

Early Years Assistance: Analysis of Consultation Responses on Best Start Grant Regulations

**Final Report
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Introduction

Background

The Scotland Act 2016 transferred new powers to the Scottish Parliament relating to social security. It allowed Scottish Ministers to develop new policies on benefits that will help tackle inequality and poverty in Scotland. The Social Security (Scotland) Act 2018 provides the Scottish Government with the framework to deliver devolved social security assistance on a phased approach, with the first wave of social security assistance to be delivered by Summer 2019. The Scottish Government is now working hard to build a social security system that is rights-based, and is founded on the principles of fairness, dignity and respect.

As a result of the devolution of powers to provide assistance for maternity expenses, Scottish Ministers are taking powers to provide Early Years Assistance which will be delivered in the form of a new benefit called the Best Start Grant (BSG). This will replace and expand on the UK Government Sure Start Maternity Grant. In September 2017, the Scottish Government published a set of illustrative regulations¹ in relation to the Best Start Grant and the feedback received² assisted in the development of draft regulations and associated consultation questions.

The BSG aims to help support families who receive certain benefits, both in and out of work. The grant will provide a total of up to £1,100 for first children and £800 for subsequent children, with payments spread across three stages:

1. Maternity and New Baby Payment of £600 for a first child and £300 for any subsequent child;
2. Nursery/Early Learning Payment of £250; and
3. School Payment of £250.

The BSG is intended to improve children's wellbeing and life chances by providing support to lower income families at key transition points in the early years and, as such, aims to help mitigate the effects of child poverty and material deprivation. The support is also intended to contribute to improving outcomes for children, including reducing health inequalities and closing the attainment gap.

¹ http://www.parliament.scot/S5_Social_Security/Inquiries/BSG_III_Regs.pdf

² The illustrative regulations were issued to the Social Security Committee and the Delegated Powers and Law Reform Committee of the Scottish Parliament. They were also subsequently published in the Social Security Newsletter and on the Scottish Parliament's website and shared with the BSG Reference Group, the Disability and Carers Benefit Expert Advisory Group (DACBEAG) and its Scrutiny Sub Group, the Scottish Parliament Social Security Expert Panel members, and selected stakeholders who had engaged in detail on the Bill.

The Consultation Exercise

As part of its ongoing commitment to engage key stakeholders in the future development of social security in Scotland, the Scottish Government committed to lead and implement a series of social security related consultations. The consultation regarding the draft regulations for the Best Start Grant forms the third such exercise.

The consultation document set out information around the possible/expected implementation of the BSG, and included the draft regulations at Annex A. Views were sought from organisations and individuals in relation to whether the draft regulations would meet the policy aims, as well as on some specific points, including:

- establishing eligibility (including residency, financial criteria, and for young parents);
- establishing responsibility for the child;
- identifying any unintended consequences of, or gaps in the regulations;
- consideration of timescales for re-determination; and
- consideration of various impact assessments to identify any additional impacts to equality groups, child rights and welfare, or business and regulatory impacts.

The consultation opened on 26 March 2018 and ran until 15 June 2018. This report explores the responses received and summarises the main observations from the consultation exercise.

Methodology

A total of 51 substantive responses were received - 36 via the Scottish Government's online portal Citizen Space, and 15 by email. Overall, 19 were submitted by individuals and 32 came from organisations. The types of organisations who responded were split fairly evenly between local authorities (n=12) and charity/voluntary organisations (n=16), while a further four responses came from a range of other organisations, including Non-Government Organisations (NGOs), NHS boards, and educational institutions.

The consultation included a total of 13 questions, each including one closed and one open question element. All questions were answered by at least one respondent.

All responses were read and logged into a database and all were screened to ensure that they were valid. One response was partly redacted due to inappropriate and offensive content. Closed questions were analysed to identify whether respondents were for or against particular proposals, or to identify preferred approaches. Qualitative comments given at each question were clustered based on their corresponding closed question responses for analysis

purposes, and examined. These open questions tended to ask respondents to state the reasons for their views, or to explain their answers. The main reasons presented by respondents both for and against the various specific proposals were reviewed, alongside specific examples or explanations, alternative suggestions, caveats to support and other related comments.

Supporting verbatim quotes were extracted in some cases to highlight the main themes that emerged. Only extracts where the respondent indicated that they were content for their response to be published were used - four organisations/ individuals asked that their response not be published, 18 approved publication without reference to their name/affiliation, while 29 were content for all information to be published. For the purpose of this report, quotes are not attributed to specific organisations/individuals but rather are anonymised and attributed to respondent 'types'. Although some responses to individual questions suggested a level of misunderstanding and/or did not directly answer the questions asked, all feedback was analysed and is presented under the appropriate sections below.

Report Presentation and Research Caveats

Findings are presented as they relate to each consultation question. Where people provided no response, this is noted separately from cases where respondents indicated that they had no further comments.

Given the number of responses overall and per question, it was not possible to carry out any reliable disaggregate analysis to compare responses between 'types' of respondent. Instead, in any cases where individual respondents offered views that differed significantly from those submitted by organisations, this is picked up narratively in the report. Further, given the limited number of organisations who responded, it was not possible to conduct robust per question comparisons between the views of different sectors. That being said, little difference was noted between the views provided by individuals and organisations, or between the different organisational sectors, with the main sentiments at each question being expressed across the different respondent typologies.

Finally, it is worth stressing that the views presented here should not be taken as representative of the wide range of stakeholders invited to respond to this consultation, nor should they be generalised too broadly. They simply reflect the views of those individuals and organisations who provided a submission.

Maternity and New Baby Payment

The consultation paper proposed that BSG eligibility will be determined via a series of tests carried out on the date of application. The eligibility conditions set out include that:

- the application is received within the relevant application window;
- no equivalent payment of an SSMG or BSG has been or is due to be made;
- the applicant is habitually resident in Scotland, and is entitled to be living in Scotland;
- the applicant is, or is the partner of, someone who is going to or has had a baby, or meets the responsibility test for the child by reason other than being a biological parent; and
- the applicant meets the test for financial circumstances.

Young parents, namely those under the age of 18, would not be required to meet the financial eligibility test.

The existing approach used for the SSMG would be applied, where the grandparent (or other carer) becomes the eligible person in cases where the parent is under 16, or is aged 18 or 19 and in training or non-advanced education, and where they are still in receipt of tax credits or Universal Credit (UC) or Child Benefit (CB) for the young parent.

Additional information was provided against each of the eligibility tests, including any required definitions as well as the rationale for choosing certain options over possible alternatives. Consultation questions focused on the last three tests and around the proposals for young parents.

Q1. We have proposed that applicants must be habitually resident in Scotland to qualify. Do you agree with this approach?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 32 | 63% |
| No | 2 | 4% |
| Don't Know | 1 | 2% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Many respondents supported the proposal that applicants must be habitually resident in Scotland to qualify for the BSG. Generally these respondents felt that

this was a fair approach, consistent with tests for other benefits, and was necessary to ensure only those who live in Scotland are eligible for the payments:

*“As it is being funded by the Scottish Government this approach seems fair.”
(Individual)*

“Habitual residency test is essential as this gives a consistent approach to other UK benefits.” (Organisation)

Some of those who agreed with the residency test overall did, however, have some concerns. A few suggested that clarification over the definition of ‘habitually resident’ may be required for claimants (including the tenure to which it referred), while others suggested that clear guidance would be required for those administering the grant:

“There must be clear guidance for decision makers and applicants on applying the habitual residency test.” (Organisation)

“Given the potential for confusion among both claimants and decision-makers regarding the habitual residency requirements, a clearly stated definition of habitual residency within the regulations would help to improve decision-making processes and bring the clarity required.” (Organisation).

One respondent commented that there was a clear need for all applications to be treated on a case-by-case basis to reflect the diversity of applications:

“Additionally, staff at the new Social Security Agency should have a clear cut objective to determine and assess cases on an individual and subjective basis. This should include equality data pertaining to gender, particularly around the likes of the BSG... As tests for status will most likely consider women for whom English is not their primary language, overtures should be in place for this. This should be done with utmost dignity and not seen as a way of testing people in order to “catch them out”. Those who will be subject to these tests should be informed in a timely manner of the outcome and given advice on contacts from independent agencies and advice services who can help given the complexity of the test.” (Organisation)

Meanwhile, two respondents who agreed with the approach in principle, highlighted the vulnerability of asylum seekers:

“We agree with the general principle that a claimant should be habitually resident in Scotland to qualify. However, some asylum seekers may not qualify at the time of application because they will not have a right to reside but this may be subsequently granted. This could potentially mean that the timing of a Home Office decision could cause someone to lose out.” (Organisation)

“We appreciate that those seeking asylum are not eligible for non-contributory benefits under current legislation. However, this group is likely to be financially

vulnerable and the devolution of this benefit would provide an opportunity to provide some support for this group.” (Organisation)

Both respondents who disagreed with the residency test, plus the respondent who stated ‘don’t know’, also cited the implications of this test for refugees, asylum seekers and migrants:

“I am aware that some migrant families who settle in Scotland are disadvantaged if not habitually resident at time of application. This means that all children born in Scotland are not born equal.” (Individual).

“Provision should be made for asylum seekers and refugees to access this grant or the parts of it for as long as they are here and awaiting residential status.” (Individual).

“We are concerned this excludes groups such as Refugees and Asylum Seekers or others who might not be considered to be habitually resident in Scotland but would find this entitlement beneficial.” (Organisation).

One organisation noted that clear data sharing protocols between the Scottish and UK Governments would be necessary to ensure that individuals “do not fall through the gaps.”

