

Period Products (Free Provision) (Scotland) Act 2021

**Guidance for Responsible Bodies –
September 2021**

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Introduction

This Guidance is published under section 5 of the Period Products (Free Provision) (Scotland) Act 2021 (“the Act”) and provides guidance to responsible bodies¹ about the exercise of the functions conferred on them by the Act.

Building on the existing voluntary provision in education and community settings funded by the Scottish Government since 2018/19, the Act will ensure that **everyone in Scotland who menstruates** can have reasonably convenient access to period products, free of charge, as and when they are required. This includes visitors to Scotland for the duration of their stay.

While responsible bodies are not compelled to follow the Guidance, they must have regard to it when putting in place arrangements to exercise their functions. This Guidance will ensure that a high standard level of service delivery is in place across Scotland in accordance with the Act. Responsible bodies are encouraged to seek to learn from good practice to enhance and/or refine delivery.

Section 1 of the Act places a duty on Local Authorities to make period products obtainable free of charge for anyone who needs to use them. Section 2 of the Act places a duty on education providers to make period products obtainable free of charge on their premises for pupils and students during term time. Section 3 of the Act allows Scottish Ministers to specify public service bodies who have to make period products obtainable free of charge to people on their premises. No bodies have been so specified at the point of the initial publication of this Guidance.

¹ Local authorities, education providers and specified public service bodies

Part A - Guidance for all responsible bodies

There are a number of overarching principles which all responsible bodies should follow in discharging their duties under all sections of the Act. These are covered in Part A.

1. Meeting individual needs

The Act states in both Section 1 and Section 2 that sufficient products must be obtainable for free to meet a product user's needs either while in Scotland (Section 1) or during term time (Section 2). In relation to Section 3 sufficient products should be obtainable to meet an individual's needs while they are on the premises.

There must be no judgement as to the need, no limit to the amount of products an individual can take, nor attempts to 'ration' products. Individuals don't need a reason to access the products, above and beyond the fact that they menstruate, however individual needs in terms of period products could vary considerably due to the reason for the need arising, including

- a) a period starting unexpectedly or forgetting to bring a product from home
- b) ongoing need due to low income
- c) ongoing need for another reason
- d) higher than average need due to a medical condition

All of the above are valid reasons for needing to access free products, however it may be that, following consultation, different arrangements are put in place to meet different needs, e.g. single products or bulk supply available in different places. However in all cases, an individual should be able to access sufficient products to meet their needs and the principles set out in this Guidance should be met, regardless of how the need arises. Care must be taken to ensure that the frequency of restocking products is sufficient to meet demand.

2. Local Arrangements

The Act requires responsible bodies to meet their duties by establishing and maintaining arrangements for making period products obtainable for free. They have flexibility as to how they do this in practice; however, the arrangements put in place must respect the particular requirements set out below and bodies must consult with relevant people before putting in place their arrangements (see Consultation below). All responsible bodies must also produce a Statement on Exercise of Functions that summarises the arrangements that will be put in place to meet the duty.

3. Particular requirements

The Act specifies particular requirements that the arrangements put in place by all responsible bodies must meet, namely that they must make products reasonably easy to obtain, respect dignity and offer a reasonable choice of types of period products.

Reasonably easily

Where and how free products can be obtained should be neither complex nor bureaucratic. As described in the Dignity section below, products should be freely accessible from places where individuals are comfortable doing so without having to ask for them, or justify why they need them or the amount that is needed. However in relation to rural areas for example, different approaches may be needed to take account of the limited number of locations where products could be obtained.

There is no requirement on responsible bodies to provide their full range of products in a single, or every, location. It may be the case that individual products are accessible in certain locations while bulk products may be obtained from others. Reasonable ease should include ease of physical access for those with physical disabilities or mobility issues.

Providing information to the public should contribute to the products being reasonably easy to obtain. In addition there should be no forms to complete or other information required before people can access products, unless this information is necessary to respond to local asks around design or to allow postal delivery.

