitlement (in the case of 2 year olds).
3. This instrument amends both the Education (School Lunches) (Scotland) Regulations 2009 ('the 2009 Regulations') and the Provision of Early Learning and Childcare (Specified Children) Order 2014 ('the 2014 Order') to set an earned income threshold of £610 per month (based on an equivalent earned income of £7320 per year) where a child (in the case of free school lunches) or a child's parent (in the case of free school lunches and early learning and childcare) is in receipt of Universal Credit.
4. Both free school lunches and the funded entitlement to early learning and childcare for 2 year old children are 'passport benefits', where the entitlement depends on claimants being in receipt of certain benefits, as set out in the 2009 Regulations and the 2014 Order.
5. The inclusion of all Universal Credit claimants in the qualifying criteria in the 2009 Regulations, as amended and the 2014 Order, as amended, was intended to be an interim measure to ensure that no child was disadvantaged during the roll out of Universal Credit. As Universal Credit continues to roll out across Scotland, incorporating a broader range of claimants, an income threshold is required to ensure these passport benefits remain appropriately targeted.

#### **Introduction of Universal Credit Earnings Threshold**

6. The changes to the 2009 Regulations have the effect of introducing a maximum earnings threshold of £610 per month to the qualifying Universal Credit criteria. This will mean that a child in a household in receipt of Universal Credit will qualify for a free school lunch where the child's, or their parent's, earned income is £610 or less per month. This will apply to individuals and to couples, where the combined earned income is £610 or less per month.
7. On free school lunches, the threshold calculations are based on DWP data modelling. The income threshold selected is aimed at maintaining the number of children entitled to free school lunches before the introduction of Universal Credit. This helps maintain the status quo and provide for the most disadvantaged children, while avoiding new financial burdens for local authorities.

8. The changes to the 2014 Order also have the effect of introducing an earnings threshold of £610 per month to the qualifying Universal Credit criteria. This will mean that a 2 year old will qualify for an ELC place where their parent(s) are claiming Universal Credit and the household earned income is £610 or less per month.
9. It will remain the case under article 2(5) of the 2014 Order that once a child has taken up their funded early learning and childcare place, they will remain eligible for their funded place regardless of whether their parents circumstance change.
10. Once introduced, these thresholds will be kept under review both as Universal Credit rolls out more widely and after full roll out has been achieved.
11. The amendments made by this instrument will come into force on 1 August 2017.

### **Consultation and Impact Assessments**

12. The inclusion of all Universal Credit claimants in the qualifying criteria in the 2009 Regulations (as amended) and the 2014 Order (as amended), was intended to be an interim measure to ensure that no child was disadvantaged during the roll out of Universal Credit. This was stated in the Policy Note for the Provision of Early Learning and Childcare (Specified Children) Amendment Order 2015, and as such stakeholders have known of the Scottish Government intention to amend the 2014 Order further as Universal Credit roll out increased.
13. The Children and Young People (Scotland) Act 2014 (“the 2014 Act”) provisions were designed to enable expansion of early learning and childcare to wider cohorts of children, and there is wide consensus around the desire to expand the entitlement to some 2 year olds who will benefit the most, as evidenced through the passage of the 2014 Act. There was ongoing engagement and consultation with key stakeholders and delivery partners at the time to ensure that implementation of the duties under the 2014 Act was manageable and affordable and provision is high quality.
14. There have been recent discussions with COSLA on the proposed changes to free school lunch criteria and early learning and childcare.
15. COSLA understand the need to introduce this change as Universal Credit roll out increases across Scotland and appreciate that the addition of a new income threshold for these claimants helps manage associated financial burdens arising for local authorities as free school lunch entitlement can be linked to other local entitlements.
16. The income threshold has been set to maintain the status quo and offer broadly the same level of entitlement that existed to free school lunches and early learning and childcare before Universal Credit was introduced. The underlying principles are that:
  - Entitlement should remain broadly the same;
  - Children and families should continue to benefit directly from the Scottish Government’s free school lunches and early learning and childcare policy and the available resource should be targeted to help the families most in need; and
  - There should not be a new financial burden on local authorities.

17. Once the new monthly income threshold is introduced, there may be a number of families who have qualified for free school lunches as a result of receiving Universal Credit who lose that entitlement because their monthly earned income exceeds that of the new income threshold. Broadly, the status quo policy position means that we also expect an equal number of families to gain access to this entitlement.
18. In terms of the targeting of early learning and childcare for 2 year olds, a full Equality Impact Assessment (EQIA) was completed as part of the Children and Young People (Scotland) Act 2014.
19. An EQIA has also been completed on the provisions in this instrument. It is not considered that this instrument will be discriminatory on the basis of age, disability, race, religion or belief, sex, sexual orientation or gender reassignment.

### **Financial Implication**

20. The income threshold proposed is based on income modelling which broadly maintains the current level of entitlement to both free school lunches and early learning and childcare for eligible 2 year olds.
21. As such, it was not considered necessary or proportionate to complete a Business and Regulatory Impact Assessment. It will be possible to revise the threshold in the future if it is considered necessary, for example if Local Authorities report a significant change to the financial impact of setting the threshold at this level or if the profile of who is eligible changes outwith the current expected cohort.

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