Among the 16 respondents that did not specify whether they supported the residency test or not, mixed views were expressed. Some supported the test in principle, while others had concerns around how it would work in practice, particularly for those aged under 18:

“The burden of having to provide evidence of residence is going to be highest on those under 18 who are not claiming a qualifying benefit in their own right... Careful consideration should be given to what will suffice as evidence for this claimant group. It may be worth considering that in some cases, evidence could be obtained through the link to parents/responsible carer’s claims for qualifying benefits. However, parents/carers may not always be in receipt of these benefits. An alternative source of evidence could be an education establishment being able to provide this evidence.” (Organisation)

“More information is also required on the ‘separate residence test’ for under 18s described in the consultation document (para 29). Reassurance [is needed] that there will be no separate “right to reside” requirement in relation to the Best Start Grant for under 18s. [There are] numerous examples of under 18s who have failed the habitual residence test for DWP benefits due to not having the right to reside. This has been a particular issue for young EEA nationals who are refused the right to reside despite having been in the UK/Scotland for several years.” (Organisation)

A few questioned the need for the habitual residency test when other benefits, such as Child Benefit, Child Tax Credit and Working Tax Credit were noted to have an

ordinary residence requirement. It was also highlighted that the SSMG (which the BSG seeks to replace) implements no such residence requirement. As such, there were suggestions that the ordinary residence requirement would be more suitable, less onerous for applicants, and more compatible with other qualifying benefits:

“We would seek clarification on why the Scottish Government consider the potentially more onerous habitual residence test should be imported to the BSG. We believe such importation could lead to an additional barrier to the BSG for already hard pushed parents. In effect, we would seek to persuade the Scottish Government to import the ‘ordinary residence’ test as used in the UK system as we believe it would be sufficient in order to satisfy Scottish residence for BSG claimants.” (Organisation).

Some also sought clarification on how the requirement would work in practice for those moving to Scotland from other parts of the UK, for EU nationals and for those in exceptional circumstances:

“The regulations state that claimants should be habitually resident in Scotland. However claimants may qualify through DWP passporting benefits which rely on being habitually resident in the UK. There may be some confusion arising from this.” (Organisation)

“There is the potential for this to cause confusion in relation, for example, to applicants who have recently moved to Scotland from another part of the UK... The Scottish Government should also consider whether the regulations can allow for those in exceptional need to access BSG despite not being able to establish habitual residence. Several cases show that women who have lived in Scotland for many years can be left without a right to reside as a result of relationship breakdown and domestic abuse or that they are incorrectly deemed not to have a right to reside as a result of DWP error.” (Organisation)

“Additionally this could cause problems with migrant and EU nationals.” (Organisation)

One respondent noted that appeals for habitual residence need to be taken into account, and so flexibility around the timescales would be necessary:

“...some flexibility should be given on this criterion, for example an appeal on habitual residency can take months, so when HR is awarded a claim should be allowed outwith the Best Start application window. Thought should be given to whether the time limit for applications could be extended until the result of appropriate UK benefit applications or challenges has been concluded.” (Organisation)

One respondent also sought clarification on how a prison sentence (and subsequent care arrangements for children) may impact upon eligibility:

“It is not clear from the consultation how a prison sentence may impact on the residency test. If a parent would otherwise meet the eligibility criteria for the grant and has been habitually resident in Scotland before going to prison, then it is our view that serving a prison sentence in another jurisdiction should not negatively impact on their entitlement to the grant. Nor should their entitlement be negatively affected if a child, who was usually living with a parent in Scotland before they went to prison, is cared for in another jurisdiction (perhaps as a consequence of the imprisonment) while their parent is in a Scottish prison.” (Organisation)

Q2. There are two alternative tests [to establish responsibility for a child] set out in the consultation: (1) receipt of Child Benefit and, where relevant, a care order; or (2) a test based on receipt of either Universal Credit or Child Tax Credit, or Child Benefit. Which is your preferred test, Test 1 or Test 2?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Test 1 | 14 | 28% |
| Test 2 | 21 | 41% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

It is important to note that there appears to have been some misunderstanding around the interpretation of this question. The consultation document highlights that applicants will have to be on a qualifying benefit (indicating that they are on a low income) while also proposing the use of certain benefits awarded to people who have children to evidence responsibility for a child. However, this appears to have been misunderstood by some respondents who focused more on qualifying benefits to prove financial circumstances rather than responsibility for a child.

A slightly greater number of respondents indicated that they preferred Test 2. Some noted this was because it allowed the BSG to be better targeted towards those on low incomes:

“Everyone with a child receives Child Benefit but not everyone who is expecting a child will need the Best Start Grant. The money should be directed to those who need it the most and therefore it should be based on receipt of Universal Credit, Child Tax Credit or Child Benefit or a mixture of those.” (Organisation)

It was also felt that Test 2 was simpler, more efficient, allowed for greater flexibility in determining responsibility (and so should capture more of those who are eligible), and also provided flexibility for applicants to provide evidence/support for their application. Removing barriers to application which might be based on concerns around the complexity of the process was seen as key:

“This test [Test 2] is more straightforward for claimants to understand their entitlement. At the present time many claimants are confused about their entitlements to CTC/UC on the birth of their third child and some think that they are not entitled to CB either under the 3rd child rule. A test for BSG entitlement based on CB alone (as per Test 1) in these circumstances might therefore prove to be insufficient, creating a barrier to uptake, including receipt of all three benefits would carry a stronger indication of entitlement.” (Organisation)

“[Test 2] presents more opportunities for families in a range of circumstances to be eligible. Families can be complex and the Scottish Government need to carefully consider young children who may slip through the net in terms of eligibility to BSG. We would argue that any care experienced person who has a young child should be eligible for the BSG and does not need a qualifying benefit to be eligible.” (Organisation)

Kinship care arrangements were given particular consideration by a number of respondents keen to ensure that the varying arrangements for kinship care (both formal and informal) are captured by the BSG eligibility criteria/tests. Some felt that Test 2 was more appropriate for kinship carers as it considered a broader range of benefits, whereas Test 1 could create challenges and eligibility issues for kinship carers, particularly where more informal arrangements were in place and there is no formal court order:

“It [Test 2] also means that it is more likely that kinship carers are eligible to receive Best Start Grant for children in their care, given the broader range of benefits which would capture a greater number of kinship carers with informal arrangements.” (Organisation)

“There is an issue for kinship carers having a qualifying benefit and/or court order in time to receive the BSG. It is not unusual for the payment of Child Benefit and Child Tax Credits to be retained by a parent... Similarly court orders can be a lengthy and costly process that not all families decide to pursue... Therefore, we consider Test 1 is more problematic for kinship carers.” (Organisation)

Some also noted that in all formal kinship care arrangements social work services would be making kinship care payments and could therefore provide information and evidence of responsibility for the child. It was also noted that some local authorities allow less formal arrangements to be notified to social work, again facilitating receipt of other passported benefits:

“As it stands Test 1 requires kinship carers to have a kinship order. This is not something that kinship carers ordinarily obtain, partly due to costs involved and also because of a reluctance to go through a court procedure. However all formal kinship carers will have had the kinship arrangement put in place by Social Work Services, as such Social Work Services could provide confirmation that they are making kinship care payments. This should be sufficient evidence of a kinship care arrangement without the need for an order.” (Organisation)

Others highlighted that Test 1 was not preferable as its reliance on Child Benefit risked the BSG being paid to someone other than the main carer:

“Basing eligibility on Child Tax Credit or Universal Credit should help ensure a safeguard against concerns raised about cases where the partner receiving Child Benefit is not in reality the main carer.” (Organisation)

“As the second test contains scope for both child benefit and child tax credit, women have noted that this may be the best approach. Given that child benefit does not necessarily have to be received by the female in the household, allowing only this as a test may leave vulnerable women open to abuse and financial hardship.” (Organisation)

One respondent, generally in favour of Test 2, noted that consideration would need to be given, at least in the short term, to legacy DWP benefits as not all applicants may have migrated across to Universal Credit before the BSG is implemented. Two respondents also felt that in order to align with the Scottish Government’s policy objectives, consideration should be given to low income earners and in-work poverty in order to ensure these children are supported via the BSG.

Of those that preferred Test 1, this was generally cited as being an appropriate check on responsibility, as well as easier for both applicants and the administration of the BSG. Specifically, respondents felt that Child Benefit was already widely known and understood by parents and would therefore seem less confusing to applicants:

“We feel basing responsibility on Child Benefit - with the flexibility outlined for cases where the individual is not in receipt of Child Benefit - will be both easier for Social Security Scotland to administer, and for claimants to understand.” (Organisation)

“This is the best option as whoever has responsibility for care of the child should receive the grant. Payments of benefits can be disputed between family members especially if a child has been removed from a parent therefore the care order would override whoever was in receipt of the benefit. Test 1 would ensure that the correct person would receive the grant.” (Organisation)

Others who preferred Test 1 highlighted shortcomings or complications arising from Test 2, including:

“Tax credit gets a bit confusing with 3rd child, so best to stay with child benefit test as HMRC also do.” (Organisation)

“Universal Credit system is flawed. Child Tax Credit is not always applied for, particularly with parents who have received overpayments and are liable to pay back repayments.” (Individual)

“It is our view that the complexity and delays associated with applications for Universal Credit or Child Tax Credit mean it would not be appropriate or effective to use these benefits to establish responsibility for a child.” (Organisation)

“Test 1 would be easier to administer and increase BSG take-up. Delays and maladministration are common within the CTC and UC systems leaving many people waiting for awards to be processed. This can lead to a significant time lag in people being able to establish they are in receipt of CTC and UC, meaning some people would be unable to claim BSG within the time limit, or have to make a claim for BSG before they received confirmation of payment of the qualifying benefit. This is potentially a significant barrier to BSG take-up and means some people do not claim due to the confusion caused by the overlap of the devolved and reserved benefit system.” (Organisation)

Three respondents also indicated that they would like to see a combined approach, with both tests operational. One respondent felt that Test 1 could operate as the main test, but with Test 2 being optional for those that did not qualify at Test 1:

“We believe it should be a combination of both tests in order to be beneficial to as many people as possible.” (Organisation)

“In order to ensure that as many children as possible benefit from the grant, we would support a tiered approach, with Test 1 as the primary test and parents/carers able to qualify through Test 2 if they are unable to meet Test 1.” (Organisation)

Finally, one respondent discussed the difficulties with a benefits test being used to establish responsibility for parents (particularly mothers) who are serving a prison sentence:

“It may also be helpful if mothers who are pregnant or give birth in prison are allowed to nominate someone to receive the Maternity and New Baby Grant on their behalf without that person having to meet eligibility criteria in their own right. While this may reduce the rigour of the test in these particular circumstances, the number of pregnancies and births to mothers in prison in Scotland is low, while the risk of these babies experiencing health and social inequalities is very high.” (Organisation)

Q3. We have proposed that qualifications by UC should be an award of more than £0 in the month in which the application is made. Do you agree with this approach?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 17 | 33% |
| No | 12 | 24% |
| Don't Know | 7 | 14% |
| No quantitative response | 15 | 29% |
| Total | 51 | 100% |

Slightly more respondents agreed with this approach than disagreed. Those who agreed typically felt that the application timescales were sufficient to allow applicants with more irregular incomes to submit appropriate applications:

“Since the new BSG rules allow for applications to be made between the 24th week of pregnancy and 6 months after the birth it gives claimants much greater flexibility as when to make their claim and to also choose a period where UC is actually being received. The 2 month rule will also provide a further safety net to cater for fluctuating income within that period.” (Organisation)

“This will make it easier for claimants to be successful and given the long window of application then it can be made to take account of any extra hours being claimed if they are a 'one off', thereby increasing household income legitimately.” (Individual)

Some respondents also noted that it would be important to make the eligibility test and timescale clear to applicants:

“[We] would suggest that information targeting parents includes a statement that application can be made during the application timescale if and when their family income/circumstances changes, e.g. a lowering of family income to within the Best Start Grant income threshold.” (Organisation)

A number of respondents, including those who broadly supported the proposal and those who disagreed with it, highlighted irregular incomes as a potentially confounding factor which may create difficulties for some applicants:

“Agree with the test, but don't agree that people in receipt of UC with 2 months £0 UC showing, do not qualify. This is unfair for people on fluctuating incomes, as they may have qualified for tax credits which is based on annual income.” (Organisation)

Several respondents pointed out that weekly, four weekly pay, or changes to payment schedules due to Christmas/Bank Holidays could result in two wages being paid within one month, thus leading to a £0 award under Universal Credit, or that issues around maternity pay, seasonal work, zero hours contracts, etc. could all impact on Universal Credit payments within the timescale proposed, and thus lead to rejected applications:

“Universal Credit is a monthly benefit and as such working claimants who are paid 13 or 52 times in a year (4 weekly or weekly) will have one assessment period where they get 0 due to a so called double payment in the previous month. If the application/birth of their child happens to fall around this time this could result in refusal of the grant due to a misrepresentation of the parental income.” (Individual)

“[We] would caution in areas particularly in rural Scotland, where seasonal and zero hours contracts are more prevalent within the economy and as a consequence, UC awards may be £0 for a number of months.” (Organisation)

“We think it needs to be widened more than to 3 months as fluctuations with maternity pay, zero hours contracts etc. could cause confusion.” (Organisation)

Sanctions and debt recovery issues affecting the amount of Universal Credit paid were also seen to have a potential impact for BSG applications, with one respondent highlighting that to refuse the BSG on this basis would intensify people’s vulnerability:

“It may also be possible for an individual to be sanctioned to the extent that there is an award of £0. In such circumstances the poverty that people may be experiencing would increase if that individual is consequently deemed ineligible for a Best Start Grant. Again, the simplest way of addressing this would be for the qualification to be eligibility for a Universal Credit award, rather than specifying that the award must be more than £0.” (Organisation)

“Yes, however consideration should be given to the circumstances surrounding a nil award of Universal Credit. A claimant may have a nil award due to a managed payment arrangement or debt recovery/advance deductions.” (Organisation)

Two respondents highlighted potential complications (and the likely exclusion of eligible BSG applicants) resulting from a new surplus earnings rule for Universal Credit (introduced on 11/04/18):

“The new rule seeks to ‘level out’ fluctuating earnings for the purpose of assessing UC income but has been widely criticised for not being fit for purpose... One of the main contentious aspects of the policy is that it requires UC claimants with fluctuating earnings to make repeated ‘bound to fail’ claims for UC in order to ‘erode’ a surplus earnings addition. The rule is complex/difficult to understand and, as stressed by the SSAC, is likely to put off claims for UC/disadvantage UC claimants with fluctuating earnings.” (Organisation)

“The surplus earnings regulations will mean that many low income claimants will potentially not be entitled to Universal Credit due to income received in a previous assessment period (potentially up to six months ago).” (Organisation)

Some also highlighted that the Universal Credit system was changing to remove those receiving £0 awards to be classed as receiving the benefit, and that the inclusion of this criteria would become confusing for applicants:

“We believe that the phrasing of this qualification has the potential to cause confusion among claimants, advisers and decision-makers. It is our understanding that in the full service version of Universal Credit, cases where there is an award of £0 - due to the claimants income exceeding the maximum amount permitted for a Universal Credit claim - are closed, and the individual is no longer considered to have a Universal Credit claim (and must make a new claim at such a time as when their income falls in line with the eligibility threshold). Given this, it would be simpler and more easily understood for the qualification to simply be eligibility for a Universal Credit award.” (Organisation)

Similarly, another respondent felt that eligibility should simply be based on whether an applicant was in receipt of Universal Credit, and not dependent upon the scale of the award:

“...being in receipt of UC even for those with a £0 award in one of the months assessed should enable qualification. This would include those on an income which fluctuates above and below the UC eligibility threshold and those who may only recently have exited the UC qualifying income bracket. As both of these groups are likely to be financially vulnerable.” (Organisation)

Some respondents also highlighted the difficulties in using the Universal Credit system as the basis of such eligibility criteria generally, noting that low income families could be ineligible for Universal Credit or subject to lengthy decision times, and thus refused the BSG, due to anomalies in the way Universal Credit is assessed rather than their earnings. For example, they noted this could affect the self-employed and those waiting to be assessed as having limited capability for work. They also noted that the design of Universal Credit was problematic when used as a means of assessing entitlement for other benefits:

“Universal Credit is also problematic in its design when being used as a means to assess entitlement to other benefits, as it is not until the assessment period actually finishes that entitlement for that month is known. We believe this makes UC an unreliable basis for assessing an individual’s right to other benefits, and would be very concerned that people who should receive a BSG will miss out on what they are entitled to if this approach is adopted.” (Organisation)

One respondent also discussed the impact of the Universal Credit system on women. They argued that the ongoing confusion surrounding Universal Credit and the changes in payments from month to month have left women at a ‘severe disadvantage’, which could have an impact on BSG applications. They felt that

other eligibility criteria should be considered where Universal Credit awards had been £0:

“If the qualification of over £0 is kept, it is crucial that there are other ways that people may claim. Given that the BSG is to be a key marker in alleviating child poverty, it must be communicated that when application is made it will only be taken if this criteria is met.” (Organisation)

One respondent felt that the consideration of just two months income was disproportionate to the overall application windows for each BSG payment:

“It could be argued however that the application window of ‘within two months of experiencing low income’ is a tight timescale in comparison to the general application windows for each payment of the Best Start Grant... We would urge the Scottish Government to extend the 2 month window from when people experience low income, as these individuals may need additional time to access information and obtain support to complete their applications.” (Organisation)

Again, one respondent outlined the implications that the proposal around benefit awards might have for prisoners. They indicated that the timescale for the qualification via Universal Credit needed to be “*extended to within at least a few months of the application being made*” so that families have time to put their financial affairs in order following a family member’s imprisonment. They also noted that “*the requirements to have access to a bank account and to receive [BACS] payments in arrears present challenges for those leaving prison*” and indicated that prisoners would need help to make the necessary arrangements in advance of their release.

Q4. We have proposed that in cases where the parent is under the age of 16, or is 18 or 19 and the grandparent (or another carer) is still in receipt of tax credit or UC because the parent is still in training or non-advanced education, the grandparent or carer will be the eligible person. Do you agree with this approach?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 23 | 45% |
| No | 8 | 16% |
| Don't Know | 3 | 6% |
| No quantitative response | 17 | 33% |
| Total | 51 | 100% |

Just under half of the respondents indicated that they agreed with this proposal. A further four of those that did not provide an answer at the quantitative element, did

however express general support for the proposals within their qualitative responses.

Generally, respondents felt that this approach was sensible, was consistent with Child Benefit guidance and procedures, and would be the easiest approach to administer and for applicants to understand. It was also felt by some that this approach would help ensure that the grant would be spent on the child:

“This would hopefully ensure monies awarded are best spent on the child priorities.” (Individual)

Others, however, felt that while this would assist in the application, and may help ensure the money is spent as intended, there were calls for the young parents to be granted greater responsibility, where appropriate:

“We are concerned that this may not be empowering for the new parent and feel [an] option should be pursued so the parent can receive the BSG payment directly for their child.” (Organisation)

This was particularly the case for dependent 18 and 19 year olds, who were generally considered not to need the same level of support as younger parents:

“In cases where 18 and 19 year old parents are in training or non-advanced education, we would recommend that payments are made directly to them rather than to their parents (i.e. the grandparents of the child) or carers. Such an approach would ensure the autonomy of the young person and reflect the fact that they do not have the same need to be supported in how they utilise the grant.” (Organisation)

Several respondents felt that, as well as being important for self-efficacy, this would make the award less open to potential abuse from coercive grandparents, and would be beneficial in situations where relationships between the new parent and the child’s grandparents are strained or estranged.

