

The Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020

Equality Impact Assessment Record

April 2021



Scottish Government
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Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc.	The Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020	
Minister	Deputy First Minister and Cabinet Secretary for Education and Skills	
Lead official	Douglas Forrester	
Officials involved in the EQIA	name	team
	Lyndsey Fogg	Support and Wellbeing Unit
Directorate: Division: Team	Learning: Improvement, Attainment and Wellbeing	
Is this new policy or revision to an existing policy?	This is a new policy. The regulations will replace the existing regulations governing the nutritional requirements for food and drink served in schools, which first came into effect in August 2008.	

Screening

Policy Aim

The policy aim is to replace The Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008, following on from the report on the Technical Working Group's review of those regulations.

The current school food regulations first came into effect in 2008. Since they were introduced, scientific evidence has emerged linking excessive consumption of red and red processed meat with colorectal cancer in later life. Also, excessive consumption of foods high in sugar content are linked to an increased risk of poor oral health, weight gain and type 2 diabetes. Scottish Ministers commissioned a Technical Working Group to review the 2008 regulations in November 2016. The Group presented its recommendations to Scottish Ministers at the end of 2017 and they agreed to accept them. A public consultation was carried out by the Scottish Government between 4 June and 29 August 2018. The consultation received 1,359 responses and the majority of those agreed with all the proposals, either fully or in part.

The proposed regulations will cover all food and drink served or sold in schools. This applies not only to school lunches, but also to food served at all other times of the day. This includes food and drink served outside normal school hours, such as at breakfast clubs and in residential school accommodation where evening meals are provided. The proposed provisions would not cover food brought into schools, such as packed lunches, however schools can set their own policies to raise awareness of and promote healthy packed lunches.

Who will it affect?

The policy will benefit all children of school age at local authority run or grant-maintained schools in Scotland, where they choose to take school meals. The 2020 regulations will benefit children and young people in primary, secondary and special schools, and also where they are living in accommodation provided by the school where food is served outwith normal school hours. Since the policy only applies to school food, this means that it will not apply to either younger pre-school children, or young people aged 16 to 18 who have left school.

What might prevent the desired outcomes being achieved?

We have not identified any causes which would prevent the proposed regulations from being implemented.

Stage 1: Framing

Results of framing exercise

Although this policy focuses on schools, the policy is more focused towards children and young people's health.

Extent/Level of EQIA required

This policy will affect all children and young people attending any publicly-funded school in Scotland, where they consume food and drink provided within the school premises, including where residential accommodation is provided by the school for boarding pupils.

Whilst the effects of this policy are intended to cover all school-aged children equally, we believe it will be of particular benefit to children and young people who are eligible for free school meals.

This is because the rate of uptake of school meals is significantly higher among children and young people who are eligible for free school meals in comparison to those who are not. In 2019, uptake of school meals was 78.1% among children and young people who were eligible for free school meals compared to 54.5% for all pupils¹. Therefore an EQIA will be published to reflect this.

¹ <https://www.gov.scot/publications/school-healthy-living-survey-statistics-2019/pages/2/>

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ²	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<p>AGE</p>	<p>In 2019, there were 347,364 children and young people taking school meals at all publicly funded schools in Scotland. 188,274 of them were taking free school meals.</p> <p>Uptake of school meals is higher among children and young people eligible for free school meals.</p> <p>Therefore the policy could be particularly beneficial to pupils in primaries 1 to 3 who are universally entitled to free school meals, if they choose to take them.</p>	<p>https://www.gov.scot/publications/school-healthy-living-survey-statistics-2019/pages/2/</p>	<p>No action is needed since legislation already requires that education authorities must promote the availability of school meals at educational establishments under their management, and that they encourage pupils in attendance to take them.</p> <p>In the case of children and young people who are entitled to free school meals, education authorities must also take reasonable steps to ensure that any child or young person who is entitled to free school meals receives them.</p>

² Refer to Definitions of Protected Characteristics document for information on the characteristics