Respect for Dignity

Period products should be obtainable in a way that respects the dignity of individuals obtaining them. This principle has been in place since Scottish Government first made a commitment to make period products available for free. Dignity should therefore already be underpinning voluntary delivery, however it becomes a statutory requirement when the Act comes into force.

While progress has been made in recent years to tackle the stigma associated with menstruation and period products, people who need to access period products for free may still find this an embarrassing situation and any potential embarrassment should be minimised as much as possible. Therefore, the ways in which, and places where, products are made obtainable should consider the needs and wishes of users in relation to privacy (including for religious and/or cultural reasons) and avoiding anxiety or embarrassment. One example of avoiding embarrassment may be to consider discreet packaging, particularly where products are obtained from busy locations.

As part of wider work to tackle the stigma around menstruation and period products, responsible bodies should consider the importance of normalisation and visibility. Offering a dignified response does not necessarily require hiding products away. There is no statutory definition of dignity in relation to the Act. However, a dignified approach would ensure that products could be easily accessed in a place where individuals are comfortable doing so, as identified through consultation. Individuals having to

- ask someone for products
- justify why they need them
- justify the amount that is needed

would not generally be considered a dignified approach. However, different arrangements may be put in place to access free reusable products which may require individuals to ask for these products, given the significantly increased cost over single use products.

Reasonable Choice

Which type of period product an individual uses is a matter of personal preference that responsible bodies must take into account when deciding which products to make available free of charge in meeting their duty.

Within the Act period products are defined as

“manufactured articles the purpose of which is to absorb or collect menstrual flow”.

The Act further states that “types of period products include tampons, sanitary towels and articles which are reusable”.

Responsible bodies are required to provide for a reasonable choice of different period products to be available, although the full range of products does not have to be available in all locations or through all delivery methods.

In terms of this requirement local authorities and education providers would be expected to make at least one type of tampon, sanitary towel and reusable product available.

Responsible bodies must consult on the types of products that people would like to be made available. Responsible bodies should not make assumptions about which products particular individuals may wish to use, and should take account of consultation responses on this point. They are not obliged to make particular brands of products available, nor every absorbency of a particular type of product, merely a reasonable choice should be available. However best practice, and meeting individual needs, in relation to offering reasonable choice would include offering a choice of different sizes and/or absorbencies of single use products and, in relation to local authorities, more than one type of reusable product. It may be that greater choice is provided for bulk product supplies than for single products.

Consideration of the environmental impact of single use period products

The environmental impact of single use period products is considerable and there is growing interest in reusable period products. All responsible bodies should consider the most appropriate way to make reusable period products available for free for those who wish to use those types of products. There should be no pressure applied to people who do not wish to use reusable products but consideration should be given to making sustainable or plastic-free products available as part of the choice of products.

Consultation by responsible bodies should cover which types of reusable products people may wish to be able to obtain and the appropriateness of putting in place different arrangements for obtaining them as mentioned above.

Example

Dundee University: “We have built in a strong commitment to environmental sustainability, purchasing products made with 100% organic cotton materials and will purchase [] biodegradable products for the incoming academic year. Our project lead contributed to research by Edinburgh University around the environmental sustainability of sanitary products in 2019/2020 and discussed how this fits in with the UN sustainability goals”.

4. Inclusion

Not everyone who menstruates identifies as female, therefore as part of ensuring a dignified approach, responsible bodies must ensure that the arrangements put in place to meet their duties allow any individual who menstruates, including transgender men and non-binary individuals, to access products. The language that is used in consultation, published arrangements and delivery should be considerate of equalities. In addition, in some cases men may wish to access products for free for family members or partners.

In practice this is likely to require products to be available for free in, for example, at least some gender neutral toilets, disabled toilets (where these are recommended for use by people who menstruate but do not wish to use female toilets), or male-only spaces. A proportionate approach is acceptable, as long as it is clear to everyone, whether they need to use products themselves, or they are collecting products on behalf of someone else, where they can access free products. No-one should be asked for the reason they are collecting products.