One respondent also noted that this approach largely worked for other benefits, but felt that clear guidance for applicants would be required, and also consideration of individual circumstances where there is a risk of financial abuse on the part of the person receiving the BSG:

“Normally there are very few problems associated with awarding grandparents the tax credits and the Sure Start Grant on the parent’s behalf, however the guidance and communication to claimants will require to be robust to avoid barriers to uptake. There will also require to be consideration taken to the fluctuating nature of family relationships to avoid financial abuse.” (Organisation)

One final supportive respondent highlighted issues around implicit and explicit consent, and discussed potential barriers created by the need for explicit consent:

“The regulations are not specific or clear in relation to the concepts and practice of implicit versus explicit consent. The issue of explicit consent requirements introduced/enforced across the UK’s welfare reform agenda, has created an additional burden, additional delay and significant barriers... for some individuals, who through circumstance find that they are unable to self-advocate. In our experience, [some people] find themselves literally incapable of communicating directly with any representative of the Department for Work and Pensions, or HMRC Tax Credits, as a direct consequence of multiple factors which may include: negative experiences of the DWP; fear and acute anxiety; poor mental health; emotional and physical exhaustion; emotional distress; low self-esteem. [We] would welcome clarity about implicit and explicit consent within the Best Start Grant regulations.” (Organisation)

Eight respondents stated they disagreed with the proposal, and a further one respondent who did not provide a quantitative response indicated explicitly in the qualitative comments that they disagreed. The main sentiments expressed were similar concerns to those above. Some felt that the young person should be trusted with the responsibility of receiving the grant and spending this in the best interests of their child, and/or that complicated family situations could mean that it was not always suitable to pay the money to them rather than directly to the young person:

“No, we are not clear on the reasoning behind this proposal and we do not think this complies with a rights based approach. In line with promoting and protecting children’s rights the parent, regardless of their age, should be the eligible person.” (Organisation)

“We would recommend that the young parent should receive the grant to acknowledge their new responsibility, respect their autonomy and to give the message that we trust them to be considered in their use of the grant. Accompanying information should list sources of support and advice for the young parent on how to best use the grant, which can include their parent/guardian.” (Organisation)

Views were expressed that the monies should instead be paid directly to the young parent’s bank account to make the most direct provision/ensure that the payment is definitely received by the eligible person. Again, this was seen as especially important in cases where domestic or other abuse/power struggles exist in family relationships:

“It leaves those who are fleeing domestic abuse, especially coercive control or in forced early marriages or partnerships at a disadvantage. Young adults who are in higher education and parents need to be financially independent and not reliant on older relatives to help direct and oversee their finances.” (Organisation)

One respondent also questioned how the eligibility and payment would work where the young parent was in care, and felt this may expose a gap in the provision:

“For young parents who are looked after themselves, there is a further complication of who the money would be transferred to. We would be very concerned if an expectant young mum in care did not receive this financial support because the regulations do not take fully into account their circumstances.” (Organisation)

Two respondents requested that the Scottish Government consider extending the age limit for this level of eligibility to all those under 20 years old:

“We ask the Scottish Government to consider extending the eligibility to ensure that all under 20s are eligible for the Grant. This would simplify the current position and ensure that all under 20s are eligible in their own right.” (Organisation)

One respondent also felt there was a need for clarification around when applicants' eligibility would cease (based on age), and that any applications made by young parents in their own right should not be detrimental in terms of the timetable available for the grandparent/carer to then claim later:

“[We] believe it would be fairer to specify that the applicant should be or have been under 18 (or 20 for dependents) at some point during the application window. This would ensure that all those eligible would benefit from the extended application window. There should [also] be a provision so that when a dependent young mother claims in own right by mistake, a later claim by the grandparent (or other carer) should be linked with that first application to ensure they do not miss out due to the time limit.” (Organisation)

General Questions on the Regulations

The BSG is intended to improve children’s wellbeing and life chances by providing support to lower income families at key transition points in the early years and, as such, aims to help mitigate the effects of child poverty and material deprivation. The support is also intended to contribute to improving outcomes for children, including reducing health inequalities and closing the attainment gap.

Consultation questions were included to determine how likely it would be that the draft regulations would meet the policy intent, as well as to identify any potential unintended consequences and/or gaps in the regulations.

Q5. Do you think that the draft regulations (Annex A) are likely to meet the policy intent set out in this document?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 28 | 55% |
| No | 1 | 2% |
| Don't Know | 6 | 12% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Just over half of the respondents felt that the draft regulations would be likely to meet the policy intent for the BSG. Views were expressed that the proposals seemed full, fair and sensible, and that the timescales seemed appropriate. Others felt that the proposals were positive, and would contribute to mitigating the effects of child poverty, with the increases to the value of the grant and the automatic entitlement of younger parents being particularly effective:

“The changes proposed are positive compared to the existing scheme and will provide support to mitigate the effects of child poverty at key stages in early years.” (Organisation)

“The increased value of the Grant is extremely welcome, and provides recognition that low income families can be under significantly increased financial pressure during pregnancy, after the birth of a child, and during key transition points such as a child starting nursery and school. We also strongly support the automatic entitlement of 16 and 17 year olds to the Best Start Grant. This reflects the additional complexities and challenges often faced by young parents, and the heightened risk that they may experience poverty.” (Organisation)

One respondent, however, felt that while the BSG would contribute to the policy intent, the amount of money awarded would be small overall and so it would only have a minimal/short term impact:

“However it must be acknowledged that this is still overall a small additional amount of money at three time points for low income families and is therefore, on its own, likely only to have a minimal impact on children’s wellbeing and life chances or health and educational inequalities in the population.” (Organisation)

This same respondent also outlined other areas of support in relation to the BSG, including plans for multiple application channels for BSG, the recommendations that Maternity Allowance be included as a qualifying benefit for lone parents, and that students in receipt of income-related student bursaries should be considered in eligibility criteria for BSG. They also recommended lowering the age threshold for determining subsequent child status to 10 years for existing child members of the household, as they considered that for longer periods new baby equipment is likely to be required, and that migrant families who arrive in the UK following the birth of existing children should be eligible for a first birth maternity/new baby payment as they considered it would likely be necessary to replace all previously owned baby equipment.

Another respondent, while supportive of the BSG and the proposals, highlighted the need for effective awareness raising and communication in relation to the second and third payments to ensure any changes in care arrangements for the child do not impact on payments to eligible parties:

“We strongly support the policy objectives of the BSG cash payments to improve children’s wellbeing and life chances, by providing support to low income families and carers at key transition points in early years. It is critical that there is a concerted effort to target families and carers at nursery and school stages, rather than only when the child is born. This is because circumstances change for families and children may no longer be living with birth parents at a stage that they are eligible for the second and third stage of BSG. This is particularly relevant for kinship carers.” (Organisation)

The one respondent who stated they did not think the proposals would meet the policy intent for BSG did not provide any qualitative comments to further explain this view. Of those who stated they did not know, however, one suggested two other benefits that could be assessed for eligibility, namely Council Tax Reduction and Disability Living Allowance, and another suggested additions to the regulations which they felt could further assist:

“(a) It would be helpful to confirm the intended timescales for the Agency to decide an application for BSG and whether such timescales are to be statutory or set out in guidance; and (b) Further clarity around the process and timescales for re-determination and appeals.” (Organisation)

Of those that provided qualitative comments despite not answering the closed question, one again raised issues in relation to the responsibility tests and kinship carers and highlighted shortcomings of the test which could result in excluding this group (this sentiment was also provided by one of the supportive respondents):

“Currently the regulations... state that the child should not be looked after by the local authority. However, this would exclude kinship carers which we believe is not the Government’s intention; paragraph 33 of the consultation states that “we propose to pay the BSG to kinship carers”. We believe that kinship carers should be included and that this group is often in great need, accordingly we would ask the Government to consider addressing this anomaly.” (Organisation)

Another expressed that changes to the wording of the regulations were required in order to provide reassurance in relation to the rights of applicants to have awards made in cash rather than in kind i.e. greater flexibility to meet the needs of a wide range of claimants:

“While we welcome the implication that a cash payment will be the default arrangement, we would welcome this to be explicitly stated in the regulations. For example, “If an individual asks for some or all of the grant to be given in a form other than money, Scottish ministers may decide to give the grant in that form”.” (Organisation)

Another respondent again highlighted the risks with using Universal Credit to establish eligibility due to problems with this system, and highlighted that support would be needed for potential applicants to raise awareness and confidence of how to navigate through the full process and relevant benefits:

“Eligibility for the Best Start Grant relies on awareness and uptake of UK reserved benefits and tax credits in the first place. Therefore, it is essential that pregnant women and families with young children know about their entitlements, are supported to establish their eligibility and navigate their way through the Department for Work and Pensions and HMRC application processes and be in successful receipt of the qualifying benefits.” (Organisation)

This respondent also outlined several examples of well-established financial inclusion referral pathways in place between maternity, health visiting, general practice and advice services in some places across Scotland (including Healthier Wealthier Children, Family Friendly Advice, Universal Pathway for Health Visiting and the maternity record). They felt that there needed to be consideration of how the new Social Security administrative systems could potentially link to these existing systems.

