

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2023
Summary of aims and desired outcomes of Policy	<p>This is an amendment to secondary legislation in order to protect children’s eligibility for the targeted entitlement to funded early learning and childcare (ELC) for some 2 year olds.</p> <p>This follows UK Government changes to increase the National Living Wage from April 2023.</p>
Directorate: Division: team	Early Learning and Childcare: Targeted Childcare and Family Wellbeing Team

Executive summary

The purpose of these amendments is to maintain the profile of the eligible 2 year old population following the increase of the National Living Wage in April 2023.

The Equality Impact Assessment process on this amendment is based on the previous uprating Regulations in 2022. We have concentrated on updating our sources of information and assessing whether any of the protected characteristics are likely to be represented in the profile of families meeting this specific eligibility criteria.

Through this process we have identified some positive impacts on the basis of sex, disability, race and religion or belief as these groups appear more likely to meet the relevant eligibility criteria. In particular for women who are more likely to head lone parent households.

We have not identified any elements of this amendment that discriminate against any of the protected characteristics either directly or indirectly.

Background

Local authorities are required to provide access to statutory funded early learning and childcare (ELC) for any 'eligible... pre-school child belonging to their area'. This includes all 3 and 4 year olds (from a relevant start date) and some 2 year olds .

The definition of an 'eligible pre-school child' is set out in section 47(2) of the Children and Young People (Scotland) Act 2014 ('the 2014 Act') and in Regulations made under that section: the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 ('the 2014 Order').

Local authorities also have a discretionary power to provide access to funded ELC to any other child as they see fit.

The criteria for eligible 2 year olds set out in legislation are currently that the child: is care experienced themselves, or has a parent in receipt of a 'qualifying benefit'. There is also a national agreement that local authorities will provide access to 2 year olds with a care experienced parent. More information on eligibility criteria can be found online if you search on mygov.scot for 'Funded early learning and childcare'.

We estimate that over 90% of eligible 2 year olds meet criteria relating to their parent receiving a qualifying benefit.

This instrument amends the income threshold for two of the eligibility criteria covered in the 2014 Order related to eligible 2 year olds. The criteria relate to children who are eligible for access to funded ELC at age 2 due to their parents' receipt of: a joint Working Tax Credits and Child Tax Credit claim; or Universal Credit. We intend to increase the thresholds:

- From £7,920 for those in receipt of a joint Working Tax Credits and Child Tax Credit claim to £8,717 per annum.
- From £660 per month for those in receipt of Universal Credit to £726 per month.

Through previous amendments to regulations, we introduced an income threshold for those families in receipt of Universal Credit, which is aligned to the threshold for those receiving Working Tax Credit and Child Tax Credit.

Our most recent amendment was through the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2022 which had the effect that a child is eligible when a parent receives: Child Tax Credit and Working Tax Credit, with an annual household income of £7,920 or under, or; Universal Credit, and take home pay is £660 a month or less.

The UK Government confirmed during their budget announcement on 17 November 2022 that the National Living Wage would increase from 1 April 2023, from £9.50 to £10.42 .

In order to be in receipt of Working Tax Credit, a claimant must work at least 16 hours per week. As a result, this will mean that, from 1 April 2023, it will no longer be possible for a parent aged 23 and over to meet the combined Working Tax Credit and Child Tax Credit criterion.

If a parent is aged 23 or over and works 16 hours per week at £10.42 per hour, their annual income would be at least £8,699 – which is above the current threshold.

Impact

The amendment aims to largely maintain the status quo by protecting eligibility for households that have seen an increase in their earnings due to the increase in the National Living Wage.

Household circumstances for these families will not have materially changed as a result of the increase in the National Living Wage given the impact of cost of living rises. We do not anticipate there being any significant increase in the number of 2 year olds becoming newly eligible as a result of this change. If we make no changes to the threshold, previous modelling suggests the eligible population decreases by around 1,000 children.

It is important to note however that no 2 year old currently accessing the funded entitlement will lose out, as eligibility is only assessed once before

the child begins provision. Once the child is accessing their funded place they will retain it, even if their family's circumstances change.

The Scope of the EQIA

This Equality Impact Assessment (EQIA) considered the likely profile of eligible households. In order to understand the barriers or impacts that parents or carers in receipt of the qualifying benefits and or eligibility criteria may face as a result of the proposed increase to the income threshold, a number of publications were reviewed including:

- a) Annual Survey of Hours and Earnings 2022
- b) Scottish Household Survey 2019
- c) Poverty and Income Inequality in Scotland 2017-20
- d) Sexual Orientation in Scotland 2017: A Summary of the Evidence Base
- e) Is Scotland Fairer?
- f) Best Start, Bright Futures
- g) Child and Working Tax Credits statistics
- h) Universal Credit statistics
- i) Summary statistics for schools in Scotland (ELC section)
- j) Children's Social Work Statistics Scotland
- k) Scottish Study of Early Learning and Childcare

Key Findings

The available data shows that ethnic minority households and households with a disabled adult or child have a higher risk of being in relative poverty. It is likely that these households will continue to be positively affected by the planned change if they fit the criteria for receiving Working Tax Credits and Child Tax Credits or Universal Credit.

However, we do not currently have access to data that would allow us to assess the extent to which these households contribute to the specific population targeted by the change in eligibility criteria.

Therefore we can only indirectly make an assumption that these specific protected characteristic groups (in particular Sex, Race and Disability) are more likely to be impacted positively.

Recommendations and Conclusion

The EQIA process has identified the potential for limited positive impacts in particular for: single lone parents which appear to be more directed towards women; ethnic minority households and; households with a disabled adult or child.

If these families meet the eligibility criteria it is highly likely that they will benefit from the increase to the income threshold.

The EQIA is a working document and will be reviewed to reflect any new evidence or information that may impact any of the protected characteristics as a result of this amendment to secondary legislation.