5. Statement on Exercise of Functions

Each responsible body must publish a written statement setting out how they will exercise their functions under the Act. Responsible bodies must publish their first statement as soon as is reasonably practicable after receiving this Guidance and can publish subsequent statements at any time in the future. Responsible bodies may wish to undertake periodic review of local arrangements, consultation and publication of a new statement.

Before drafting a statement, responsible bodies must undertake consultation as set out below.

The statement must explain how the body has met the Particular Requirements set out in section 4 of the Act and how it has had regard to this Guidance. It must also include a summary of the arrangements put in place for making period products obtainable free of charge and the plans for making information available to individuals about how and where they can access free products. It would be good practice for the statement to include how the responsible body undertook consultation, including who was consulted.

Each statement produced under this section is to be published by the responsible body, however the format of the statement, or where it should be published are not mandated in the Act. Responsible bodies should consider how to make this statement accessible to all.

Local authorities have duties under sections 1 and 2. It is acceptable for a single statement on exercise of functions to be produced, but the statement must separately set out the arrangements for duties in relation to access to free products in schools (under section 2) and more widely (under section 1). Local authorities may alternatively publish two separate statements.

6. Consultation

The Act requires responsible bodies to consult with individuals on the arrangements that should be put in place to fulfil their duties.

To ensure that the arrangements meet people's needs, responsible bodies should consult with individuals who may either

- a) need to use free products currently
- b) need to use products in the future or
- c) need to collect products on behalf of someone who needs to use products
(Section 1 duties only)

The consultation that is carried out by all responsible bodies should be open to those of any gender identity and accessible by individuals of any age. Consideration should be given to producing materials that are child and youth friendly.

The consultation should seek the views of respondents to the points below. Responsible bodies would not be meeting their duties under Section 7 if they simply set out a statement of what the arrangements will be and ask individuals whether they are content. However it would be acceptable for responsible bodies to seek feedback on existing voluntary provision and on any changes that people think are needed to this as part of the statutory consultation. Some specific issues must be covered in the consultation:

- the premises in which (in relation to section 1 duties only), and where in those premises, period products ought to be obtainable free of charge
- the ways in which product users ought to be able to obtain period products free of charge, and
- the types of period products which ought to be obtainable free of charge.

7. Information to be provided to the public

The Act requires responsible bodies to make information available to people about the arrangements in place through which they can obtain free period products under sections 1 and 2. The people who need to be informed are, under section 1, members of the public in the local authority area and under section 2, pupils or students. The information that must be provided is

- a) that period products are obtainable free of charge and
- b) how, where and when people can obtain free products.

Responsible bodies have the flexibility to choose how to make this information available. The Period Products Locator App developed by Hey Girls is a resource that is available for responsible bodies who wish to use it to make this information available, but it should also be available in different formats, for example via posters or on websites. Responsible bodies should consider how to make information accessible to all.

8. Risk management

A number of risks have been identified over the course of the voluntary delivery to date including

- provision of safety information in relation to loose products (see below)
- blood spillages in public facilities related to reusable products
- risks resulting from poor storage conditions
- products going out of date

Any risks identified should be considered and managed through the responsible body's appropriate procedures.

Safety information

Where tampons are being supplied loose from their packaging (for example, single tampons available from a basket of products within a washroom) and therefore do not have the accompanying safety information leaflet that would be included in a box of tampons, for public health purposes, it is recommended that responsible bodies provide that information to those accessing the products, e.g. via a poster at the point of collection. An example of the type of information responsible bodies might wish to convey is set out in an Annex to this Guidance.

9. Value for money

Although the Act does not specify the need to consider value for money, responsible bodies will wish to consider how they can best achieve this. It is likely that some delivery methods such as free-vending machines or home delivery (in relation to Section 1) will be more expensive and responsible bodies will wish to consider this as they put in place local arrangements.

