

Equality Impact Assessment - Results

Title of Policy	The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2024
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 two-year-olds.</p> <p>This follows UK Government changes to increase the National Living Wage from April 2024.</p>
Directorate: Division: team	<p>Directorate for Children and Families:</p> <p>Early Learning and Childcare Division:</p> <p>Targeted Childcare and Family Wellbeing Team</p>

Executive summary

The purpose of these amendments is to maintain the profile of the eligible two-year-old population following the increase of the National Living Wage in April 2024.

The Equality Impact Assessment process on this amendment is based on the previous uprating Regulations in 2023. 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 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 three- and four-year-olds (from a relevant start date) and some two-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 an Order 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 two-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 two-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 80% of eligible two-year-olds meet criteria relating to their parent receiving a qualifying benefit.

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

- From £8,717 for those in receipt of a joint Working Tax Credits and Child Tax Credit claim to £9,552 per annum.
- From £726 per month for those in receipt of Universal Credit to £796 per month.

Changes to Eligibility

Through previous amendments to the 2014 Order, we introduced a maximum income level for those families in receipt of Universal Credit, which is aligned to the level 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 2023 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 £8,717 or under, or; Universal Credit, and take home pay is £726 a month or less.

The UK Government confirmed during their budget announcement on 22 November 2023 that the National Living Wage would increase from 1 April 2024, from £10.42 to £11.44. The age at which the National Living Wage is to be paid also decreases from age 23 to those age 21 and over.

In order to be in receipt of Working Tax Credit, a claimant must work at least 16 hours per week.

If a parent is aged 21 or over and works 16 hours per week at £11.44 per hour, their annual income would be at least £9,536 – which is above the current maximum income level set out in the combined Working Tax Credit and Child Tax Credit criterion.

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 the cost of living crisis. We do not anticipate there being any significant increase in the number of two-year-olds becoming newly eligible as a result of this change. If we make no changes to the maximum income level, we estimate the eligible population decreases by around 400 children.

It is important to note however that no two-year-old currently accessing the funded entitlement will lose out. 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.¹

Key Findings

The available data shows the possibility of positive impacts on the basis of sex, disability and race 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.

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.

¹ Including: [Executive Summary - Scottish Study of Early Learning and Childcare: Phase 1 Report - Updated 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/executive-summary-scottish-study-early-learning-childcare-phase-1-report-updated-2021/pages/1-100.aspx); [Early learning and childcare \(ELC\) - Summary statistics for schools in Scotland 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/early-learning-childcare-early-learning-childcare-elc-summary-statistics-for-schools-in-scotland-2023/pages/1-100.aspx); [Poverty and Income Inequality in Scotland 2019-22 \(data.gov.scot\)](https://data.gov.scot/dataset/poverty-income-inequality-scotland-2019-22); [Scottish Household Survey 2022: Key Findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-household-survey-2022-key-findings/pages/1-100.aspx); [Scotland's Labour Market Overview: December 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scotland-labour-market-overview-december-2023/pages/1-100.aspx).

Therefore we can only indirectly make an assumption that these specific protected characteristics groups 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; some 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 maximum income level.

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.