

## EQUALITY IMPACT ASSESSMENT - RESULTS

<b>Title of Policy</b>	The Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019
<b>Summary of aims and desired outcomes of Policy</b>	This is an amendment to secondary legislation in order to protect children's eligibility for the targeted entitlement to funded early learning and childcare (ELC) for some 2 year olds. The aim of the amendment is that a similar profile of 2 year olds remain eligible for funded ELC following UK Government changes to the National Living Wage.
<b>Directorate: Division: team</b>	Early Learning and Childcare: 2 Year Old Offer

### Executive summary

The overall objective of the Scottish Government's policy on funded early learning and childcare (ELC) is to provide high quality, flexible and affordable ELC that is accessible for families.

The entitlement to funded ELC for 2 year olds is targeted based on evidence that those children experiencing the most disadvantage will particularly benefit from early access to high quality ELC. We estimate that around a quarter of 2 year olds in Scotland meet the eligibility criteria which include looked after children and children whose family are in receipt of certain benefits (out of work benefits or income-related benefits with income below a certain threshold).

Since 2015, eligibility criteria for the entitlement to a 2 year old place has included that a 2 year old is eligible where a parent receives maximum Child Tax Credit and maximum Working Tax Credits with an annual income that does not exceed a threshold set in UK Regulations of £6,420 or less. A combination of UK Government policy changes means that it is now not possible for a parent aged 25 and over to meet this criterion. These policy changes are:

- to increase annually the National Living Wage (the legal minimum wage for those age 25 and over, not to be confused with the 'real' living wage);
- to freeze income thresholds for receipt of maximum Working Tax Credit and maximum Child Tax Credit at £6,420 or less.

- from 1 April 2019 the annual income for a person aged 25 and over working 16 hours per week is £6,831.

We are amending the relevant Scottish Statutory Instrument (The Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014, as amended) to increase the income threshold for those families who are in receipt of Working Tax Credit and Child Tax Credit. This aims to largely maintain the status quo by protecting eligibility for households that have seen an increase in their earnings due to the increase in the National Living Wage.

As it is anticipated that the National Living Wage will continue to rise over the next 3 years (up to at least 2022 based on estimates from the Office for Budget Responsibility), we have chosen a threshold that allows a degree of stability to 2021.

It also aligns to the threshold used for those children who qualify for the 2 year old entitlement due to their families' receipt of Universal Credit. This should therefore provide consistency across benefit types as more families transition over to Universal Credit.

If we make no changes to the threshold, we estimate the eligible population will decrease by around 4,100 children based on 2017 estimates of the eligible population (of approximately 14,200 children). This would represent around 25% of that eligible population.

With the new income threshold of £7,320, it is estimated that the eligible population could increase by up to an additional 400 2 year olds compared to the 2017 eligible population. Due to uptake rates for the 2 year old entitlement and continual migration from tax credits to Universal Credit, we estimate this is an upper range and it is likely that fewer than 400 individual children will become newly eligible and access a funded place.

The Equality Impact Assessment process on this amendment has concentrated on assessing whether any of the protected characteristics are likely to be represented in the profile of families meeting this specific eligibility criteria.

Through this process we have identified some positive impacts on the basis of sex, disability, race and religion or belief as these groups appear more likely to meet the relevant eligibility criteria.

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

## **Background**

We identified a potential negative impact on 2 year old eligibility for funded ELC as a result of UK Government policy changes relating to the National Living Wage and tax credit thresholds. A letter was issued from the Scottish Government to Scottish Local Authorities in August 2018 to ask that they use their discretionary powers to mitigate any effects of the UK Government policy changes for funded ELC for eligible

2 year olds. We also flagged our intention to consider a legislative change to reflect the changing circumstances for these families.

The Amendment Order will largely maintain the status quo - allowing for a similar profile of 2 year old children to remain eligible for funded ELC entitlement. It is worth noting for the purpose of the EQIA that once a child qualifies for early learning and childcare, they remain eligible. Even if the parent/carer gets a job, or the situation with a parent or carer changes, the child is still entitled to the 2 year old funded ELC provision. Therefore no child currently registered for 2 year old ELC will be impacted as a result of these UK Government policy changes.

## The Scope of the EQIA

This Equality Impact Assessment (EQIA) considered whether 2 year old children and parents or carers within protected characteristics groupings faced any barriers, discrimination or harassment as a result of the proposed amendments to secondary legislation.

In order to understand the barriers or impacts that parents or carers in receipt of the qualifying benefits and or eligibility criteria may face as a result of the proposed increase to the income threshold, the following evidence was reviewed:

- a) Labour Market Briefing - Annual Survey of Hours and Earnings 2018<sup>1</sup>
- b) Scottish Household Survey 2017<sup>2</sup>
- c) Poverty and Income Inequality in Scotland 2014-17<sup>3</sup>
- d) Sexual Orientation in Scotland 2017: A Summary of the Evidence Base<sup>4</sup>
- e) Is Scotland Fairer?<sup>5</sup>
- f) The Tackling Child Poverty Delivery Plan 2018-22 (Annex 2)<sup>6</sup>
- g) What do we know about in-work poverty in Scotland?<sup>7</sup>
- h) The 2015 Budget Effects on Black and minority ethnic people<sup>8</sup>

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<sup>1</sup> <https://www2.gov.scot/Topics/Statistics/Browse/Labour-Market/Earnings>