To aid value for money via the Scottish Government funded voluntary provision that began in 2018, a procurement framework was put in place by Scotland Excel, the Centre of Procurement Expertise for the local government sector. The [Washroom Solutions Procurement Framework](#) provides Local Authorities and education providers with a mechanism to procure a range of products and services including sanitary waste disposal and the provision of period products. A new Framework will be in place from October 2022.

Responsible bodies may choose to procure products through different routes and this may involve local value for money assessments.

Part B - Specific Guidance in relation to Section 1

Guidance in Part B relates specifically to local authorities however this Guidance is in addition to that in Part A to which regard must also be given. Section 1 of the Act requires local authorities to ensure that anyone within their local area who requires period products can obtain them free of charge, in sufficient quantities to meet their needs. This responsibility extends to individuals residing in the local authority area, those who work there and those visiting. No proof of residence should be required to access free products. Individuals can take their full requirement of products (which will vary depending on the individual), either in bulk or regular supply, depending on the local arrangements that are in place.

1. Local Arrangements

In considering their local arrangements local authorities should take account of the opening hours of locations where products are obtainable and how to meet need arising outwith working hours, particularly at weekends.

Local authorities should give consideration to having in place contingency arrangements in the event of future pandemics to ensure they can continue to meet their duties.

2. Individuals who may face additional barriers to accessing products

For a number of reasons it may be that some people face additional barriers to accessing free products. This may apply to the following groups, but local authorities may identify further groups experiencing specific barriers in their area to whom they will also give specific consideration:

- disabled people
- homeless people
- gypsy/travellers
- victims of domestic abuse
- individuals with caring responsibilities
- individuals living in remote locations
- where cultural barriers exist

When considering their arrangements local authorities should give particular consideration to any additional barriers individuals in these, or other, groups may encounter in trying to access free products. It is recommended that organisations representing these groups locally are specifically and/or separately consulted on potential additional or alternative arrangements that might need to be put in place to ensure their needs can be met with reasonable ease.

It is acceptable for local authorities to make free products available through specific services that are not open to everyone, including those that are targeted at the groups above, or other groups, as long as additional access routes are available for those who cannot access the specific service. For example products may be made

available through services for homeless people, however homeless people are also entitled to access free products in other locations. However access to free products must not be contingent on accessing, or being eligible for, another form of support.

Example

The Simon Project is an example of good practice in Glasgow and Edinburgh where homeless people can access period products. They have a map of points where people experiencing homelessness can access free products to use during their period.

3. Ability for others to collect products on behalf of individuals

The Act requires local authorities to ensure that free period products are obtainable by another person on behalf of the person who needs the products. In some cases this provision may allow those facing barriers to access products as it allows, for example, a carer to obtain products on behalf of the person they care for, or an individual of either gender to obtain products for a partner or relative who menstruates but cannot leave their home. The arrangements put in place should still meet the particular requirements and also those who may wish to obtain products on behalf of someone else should be able to easily find out how they can do so.

4. Postage of products and charging

Local authorities can, if they wish, include postal delivery of free period products as part of the arrangements to meet their duties under section 1, however this should be as one part of local arrangements, and should not be the only way in which products can be obtained. The Act allows for local authorities to charge for postage and packing, except where an individual could not reasonably obtain products in accordance with the arrangements in any other way. The Act does not specify what constitutes not being able to reasonably obtain products in any other way - individual local authorities should make their own judgements on this. However, some examples of this may be where a person lives in a remote area and would need to travel a long distance to access products in person or where they cannot access products in person and do not have someone who can collect the products on their behalf. In these cases individuals should not be charged for postage and packaging – however in some cases innovative approaches to reaching such individuals may be possible, for example through other mobile services in remote communities.

There is no obligation on local authorities to provide postal delivery of free products to individuals on a fee-paying basis in circumstances where individuals can reasonably be expected to obtain products in another way ie for convenience or personal preference reasons only. It is for local authorities to make decisions on a system for charging for postage and how this is administered, if this option is included within their arrangements.