Q6. Can you identify any potential unintended consequences of the regulations?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 11 | 22% |
| No | 19 | 37% |
| Don't Know | 5 | 10% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Over a third of respondents indicated that they could not identify any potential unintended consequences of the regulations. Among those who provided qualitative comments in this respect, two simply stated that they could not see any potential negative impacts or unintended consequences, while two suggested that an evaluation, review or ongoing monitoring would be necessary following implementation to ensure all eligible persons are receiving the grant:

“We suggest that the Government undertakes monitoring to ascertain whether the BSG reaches all those women who are most in need and to see whether there are any unintended gaps in eligibility.” (Organisation)

Again, respondents were concerned over the use of Universal Credit. One respondent was concerned regarding the number of months that needed to be evaluated, and felt that one month's Universal Credit award would not give a true reflection of a person's income, and suggested that perhaps an average could be taken over a longer period, or that a P60 could be used. Another had concerns over people failing to apply for BSG due to confusion and incompatibility with Universal Credit's two child policy:

“It would be possible that someone on a low earned income responsible for a new child may not qualify for UC/Tax Credits due to the two child policy... In such a situation they lose out on the UK means tested benefit due to the two child policy which then has a knock on effect for the Best Start Grant. Reliance on UK state benefits as a qualifying condition would run the risk that future changes at UK level to cut means tested benefits could interfere with entitlement to Best Start Grants.” (Organisation)

This respondent also identified consequences of the regulations for those parents who elect to defer starting school when the child would be just 4, noting that in such situations it would most likely be preferable for the grant to be paid the year the child starts school and not before. They suggested that consideration should be given to creating a mechanism to allow the payment to be made in the actual year of starting school:

“If the parent [of a child age 4] elects to hold back the child for a year then the window for claiming will in fact have closed in the February prior to starting school. While some parents may be able to use this grant in the year prior to starting school it may be more appropriate for some to be able to access it in the year of starting school.” (Organisation)

The same respondent also noted an anomaly in relation to counting months with differing numbers of days, and felt the current definition would result in extending the application window:

“Regulation 4 (3) attempts to resolve a problem of counting months where there are a different number of days in the relevant months. However, as currently written it would in some circumstances extend an application window further than intended. To achieve the desired result you would need to amend the current wording to include something along the following lines:- “... on the same day of the month as day 2 unless such a date does not exist, in which case the last day of that month”.” (Organisation)

Another respondent felt that the eligibility and application process may be too complicated for some applicants, while another was concerned about how people would find out about the grant and who would be available to support them with the application:

“They may seem complicated to use for clients who might not understand the language and appeals process. Hopefully they will have a health professional to guide them, but then health professionals need to be up to date and proficient on how the grant works.” (Individual)

“The success of the BSG will be dependent on people finding out about it, we are concerned the regulations do not state how people will find out about BSG, it would be useful if there was a clearly stated duty e.g. on the Agency, midwives, health visitors etc. to inform people about the BSG.” (Organisation)

One respondent felt that the eligibility timescale for applications following the birth of a child needed to be extended to stop those on unpaid maternity leave and those who return to work on reduced hours missing out:

“The client may become entitled to receive a qualifying benefit more than six months after childbirth but be unable to claim BSG due to the rules limiting applications to six months. As examples, the client may qualify for IS or UC during unpaid maternity leave... Likewise, the entitlement to Flexible Work leads to many workers reducing hours on returning to work after maternity leave, and their income may drop to the point where they receive qualifying benefits when they return to work. I believe the option to apply for BSG should be there throughout the first two years.” (Organisation)

Again, several respondents highlighted the issues of not paying the money directly to young parents and the risk of abuse of the money by grandparents was cited as

an unintended consequence, along with the risk that cash payments again risks the money not being used as intended. One respondent suggested that a solution may be for the Scottish Government to set up a framework for the supply of goods in order to achieve greater value for money and lower unit cost prices:

“There may be a risk to the proposed approach for 18 and 19 year olds as it does not support self-efficacy and could be open to potential abuse from coercive grandparents. The draft regulations propose that the grant “is to be given as money”. While this provides choice for recipients there is a risk that the grant will not be used for its intended purpose and as a consequence, there may be potential knock-on negative impacts for the child(ren).” (Organisation)

The one respondent who indicated ‘Don’t Know’ and provided a qualitative comment was concerned about the timescale for appeals and how this will be communicated to those with chaotic lifestyles and/or mental health issues:

“I am slightly concerned about the 31 days to contest the decision in relation to those who live in chaos and may have mental health difficulties. Will the exact date of the required re-submission be printed on the letter? This exact and tiny detail may help, especially if you put it in a different colour.” (Organisation)

Another respondent (who did not provide a quantitative response) indicated that, while awareness and support for applicants in relation to the first and third grants were likely to be high (due to the involvement of midwives and school support at these stages), consideration was needed regarding the middle (nursery) payment:

“Not all children have contact with nurseries or early years services; further consideration may be required to ensure uptake of the grant at this key stage in a child’s life, particularly as children do not have to attend a nursery to be eligible for the Best Start Grant Award.” (Organisation)

This respondent also stated “*discrimination and inequality*” as unintended outcomes, along with referring to the United Nations Convention of the Rights of the Child: Article 2; Article 6; Article 7; Article 26; Article 28 (UNICEF, 1990) - however, no further details were provided at this question to elaborate on these issues.

Two respondents also linked their responses at this question to those detailed later in the consultation (i.e. Q7), and these comments are covered below.

Q7. Can you identify any gaps in the regulations?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 11 | 22% |
| No | 22 | 43% |
| Don't Know | 3 | 6% |
| No quantitative response | 15 | 29% |
| Total | 51 | 100% |

Of those respondents that were unable to identify any gaps in the regulations, a few indicated that they thought the regulations were comprehensive, provide an easy process for applicants, and that they generally could not identify any gaps. Two however, felt that gaps could only really be determined after the final eligibility was established.

Of those that did identify gaps, several mentioned that the Council Tax Reduction, Maternity Allowance and Disability Living Allowance had been excluded from qualifying benefits and that including these may help ensure that the BSG reaches all who need the support that it intends to provide-:

“Rather than rely completely on benefits that are reserved to UK to establish the income threshold for entitlement, it would seem appropriate to also include the one means-tested provision that is already devolved to Scottish Parliament, that being Council Tax Reduction (CTR). Unlike the UK means-tested benefits the Scottish Government has not implemented the two child policy within CTR, and as such it reflects a slightly different approach to means testing. It would seem appropriate for this to be included in the list of qualifying benefits.”
(Organisation)

“Maternity allowance should also be a qualifying benefit where the claimant does not have a partner... If these women are single and not eligible to receive help with housing costs (and therefore not in receipt of UC or HB) they would not currently be eligible for a Best Start Grant. We also think recipient of Council Tax Reduction should be a qualifying benefit. We still see in work poverty in families who don't get UC and at the moment don't get HB but get CTR. This would take into account students and families affected by the Benefit Cap.” (Organisation)

“We also recommend that Child DLA should be added to this list in Regulation 8... While acknowledging the view in paragraph 60 that "costs associated with the disability of a child were better looked at through Child DLA", we would contend that these two benefits have different policy intentions as the BSG is not designed to cover costs associated with the disability of a child, but rather to provide the "best start". It would therefore be entirely appropriate for Child DLA to be a qualifying benefit for the BSG, since in the truest spirit of the policy

intention, this would give the child who has disabilities - and is therefore statistically at a disadvantage - support to have the “best start” in life.”
(Organisation)

Two respondents also noted that the draft regulations did not specify how quickly an application would be processed:

“The regulations do not specify the timescales for the Agency to decide an application and there is no reference to such in the consultation... it will be helpful to have openness and transparency around the Agency’s decision making timescales for applications.” (Organisation)

A further two respondents also sought clarification around the re-determination process and, in particular, whether a second tier re-determination would be available:

“There is no mention of the re-determination process within the regulations. What aspects of a decision are appealable? What avenues are available if a customer is unhappy with a 1st tier tribunal?” (Organisation)

Individual respondents also outlined the following gaps:

- some students may not have a qualifying benefit - it was noted that allowing Independent Student’s Bursary to be considered could assist in including students within the eligibility criteria, and that for care experienced students there would be the opportunity to link with the Student Award Agency Scotland’s Care Experienced Student Bursary;
- for parents with care experience there should be an ‘assumption of entitlement’ so they do not need to meet an eligibility threshold related to a qualifying benefit to receive the BSG;
- a need to ensure that all young children who are looked after or are on the edges of care will receive this support, regardless of their living arrangements;
- consideration of the extension of devolved powers or use of ‘top up’ payments for kinship carers - this would have the advantage of separating financial assessments and allowance provision currently undertaken by local authority social workers to a national Agency with the required skill set;
- there is no reference to applicant fraud or error, or indeed to error on the part of the Social Security Agency, which is an area that requires further consideration;
- there is no information provided regarding how payments will be made to applicants who do not have a bank account;
- consideration should be given to automatic notification of entitlement;
- accountability should be included in legislation, including around informing applicants of their rights if an application is turned down;

- regulations should hold a requirement to keep up with inflationary methods to offset higher costs of living;
- emphasis needed to be placed on the human right to social security as outlined in the Social Security Charter - this was seen as necessary to lessen stigma around claimants, and also may go some way to alleviating the discriminatory effect that being from lower income households has on children;
- some families in need of assistance with babies due soon, would miss out on the BSG due to its scheduled implementation in summer 2019; and
- to ensure the grant is as responsive as possible to the needs of people experiencing poverty, there should be further consideration of how automatic or expanded entitlement could more closely reflect the priority groups identified in the Scottish Government's Child Poverty Delivery Plan.

One respondent also noted that the draft regulations did not provide any detail regarding in what form, or accompanied by what evidence, a valid application for Best Start Grant would need to be made. They suggested that the requirements needed to be clear to allow individuals to apply without assistance. This respondent also highlighted the gaps in the availability of grants at the point in time when some parents would most need them:

“There is a gap between the age of 3½ and the child starting school where they may enter nursery or early learning, but would be ineligible for a Grant. To ensure that individuals can receive the Grants when they are most needed, as opposed to having to apply for them many months before the start of nursery or school, we would suggest the Scottish Government consider making adjustments to ensure that otherwise-eligible parents retain entitlement if their child begins nursery after the age of 3 ½; and to extend eligibility to parents of children who request to defer the start of school by a year.” (Organisation)

One respondent sought clarity over any ‘exclusions’ from the grant, in particular around asylum seekers:

“The Best Start Grant regulations do not provide clarity on exclusions. [We] would argue that the Scottish Government recognises and states within the regulations which groups of babies and very young children (especially those groups experiencing poverty, low family income, and/or destitution) are excluded from having equal access to the benefits of receiving a Best Start Grant award (or equivalent) and why; e.g. due to their “status”... [We] understand that matters related to immigration are controlled by the UK Home Office, that immigration is not a devolved matter. However, the Best Start Grant is a grant for children and offered by the Scottish Government to alleviate the impact of poverty on their lives.” (Organisation)

Another sought clarification around the procedures and timescales for payments where domestic and/or financial abuse is a contributing factor in a break-up, they sought reassurances around how the system would ensure future payments (or re-

payments) could be paid to the right parent. They also sought clarity for single parents who have recently split up from their partner and/or lost their job just outwith the application/re-determination period.