<sup>2</sup> <https://www2.gov.scot/Resource/0053/00539875.pdf>

<sup>3</sup> <https://www.gov.scot/publications/poverty-income-inequality-scotland-2015-16/>

<sup>4</sup> <https://www.gov.scot/publications/sexual-orientation-scotland-2017-summary-evidence-base/pages/0/>

<sup>5</sup> <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018>

<sup>6</sup> <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-annex-2-further-technical-information/>

and <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-2018-22-annex-4-childrens/pages/2/>

<sup>7</sup> <https://www2.gov.scot/Resource/0054/00546299.pdf>

<sup>8</sup> <https://www.runnymedetrust.org/uploads/The%202015%20Budget%20Effect%20on%20BME%20RunnymedeTrust%2027thJuly2015.pdf>

Current evidence relating to pre-school children in particular that information in relation to 2 years olds was also considered.

- i) Summary statistics for schools in Scotland no9: 2018 edition<sup>9</sup>
- j) Children's Social Work Statistics Scotland 2016/17<sup>10</sup>
- k) Scottish Government's 'The Tackling Poverty Delivery Plan' 2018-22<sup>11</sup>
- l) SG ELC Census 2018<sup>12</sup>

## **Key Findings**

The targeting of the funded entitlement to around a quarter of all 2 year olds is based on evidence that all children, but especially those experiencing the most disadvantage, benefit from access to high quality ELC. We are working with local authorities to improve current uptake of the 2 year old offer, and uptake could be negatively impacted if no changes are made to eligibility criteria.

Scottish Government does not have access to UK Government data detailing the profile of recipients of Tax Credit awards in Scotland. We have therefore been limited to what conclusions we can draw on the impact of the planned amendment.

The available data shows that ethnic minority households and households with a disabled adult or child have a higher risk of being in relative poverty. It is likely that these households will continue to be positively affected by the planned change if they fit the criteria for receiving Working Tax Credits. However, we do not currently have access to data that would allow us to assess the extent to which these households contribute to the specific population targeted by the change in eligibility criteria. Therefore we can only indirectly make an assumption that these specific protected characteristic groups (in particular Sex, Race and Disability) are more likely to be impacted positively.

The Tackling Child Poverty Delivery Plan 2018-22 demonstrates that ethnic minority families are more likely to be in work but on lower incomes. It also highlights that minority ethnic groups have a lower reliance on social security payments than the population average. The data analysed did not have a large enough sample size to look at minority ethnic poverty in isolation, or to look at the different Scottish minority ethnic groups.

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<sup>9</sup> <https://www.gov.scot/publications/summary-statistics-schools-scotland-9-2018/>

<sup>10</sup> <https://www.gov.scot/publications/childrens-social-work-statistics-2017-2018/>

<sup>11</sup> <https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-2018-22-annex-4-childrens/pages/2/>

<sup>12</sup> <https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation/ELCAdditionalTables2018>

UK level data however shows that, on average, minority ethnic groups are most reliant on earned income, but suggests that Pakistani and Bangladeshi groups are more reliant on tax credits and other working age (non-disability) benefits than the average. Other research suggests that this may be due to larger average family size amongst these ethnic groups.

The 'Child and Working Tax Credits statistics: finalised annual awards - 2016 to 2017' publication provides information on the number of families benefitting from Child and Working Tax Credits at a UK level. However, breakdowns by protected characteristics are not provided in the published analysis.

The information does show that the majority of those claiming Working Tax Credits and Child Tax Credits in 2016-17 were lone parent families with children and they were receiving either the full award of CTC (when out-of-work) or WTC and CTC (when in-work).

A large proportion of single parent families are female-headed, The 'Scottish Household Survey 2017: Finance' report found that female-headed households are less likely to report “managing well” financially (a term used in the publication). In 2017, 60% of households where the highest income householder was male said they “managed well” financially compared to 51% where the highest income householder was female.

Data for The 'Poverty and Income Inequality in Scotland 2014-17' publication shows that the poverty rate (after housing costs) for single working-age women, including those who are parents was 30%. This was a higher rate than for single working-age men, who have a poverty rate of 26%.

Feedback from stakeholders included a comment from One Parent Families Scotland's Welfare Rights Team which indicated that the proposed measure should have a positive bearing on single mothers and should not have a negative impact against any of the protected characteristic groupings. Furthermore they fed back that the amendment would enable Scottish Government to maintain a similar level of eligibility ensuring no children lose out who would otherwise have been eligible.

## **Recommendations and Conclusion**

The overall purpose of this amendment is to largely maintain the status quo and to ensure that eligibility is protected for those families who have seen an increase in their earnings due to the UK policy changes.

The EQIA process has identified limited positive impacts in particular for single lone parents which appear to be more directed towards single women.

As there was limited evidence available in relation to the tax credit population, we were unable to ascertain if the policy change will impact on specific protected characteristic groups directly or indirectly. We can indirectly make assumptions that there will be positive impacts for ethnic minority households and households with a disabled adult or child as they have a higher risk of being in relative poverty. If these families meet the eligibility criteria it is highly likely that they will benefit from the increase to the income threshold.

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

Longer term, the Scottish Government is planning to look more comprehensively at the eligibility criteria for the 2 year old funded entitlement to ensure that the offer is targeting those children who will benefit most from early access to ELC. A full EQIA process will be conducted alongside this piece of work.