Arrangements around postal delivery and the circumstances in which this will be free/charged for should be covered by the consultation carried out by local authorities and relevant information should be included within the information local authorities make available publicly.

If personal data is necessary for the functioning of part of a local authority's arrangements, for example postal delivery of products, they must consider their obligations under the UKGDPR.

5. School hostels

Provision of free products specifically within residential accommodation for pupils at local authority schools (often referred to as school hostels) is not covered under section 2 duties. Under section 2, local authorities will be required to provide all pupils who are accommodated in hostels with sufficient products, on school premises, to meet their term-time needs. Therefore pupils will need to be able to take products from school to meet their needs at evenings and weekends.

While there is no requirement on local authorities to provide products in hostels, local authorities may wish to consider the appropriateness of including provision of free products in school hostels as part of the arrangements put in place under section 1, and cover this in consultation.

6. Consultation

Local authorities must consult in relation to both section 1 and section 2 and the requirements for consultation in relation to the different duties are different. Guidance on general consultation requirements is provided in Part A, and on consultation in relation to schools in Part C. In order to include the views of school pupils in relation to the arrangements under section 1, local authorities may wish to ask questions around wider arrangements outwith schools alongside consultation on arrangements in schools.

7. Administration of these responsibilities

The Act places statutory duties on local authorities, rather than the voluntary provision already in place. Local authorities may therefore find it helpful to appoint a lead individual within the organisation to take overall responsibility of meeting the duties set out in the Act.

Part C - Specific Guidance in relation to Section 2

Guidance in Part C relates specifically to education providers however this Guidance is in addition to that in Part A to which regard must also be given. Section 2 of the Act places a duty on education providers to establish and maintain arrangements for period products to be obtainable free of charge during term time on their premises, including in particular in every building normally used by pupils and students. Products are only required to be in one location within each such building, but education providers are free to make them available in more than one location in buildings if they choose to do so. The duty on education providers only extends to making free period products available to learners attending their premises in person and does not require them to post products to remote learners.

This duty applies to all primary and secondary schools in Scotland (including independent, special and grant-aided schools) as well as all publicly-funded Scottish colleges and universities. Children and young people who are not attending school for any reason will be able to obtain products through arrangements put in place by local authorities under Section 1, but local authorities may wish to consider putting in place specific arrangements for children and young people who are home-schooled.

1. What constitutes a building?

This includes buildings used by students for non-educational purposes (e.g. eating, leisure or sport), as well as those used for learning (e.g. classrooms, lecture-theatres, laboratories), so long as they form part of the premises of the education provider.

In an exception to the above, products do not have to be provided in a building, even if it is normally used by pupils or students, if the building is considered unsuitable by the education provider for the provision of period products. This might be, for example, because there are no toilets or changing facilities in the building. However education providers must consult with pupils or students on the suitability of buildings before any decisions are taken in reliance on this exception. Where buildings are considered unsuitable for the provision of products education providers should ensure that information is clearly visible as to the nearest location where products can be obtained.

While the Act does not define a building, if two buildings are joined by an internal or covered passageway, they can be considered a single building, therefore having products available in one location would be sufficient. Conversely, if what appears to be a single building is internally partitioned so that it can't be accessed from one part to the other, that ought to be considered two buildings, and free products would need to be available in at least one location in each section of the building.

2. Detail on locations where products must be made available

While products must be obtainable in every building normally used by pupils and students and suitable for the provision of products, education providers have the flexibility to decide (subject to consultation) which products should be made

obtainable and in what way and in which locations in each such building, as long as free products are available in at least one location. For example, an education provider may choose, following consultation, to put individual single-use products in one or more toilets in each building, but make larger volumes of products, including reusable products, available in other locations.

In relation to residential accommodation managed by the education provider, free period products only need to be obtainable in a single location within each building, for example a toilet in an area open to all residents. The Act does not require products to be placed in toilets in individual rooms or flats.

3. Consultation

Education providers should follow the Guidance for all responsible bodies on consultation as set out in Part A.