One respondent did not understand the need for an application process, considering that it would be more efficient for it to be granted automatically where people qualify for other benefits. They considered that the application form could present a barrier to those with literacy issues or where English is not the first language, or that claims may be dismissed where forms are incorrectly completed. This respondent also suggested that it would be helpful for applicants to provide evidence following the submission of the application, and that the application window should be extended to 12 months following the birth of a child in order to be consistent with maternity leave. Consideration was also needed, it was felt, for families who have a first child born outwith Scotland, suggesting the regulations should state 'first child born in Scotland'. Finally, the same respondent questioned whether kinship carers and those with informal care arrangements can apply for the BSG.

Request for a Re-Determination

Re-determination provides a right for an individual to challenge a determination for an award, should they disagree with it. The draft regulations set out the intention for the Scottish Social Security Agency to put aside the original determination and a different officer to undertake the full process of making a new determination, which will replace the earlier decision completely. The individual will be able to ask for a re-determination without having to supply further evidence, but the Agency will take into consideration any new evidence provided. If the individual is dissatisfied with the re-determination outcome, they can appeal that to the First-tier Tribunal.

Specific timescales were also set out, with a re-determination request relating to BSG to be made within 31 calendar days of being notified of the determination, and that Scottish Ministers should have 15 working days to make the fresh determination following receipt of the request. Contingency plans would also be in place for requests beyond the 31 day limit, with requests being accepted up to a year after the initial determination was made, provided there was a good reason for the delay (and with Scottish Ministers deciding whether the reason is a good one). Consultation questions related to re-determinations focused upon the timescales proposed for the process.

Q8a. We have proposed that requests for a BSG re-determination should be made within 31 calendar days of receipt of notification of the original determination. Do you think this is an acceptable time period?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 27 | 53% |
| No | 6 | 12% |
| Don't Know | 2 | 4% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Over half of respondents agreed that this timescale was acceptable, with several noting this is in line with those applied to other benefits.

Of those that disagreed, this was typically because they felt the timescale was too short.

Several felt that a longer timescale was required (with some suggesting a six week/42 day period would be more suitable) to support new parents and to allow them to access any necessary support, independent advice, and/or evidence to facilitate the re-determination request. Some noted this would be particularly important to support those with mental health issues, those with chaotic lifestyles,

victims of domestic abuse, young parents, kinship carers, and those with additional care responsibilities:

“This should be extended as many parents, particularly new parents, can often lose track of time or become mentally unwell/drained due to the pressures of new parenthood, lack of sleep, post-natal depression and the general overwhelming feelings that often occur after the birth of a child. Should they wish to seek help from elected members or CAB/welfare rights, getting appointments can take some time as can merely getting across the front door.” (Individual)

Some respondents (both those who agreed and disagreed with the timescale) suggested that it would be important for the regulations to acknowledge and accommodate exceptional circumstances within the re-determination timeframe, with one respondent suggesting that the addition of a specific ‘exceptional circumstances’ clause could help to offset any such negative impacts:

“We think an ‘exceptional circumstances’ clause can be added which can be fair and just in its interpretation to ensure those facing additional challenges are not excluded from re-determination based on a procedural issue.” (Organisation)

Another respondent felt the timescales required to process applications for many of the qualifying benefits would take longer than 31 days, thus having the potential to have initial BSG applications turned down and also to miss the 31 day re-determination window. They felt this would force claimants to either submit a late request for re-determination or to make a fresh claim (which would add additional administrative burden to both the applicant and Social Security Scotland), or could risk applicants doing neither and not receiving the BSG when they are entitled to it. Again, it was suggested that specific provision was required for this eventuality within the regulations:

“Entitlement to access a BSG will depend on entitlement to a qualifying benefit. Many of the qualifying benefits listed frequently take longer (sometimes significantly so) than 31 days to process. This means it is likely that an application for a BSG could be refused as a qualifying benefit has not yet been processed, only for the 31 days to have expired by the time this qualifying benefit is awarded.” (Organisation)

Two respondents felt that, although the proposed timescale appeared sufficient, it was disproportionately short in comparison to the main application windows provided at each stage of the BSG:

“The Best Start Grant regulations appear [to] take account of the conflicting demands on parents around the time of each of the key life events when a Best Start Grant payment is available and, depending on which payment is being applied for, allows people between a year and a year and a half to make their application. The shorter application window of 31 calendar days for a re-determination does not seem to make the same consideration.” (Organisation)

Other, more general points were also discussed regarding the re-determination process and timescales. One respondent, who was supportive of the timescale overall, discussed the need for more general support around the re-determination process that could help applicants and ensure they feel that staff are not trying to “trip them up”:

“Standard procedures and guidelines in place for accessibility to the likes of independent advice should be communicated clearly through staff in a way that allows individuals to properly enforce their rights. [It has also been suggested that] the use of a steps-based system for re-determinations and subsequent appeals could be introduced. This should outline an effective and clear process for both workers and claimants. Frequent communication with complainants regarding outlining at which stage in the process their complaint is at would be welcomed.” (Organisation)

Another felt there should be consistency in the time-limits for re-determinations across all benefits delivered by the new Scottish social security system:

“Under the new Scottish social security system, there should be statutory time limits for an internal review to be requested as well as for the Agency to make a re-determination. [We believe] it would be beneficial to have consistency across the new social security system if possible.” (Organisation)

This same respondent also highlighted that the draft regulations did not include details of the timescale for making a re-determination and sought clarity on how this would be incorporated:

“The timescale for making a request for a re-determination does not appear in the draft regulations attached to the consultation document. [We] would welcome clarification on whether it is intended to insert this into the regulations, or whether these are to be made in alternative regulations, in order to meet the requirement to do so in section 41(4) of the Social Security Act... We would [also] welcome sight of the text of the proposed regulation, as the wording in the consultation document refers both to the timescale applying to ‘[making] the fresh determination’ and ‘processing’ the re-determination which could be taken to mean different things.” (Organisation)

Another respondent suggested that the whole re-determination process should become part of a single appeal process:

“Our suggestion is where a person appeals a decision that there is an option for the decision maker to reconsider their decision. However, in absence of a favourable revision the matter would then progress to an appeal without further action required from the claimant.” (Organisation)

Q8b. We have proposed that a BSG re-determination should be processed within 15 working days of receipt of a request. Do you think this is an acceptable time period?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 31 | 61% |
| No | 5 | 10% |
| Don't Know | 1 | 2% |
| No quantitative response | 14 | 27% |
| Total | 51 | 100% |

Many respondents felt that having re-determinations processed within 15 working days of receipt of a request was acceptable, with several noting this is comparable to Scottish Welfare Fund review process timescales and faster than re-determination/appeal timescales currently provided for Universal Credit and other benefits.

There appeared to be some confusion, however, amongst respondents as to who would be required to seek the necessary evidence to support an application/re-determination, with some perceiving the burden (and therefore time impact) of evidence to fall on the applicant when making the application/re-determination request, while others suggested the timescale for processing would be unrealistic where decision makers are seeking such evidence and that some mechanism would be needed to extend the processing period under such circumstances:

“As evidence would have been provided at point of original application this would reduce requirement for additional information requests and should allow for timely outcome.” (Organisation)

“It will be important to ensure that systems are in place to avoid delays in decision making beyond the proposed 15 days while decision makers may be seeking further information/supporting evidence.” (Organisation)

“It will be important to extend this if further evidence is required after the re-determination request has been submitted.” (Organisation)

Of those that disagreed regarding the 15 day timescale for processing re-determinations, some felt that a shorter time period would be preferable (with respondents quoting 7 working days and 10 working days), while others advocated for a longer timescale which would ensure that decisions do not need to be rushed:

“Longer should be allowed for this so as not to give applicants an unrealistic timescale, if it is a busier period this may be difficult to stick to and it is better to

be dealt with earlier than expected than to then add complaints to the tasks faced by those dealing with applications.” (Individual)

Other, more general points included:

- the need to alert applicants to any delays to the processing of their re-determination and the reasons for these delays;
- that any additional evidence which could support the re-determination should be accepted during the processing period;
- for re-determinations to be considered again by the decision maker should additional information become available (in order to avoid an appeal hearing);
- to allow claims to be re-determined or re-claimed later if the individual is waiting for a qualifying benefit which is subsequently awarded;
- a need for clarity about whether an individual could make a second application for a BSG if they subsequently receive a qualifying benefit backdated to the period in which an original BSG application failed; and
- the need to commit to a statutory timeframe applicable across the Scottish social security system.