Education authorities may choose to devolve consultation and/or delivery to individual schools. If they chose to do so their statement on exercise of functions in relation to section 2 duties should include a summary of common themes in consultation and delivery across the school estate alongside specific examples of how consultation and provision is managed by individual schools and the ways in which these arrangements meet the particular requirements.

Consultation in schools must include pupils who may need to use products in the future so the consultation must be open to pupils who are not yet menstruating. In relation to primary schools this can be proportionate and need not include pupils in the very early years. Local authorities may also wish to consult parents of school pupils as part of consultation in schools, for example through the Parent Council.

It would be good practice for consultation and delivery design in schools to be linked to menstrual health education and tackling stigma. There are helpful educational resources available at:

<https://rshp.scot/>
<https://young.scot/campaigns/national/periods>

Example

The University of Strathclyde set up an Access to Free Sanitary Product Steering Committee to inform their voluntary delivery that:

- engaged with the Estates Team and consulted with students
- ran a student survey to identify the most appropriate products, what users priorities were, and how to receive products
- Identified 10 key distribution points based on the student survey
- hosted focus groups including with the feminist society, LGBTQ+ group and open groups for anyone to attend

4. Choice of products in primary schools

The appropriateness of the provision of tampons in primary schools has previously been raised as a specific issue, however as noted in Part A, responsible bodies should not make assumptions about which products particular individuals may wish to use, and should take account of consultation responses on this point. Education authorities may want to consider the availability of tampons in primary schools through local risk assessment processes.

5. Private halls of residence

Privately-operated halls of residence are not covered by section 2 duties. However, education providers must make enough products available at locations on campus (e.g. in departments, libraries, etc.) to meet the term-time needs of students, so students living in private halls will be able to collect the products they need from these locations. In addition, students (whether staying in private or college/university-owned halls) could also obtain the products they need through local authority arrangements established under section 1.

6. Access to free products outwith term time

There is no requirement on education providers to make period products obtainable for use outwith term time. Outwith term time, pupils and students will be able to access free period products under the arrangements put in place by local authorities under section 1.

For pupils attending schools under local authority control, authorities may wish to consider the most appropriate way to discharge their duty to those pupils under section 1, for example by

- making sufficient products available toward the end of term for pupils to take away for the holidays
- providing additional access points during school holidays
- continuing to make period products obtainable in schools that are open to pupils for holiday activities

This should be considered in consultation with pupils.

7. Remote Study

Education providers do not have to put in place arrangements to provide products to students at Scottish institutions who are studying abroad or remotely (from elsewhere in Scotland). But such students are entitled to collect sufficient products for their term-time needs while on their home institution's premises.

Important Information On Tampon Use

Tampons are associated with Toxic Shock Syndrome (TSS). TSS is a rare but very serious illness that can develop rapidly in anyone. But don't worry – across the whole of the UK, there are only about 20 cases reported each year that are associated with people using tampons. TSS is so rare that most doctors will not come across TSS during their medical careers. Further information on TSS is available at www.tssis.com.

Symptoms of TSS include: a sudden high fever usually over 39°C, vomiting, diarrhoea, muscle aches, a sun burn like rash, sore throat, dizziness and/or fainting, and severe flu-like feeling. Not all symptoms of TSS may occur simultaneously.

In the unlikely event that symptoms of TSS occur, remove the tampon, consult a doctor urgently and inform them that a tampon has been used. If left untreated, TSS can be fatal. The following actions will help reduce the very small risk of TSS occurring:

- At night, insert a fresh tampon before going to sleep and replace it first thing in the morning. Change your tampon every 4 to 8 hours or more often if needed.
- Think about switching between tampons and towels, pads/liners from time to time during your period.
- Always wash your hands before and after inserting a tampon.
- Only use tampons during menstruation, use only one tampon at any time, and ensure the removal of the last tampon once menstruation has finished.

To help the environment, remember to dispose of tampons, applicator tubes and wrappers in a waste bin. Please DO NOT flush tampons, applicator tubes or wrappers.



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