Suggestions were also put forward around the communication and process for the First-tier Tribunal. Two respondents were concerned around the potential for confusion for applicants in the language and process involved in progressing to the First-tier Tribunal:

“We feel particular care must be taken in the scenario where the Agency has failed to conduct the re-determination within the permitted time period, as it may be confusing to the claimant to find that the “appeal” (as most people will view it) that they submitted to the Agency has not been processed, yet they must submit another form asking for an appeal. We have been concerned throughout the passage of the Social Security (Scotland) Bill that this two-stage process risks claimants failing to exercise their right of appeal because they are confused by the process, frightened to challenge “the system”, or fed up fighting for what they feel they are entitled to.” (Organisation)

Indeed, one respondent felt that the move to the First-tier Tribunal should be more automatic, requiring an opt-out scenario for applicants rather than something they must initiate in the event of re-determinations not being processed within the specified timeframe:

“We believe the regulations should say: ‘If there is a failure to make the re-determination within the 15 day period, the individual will be informed that unless they opt out their case will go to appeal to the First-tier Tribunal against the original determination’.” (Organisation)

Impact Assessments

The remainder of the consultation document sought views on the potential impacts of the BSG draft regulations in relation to:

- the Equality Impact Assessment (EQIA);
- the Child Rights and Welfare Impact Assessment (CRWIA); and
- the Business and Regulatory Impact Assessment (BRIA).

BSG Equality Impact Assessment

The Equality Impact Assessment identifies potential impacts based upon age, disability, sex, pregnancy and maternity, race, and religion or belief, as well as for other groups such as foster carers, kinship carers, adoptive parents, young care leavers, and the gypsy/traveller community. Views were sought on any additional impacts on groups already considered, and/or any evidence as would relate to impacts based on gender reassignment or sexual orientation.

Q9a. Are you aware of any impacts we have not identified?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 8 | 16% |
| No | 22 | 43% |
| Don't Know | 4 | 8% |
| No quantitative response | 17 | 33% |
| Total | 51 | 100% |

Comments focussed on perceptions of challenges, shortcomings or gaps in the provision or potential consequences of the grant, rather than focusing on equality related impacts *per se*.

Three respondents raised issues relating to asylum seekers and refugees, and suggested the impacts on this group required further attention. They felt that they were particularly vulnerable and 'in need', but that the current draft regulations for the BSG did not do enough to assist them, or might indeed exclude them from eligibility:

“Asylum seekers are currently excluded from SSMG and BSG as persons who are subject to immigration control. They are a group desperately in need of support and consideration ought to be given to asylum support as a qualifying grant.” (Organisation)

“The consultation identifies that people who have been granted refugee status often face significant delays in accessing benefits. This can significantly heighten their risk of experiencing poverty and destitution, and we would welcome any efforts... to address this gap in order to allow refugee families to access the grant as quickly as possible. While we recognise that immigration legislation acts as a constraint upon the policy options available, we are concerned that one group of people who are highly likely to experience poverty - people seeking asylum - will not be eligible for the grant. Particularly in the case of people seeking asylum who have no recourse to public funds, there is a heightened risk of destitution, and by extension a heightened risk of trauma and of detrimental health impacts on both mothers and their children.” (Organisation)

Two respondents discussed the potential impact of providing cash payments to families as something which may impact across different demographic groups, with one specifically highlighting potential impacts on families where there are drug or alcohol addictions. A suggestion was made that additional support may be necessary for some to ensure there are no negative consequences of receiving cash payments and/or that the monies are spent as intended:

“There may be an issue in some cases with the potential impact that a lump sum payment, of between £250 and £600, could have on parents/households with addiction issues. Perhaps consideration should be given to whether or not some households will require support to ensure that the grant does not have a negative impact on the households and that it is spent as intended by the policy objectives.” (Organisation)

One respondent also identified a gap in the provision for new born babies with disabilities, and noted the potential impact of not being assisted by either the DLA or BSG benefits, while another suggested there should be consideration for additional or increased payments for disabled children to help with costs incurred as a result of the disability:

“Where a parent has a disabled new born child there is no access to DLA at the time of birth. Entitlement to DLA begins after the passage of the three month qualifying period. There may be additional needs for the child from birth that are not addressed by either DLA or the Best Start Grant.” (Organisation)

Impacts on dignity and respect in relation to the re-determination process in particular were also highlighted by one respondent:

“[We] would highlight that there is potential for a “play on words” interpretation of the draft regulations, that the mandatory reconsideration practice is simply being re-named as “re-determination”. At this time it was challenging to see any difference in practice... particularly as any re-determination will also be undertaken by a member of staff from within the same Agency. It is not unreasonable to suggest that the impact of this interpretation undermines the Government’s commitment to dignity and respect.” (Organisation)

One respondent felt that greater consideration was required for kinship carers, foster carers and adoptive parents who already have children within the household - they felt that they should not get the lower rate of BSG for subsequent children. This respondent also recommended that the opportunity should be taken to develop a marker to identify those with care experience (with consent) which could assist in providing them with higher levels of support:

“The Department for Work and Pensions introduced a marker to identify care leavers on the Labour Market System to ensure they received better, more tailored, support. By October 2014, a total of 3,162 care leavers had self-identified and were visible on the system. To date, there is no such system for Universal Credit. There is an opportunity to consider the potential advantages of introducing this in the system as a mechanism to provide a higher level of support.” (Organisation)

Another respondent noted that the distinction made within the regulations between young parents in education and those out of education may be perceived to be negative:

“The proposed distinction between parents in and out of education (payment to grandparent) might be a negative one.” (Individual)

One organisation highlighted the potential for low uptake of the BSG as a result of a lack of awareness of the availability and/or entitlement to benefits, and disengagement, stigma, and perceived ‘punishing practices’ of the social security system. They stressed that effective promotion/communication of the BSG would be necessary, as well as ensuring the process was as simple as possible.

Finally, one respondent was against the proposal to provide benefits to support any more than two children, while another felt that the increased provision under the BSG was unnecessary and that the current SSMG rules and provision, combined with the Scottish Government’s baby boxes³, were sufficient.

Other more general views were put forward that any new changes such as the introduction of the BSG needed to remain cognisant of equalities when being developed and implemented and that it was important always to engage service users in the moving forward of plans (including monitoring of effectiveness in the future). Raising awareness of the new grant and ensuring that everyone who is eligible is made aware and encouraged to apply is key, it was suggested. Special consideration should be given to those most vulnerable or at risk, including care leavers and women in abusive relationships, to ensure that equity is achieved.

³ Baby Boxes began being delivered in August 2017. Based on the Finnish model, which has a proven record of decreasing infant mortality, the box includes essential items for a baby’s first weeks and months and it will also provide a safe space for babies to sleep near their parents.

Q9b. Are you aware of any evidence relevant to the BSG policy and gender reassignment and/or sexual orientation?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 0 | 0% |
| No | 32 | 63% |
| Don't Know | 3 | 6% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

No respondents were aware of any relevant evidence related to the BSG policy and gender reassignment and/or sexual orientation, either as identified in the quantitative responses or via qualitative comments.

BSG Child’s Rights and Wellbeing Impact Assessment

Linked to the EQIA, the BSG Child’s Rights and Wellbeing Impact Assessment (CRWIA) also highlighted that the children of young parents, children in lone parent households, children in lower income households, children living in poverty, children with a disability, or children living as part of a bigger family will all benefit positively from the BSG. It was also noted that children in families where parents have repartnered, and children who are born as part of a multiple birth would also benefit from the BSG.

Q10. Are you aware of any impacts on children’s rights and wellbeing which are not identified here?

| Response | Number | Percentage |
|--------------------------|--------|------------|
| Yes | 6 | 12% |
| No | 27 | 53% |
| Don't Know | 2 | 4% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Although a number of qualitative comments were provided at this question, some again related to perceived challenges, shortcomings or gaps in the provision or potential consequences of the grant more generally, rather than focusing on impacts on the child’s rights and wellbeing more specifically. Although linkages can be inferred, these were not often made explicit in the responses.

Two respondents again highlighted the risks associated with the monies not being used as intended, with one suggesting tokens or vouchers would be more appropriate, and the other specifically highlighting the risks where payments are made to the grandparents rather than directly to young parents. Two others also requested that the first child rate was applied for subsequent children following a large age gap (one suggested five years while another suggested 10 years) as new equipment would likely be necessary, with one of these respondents also seeking this provision for migrant families who arrive in the UK following the birth of existing children, again as it is likely they will have to replace all previously owned baby equipment.

Others, however, did identify what they considered to be impacts on the child's rights and wellbeing. This again included issues related to the rights of young parents and for the children of refugees and asylum seekers.

In relation to the young parents, two respondents felt their rights were undermined or ignored by the proposal to make payments to the grandparent:

“We do not think this complies with a rights based approach. In line with promoting and protecting children’s rights, the parent, regardless of their age, should be the eligible person.” (Organisation)

“In some circumstance it may be that it is easier to evidence the requirement to be habitually resident in a claim in the name of the grandparent, as they are in receipt of the appropriate qualifying benefit. However, it may be desirable that the young person is able to receive the new Best Start Grant and as such an option on the claim form to enable a payment to the young person may be a solution.” (Organisation)

Two others raised issues related to refugees and asylum seekers, with one questioning the impact on refugees, and another seeking clarification from the Scottish Government around the level of consultation with/consideration given to this group when drafting the regulations:

“It seems unfair that families who have refugee status - having no recourse to public funds yet are living in the country do not receive this grant.” (Individual)

“[We] propose that the Scottish Government seeks to gather evidence about the numbers and life circumstances/experiences of children living in families seeking asylum and who reside in Scotland. The aim being to ensure that all children in Scotland have the very best start in life, and to support activities associated with the Best Start Grant; Child Poverty (Scotland) Act 2017 (Scottish Parliament 2017); and the Scottish Government’s proposed Connected Scotland: Tackling Social Isolation and Loneliness Strategy (Scottish Government, 2018). [We] would also be keen to establish if children who live within families who are seeking asylum have been included and consulted by the Scottish Government

in relation to the Best Start Grant, and were given equal opportunities to have their views heard.” (Organisation)

One respondent also highlighted that the lower amount paid to subsequent children could be discriminatory, and thus not provide all children with equal rights:

“The BSG is dependent on birth order of children. Where the first child received £600, the second child receives £300. This could be considered to be discriminatory based on birth order.” (Organisation)

This respondent also, again, stressed the need for care experienced parents not to require a qualifying benefit:

“Research [has] highlighted the negative experiences of many care experienced young people and adults in trying to navigate the complex social security system that they disproportionately need to rely on compared to their peers. Scotland now has a unique opportunity to develop a social security system that is fair, respectful and just in its provision for care leavers. We continue to argue for an assumption of entitlement so care experienced parents do not require a qualifying benefit.” (Organisation)

BSG Business and Regulatory Impact Assessment

The BSG Business and Regulatory Impact Assessment indicated that there could be impacts to businesses due to individuals having the spending power to buy items they could not otherwise have purchased. They noted that the impact would be dispersed across the country and different sectors of the economy. Expectations were also outlined around the potential for increased requests for information and support from existing advice services, and the need for close partnership working to provide a “seamless customer experience”.

Q11. Can you identify any business related impacts not identified?

| Response | Number | Percentage |
|--------------------------|---------------|-------------------|
| Yes | 2 | 4% |
| No | 29 | 57% |
| Don't Know | 4 | 8% |
| No quantitative response | 16 | 31% |
| Total | 51 | 100% |

Most respondents did not identify any additional business related impacts, although a few did (largely those who stated yes or gave no response to the quantitative element, although one respondent who stated no also then went on to provide contradictory qualitative comments).

One respondent highlighted that the success of the BSG will be reliant upon effective sharing of data with DWP and noted that this may create difficulties which would limit the opportunities for automated payments. They also suggested that consideration should be given to the Scottish based Council Tax Reduction providing a qualifying benefit, and that an additional logical step would be to develop this into a single application process for any income related entitlement managed by local authorities (e.g. including school meals and school clothing grants):

“There is a lot of data contained within Council Tax Reduction (CTR) claims that could potentially identify households that qualify for the nursery/early years payment and school payment. As CTR is a Scottish Government scheme administered by local authorities then consideration should be given to allowing a claim for CTR to also serve as a claim for best start grant, but only in so far as it contains all the information required to make such a decision. There would then need to be a mechanism to either export the data of those who qualify to the Scottish Social Security Agency or to enable payments to be made locally on behalf of the Scottish Government.” (Organisation)

Another respondent detailed potential benefits of enabling people to build and own their own ‘Digital Identity’ to offer evidence of eligibility and felt that a more positive stance in promoting the online identity of citizens was needed. They outlined potential partners who could assist in the development of this, and discussed the specific benefits such an approach could have in supporting social security benefits, including reducing stigma around the receipt of benefits.

One organisation highlighted that the Business Impact Assessment does not appear to take account of the training that may be required across a range of agencies (including support organisations, voluntary organisations, advice agencies and front-line customer service departments). They noted that advice agencies will require detailed training on the eligibility criteria and application process, while wider awareness raising will be required across community based services in order to ensure effective signposting and uptake of the grant.

Two organisations also noted (in agreement with the Business and Regulatory Impact Assessment) the potential for a sharp increase in the number of enquiries to advice agencies. This was, in part considered likely due to the timing of the BSG roll-out - potentially coinciding with Universal Credit and Personal Independence Payment roll-out/migration plans, although one of the organisations also outlined a range of other contributing factors as well.

Finally, the respondent who indicated ‘no’ to the quantitative element of this question but provided qualitative comment sought to reiterate the need to protect public funds, that they considered the BSG to be too generous, and there was no way to guarantee the monies would be used for the intended purposes.

Summary

Main Findings

The analysis of responses suggests the following main findings in relation to each of the consultation questions related to the draft regulations:

- Q1. Respondents were largely supportive of the ‘habitually resident’ test, however, concerns were raised in relation to the potential for this to unfairly exclude vulnerable groups such as refugees, asylum seekers, and victims of domestic abuse, as well as EU migrants and those that have recently moved from other parts of the UK. Some questioned how habitual residence in Scotland would operate in practice.
- Q2. There appears to have been some misinterpretation of the purpose of the proposed tests and related question by some respondents who considered this in terms of financial eligibility rather than to establish responsibility for a child. Test 2 was preferred by a larger proportion of respondents and was generally considered to be simpler, more efficient, and allow for greater flexibility in determining responsibility. However, concerns were raised over the reliance on Universal Credit (for example the timescales involved in securing decisions via Universal Credit could have implications for the BSG), and in relation to the implications and risks to the BSG uptake due to the Universal Credit and Tax Credit two child rule. Concerns were also raised for kinship carers under the proposed arrangements at both tests.
- Q3. The need for Universal Credit to pay over £0 in the month preceding or the month in which the BSG application is made was argued to be a barrier for those with fluctuating incomes, those on maternity leave, those in areas heavily dependent on seasonal work, and those on zero hours contracts. Weekly/4 weekly wages, Christmas and bank holidays were also seen as creating potential issues for this approach; and consideration was needed around how sanctions to qualifying benefits might impact BSG.
- Q4. The arrangements for payments to young parents were contentious. The majority of respondents agreed with the proposals, while others felt this negatively stereotyped young parents and impacted on their rights and access to the BSG. Also, difficult family relationships may prevent a young parent from receiving a payment if they are reliant on a parent to apply for them. There is also a risk that the money or associated goods might not ultimately be made available to the young parents/child. Several concerns were raised about taking control of the benefits away from the young parent, notably that the young person’s self-efficacy and autonomy could potentially be undermined by possibly coercive or financially controlling grandparents (of the child) or otherwise difficult family dynamics.
- Q5. It was generally felt that the BSG was likely to meet the policy aims set out, and would contribute to tackling child poverty. However, there were suggestions by some that the first child payment should be more widely available, e.g. including to those with large age gaps between children, and that effective promotion of the second and third payments in particular would

be crucial in ensuring uptake. One respondent had concerns about the potential exclusion of kinship carers which would contradict the Government's intended policy.

- Q6. Unintended consequences identified included concerns around the reliance on Universal Credit (e.g. not providing a true reflection of income) and again highlighted the potential confusion around the Tax Credit two child rule and the implications for BSG uptake. Implications for those who choose not to use nurseries and/or to defer school intake were highlighted, along with a concern that the eligibility criteria and application process may be too complex for applicants to understand, and a risk that cash payments would not be used as intended.
- Q7. In relation to potential gaps, again it was suggested that the qualifying benefits currently exclude several which could be useful, including the Council Tax Reduction, Maternity Allowance and Disability Living Allowance. Other gaps included the draft regulations not specifying how quickly applications will be processed or sufficient details regarding the re-determination process and timescales, and that students and care experience young people would potentially be excluded from the BSG where they did not hold a qualifying benefit.
- Q8a and Q8b. The timescales proposed for re-determination requests and processing were largely supported, although some would prefer a longer request period for applicants, and also a longer window for processing should there be a need for further evidence requests/gathering.
- Q9a, Q9b, Q10 and Q11 Impact Assessments. Impacts on refugees and asylum seekers, on the child's rights (in the case of young parents), and on subsequent children receiving lowered amounts were all considered to be potentially discriminatory. Impacts on businesses were largely in line with those identified in the Business and Regulatory Impact Assessment, with increases in enquiries to advice services and the need for training among a wide range of staff highlighted.

Again, it is stressed that these findings represent the views only of those who submitted a response to the consultation and should not be generalised to the wider stakeholder population.

Conclusions

Overall, there was general support for most of the proposals:

- 63% indicated they agreed with the proposed habitual residency tests;
- 41% expressed a preference for Test 2 to confirm responsibility for a child;
- 55% felt that the draft regulations would be likely to meet the policy intent;
- only 22% indicated there were any potential unintended consequences of the regulations;
- only 22% identified gaps in the regulations;
- 53% were happy with the timescales proposed for requests for redetermination;

- 61% were happy with the timescales proposed for the processing of redeterminations;
- only 16% were aware of equality impacts not already identified in the document;
- no respondents were aware of any evidence relevant to the BSG policy and gender reassignment and/or sexual orientation;
- only 12% suggested there were impacts on children's rights and wellbeing which were not identified in the document; and
- only 4% identified any business related impacts not identified in the document.

The two areas that were least well supported or were more contentious were the proposals that qualifications by Universal Credit should be an award of more than £0 in the month in which the application is made, and the proposal that where the parent is under the age of 16, or is 18 or 19 and the grandparent (or another carer) is still in receipt of tax credit or Universal Credit because the parent is still in training or non-advanced education, the grandparent or carer will be the eligible person. Only 33% specified that they agreed that a Universal Credit award of more than £0 in the month in which the application is made was appropriate, with the main concern focusing on the barriers this may create for those with fluctuating and/or irregular incomes. Meanwhile, although 45% were happy with grandparents being treated as the eligible person, several respondents (both for and against the proposal) expressed concerns that this may undermine the rights and responsibilities of young parents, and could be inappropriate in difficult family circumstances.

In addition, several recurring themes were highlighted by respondents throughout the consultation. There were general concerns for some regarding the reliance placed upon Universal Credit and the likely implications this might have for the BSG. It was suggested that additional qualifying benefits should be included in the eligibility criteria, including Maternity Allowance, Council Tax Reduction and Disability Living Allowance (although it should be noted that the consultation document was transparent about there being limited scope to change other elements of policy, such as additional qualifying benefits).

There was also a perception that certain groups could potentially (either intentionally or unintentionally) be excluded from BSG eligibility and/or face particular challenges and delays created by the proposed system, including kinship carers, refugees and asylum seekers, and students.

Finally, it was stressed that there is a need for clear guidance for both decision makers and applicants, and for effective promotion of the BSG at all stages to maximise uptake. Widespread training and awareness raising of the BSG will also be required among partner agencies and advice and advocacy services to ensure that appropriate signposting is provided, and that applicants can access the necessary information and be suitably supported throughout the process. Ensuring that potential recipients clearly understand the application and appeals process is key.

How to access background or source data

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