	However this policy applies to primary, secondary and special schools and any child or young person who takes a school meal will benefit.		This is covered by Section 7 of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007 .
DISABILITY	Not applicable, this policy applies equally to all children and young people.	-	Education Scotland's Health and Nutrition Inspectors carry out regular inspections at schools to ensure they are complying with their statutory obligations in relation to the provision of food and drink to all children and young people in attendance.
SEX	Not applicable, this policy applies equally to all children and young people		Not applicable
PREGNANCY AND MATERNITY	Not applicable, this policy applies equally to all children and young people	-	Not applicable

GENDER REASSIGNMENT	Not applicable, this policy applies equally to all children and young people	-	Not applicable
SEXUAL ORIENTATION	Not applicable, this policy applies equally to all children and young people	-	Not applicable
RACE	Not applicable, this policy applies equally to all children and young people.		Not applicable
RELIGION OR BELIEF	<p>Some religious groups have specific dietary needs, which will either forbid them from eating certain foods or require that the food can only be consumed where it has been prepared in a specific way.</p> <p>Section 85 of the Equality Act 2010 forbids education authorities from discriminating against,</p>	http://www.legislation.gov.uk/ukpga/2010/15/part/6	Education Scotland's Health and Nutrition Inspectors carry out regular inspections at schools to ensure they are complying with their statutory obligations in relation to the provision of food and drink to all children and young people in attendance. No additional actions over and above this are required.

	<p>harassing or victimising any pupil in the way it affords them with access to a benefit, facility or service.</p> <p>This will require that education authorities and schools must take account of the religious dietary needs of their pupils when planning their school menus, therefore ensuring that all children and young people in attendance have equal access to balanced and nutritious food and drink which meets the standards set out in the 2020 regulations.</p>		
MARRIAGE AND CIVIL PARTNERSHIP	Not applicable	Not applicable	Not applicable

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	Y			This policy supports children and young people’s health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity	Y			This policy supports children and young people’s health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

Promoting good relations among and between different age groups			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			Y	<p>Section 85 of the Equality Act 2010 requires that schools and education authorities must not discriminate against, harass or victimise any pupil in the way it affords access to a benefit, facility or service.</p> <p>This would require that schools and education authorities must take account of the dietary needs of pupils who must follow special diets as a result of their medical condition when they are planning their school menus, to ensure that all pupils have access to healthy and nutritious food which meets the requirements set out in the 2020 regulations.</p>

<p>Advancing equality of opportunity</p>			<p>Y</p>	<p>Section 85 of the Equality Act 2010 requires that schools and education authorities must not discriminate against, harass or victimise any pupil in the way it affords access to a benefit, facility or service.</p> <p>This would require that schools and education authorities must take account of the dietary needs of pupils who must follow special diets as a result of their medical condition when they are planning their school menus, to ensure that all pupils have access to healthy and nutritious food which meets the requirements set out in the 2020 regulations.</p>
<p>Promoting good relations among and between disabled and non-disabled people</p>			<p>Y</p>	<p>Section 85 of the Equality Act 2010 requires that schools and education authorities must not discriminate against, harass or victimise any pupil in the way it affords access to a benefit, facility or service.</p> <p>This would require that schools and education authorities must take account of the dietary needs of pupils who must follow special diets as a result of their medical condition when they are planning their school menus, to ensure that all pupils have access to healthy and nutritious food which meets the requirements set out in the 2020 regulations.</p>

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Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Promoting good relations between men and women			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish

				Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
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Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Promoting good relations			Y	This policy supports children and young people's health and wellbeing through the provision of

				<p>balanced nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.</p>
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Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

Promoting good relations			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish

				Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Promoting good relations			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Advancing equality of opportunity	Y			This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that

				food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.
Promoting good race relations			Y	This policy supports children and young people's health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	<p>There is a provision made under Section 85 of the Equality Act 2010 which states that a school or education authority must not discriminate against, harass or victimise any pupil in the way it affords them with access to a benefit, facility or service.</p> <p>This would require that schools and education authorities must take account of the dietary needs of pupils who follow any religion or faith where particular dietary requirements are observed when</p>

				they are planning their school menus, to ensure that all pupils have access to balanced and nutritious food which meets the requirements set out in the 2020 regulations.
Advancing equality of opportunity			Y	<p>There is a provision made under Section 85 of the Equality Act 2010 which states that a school or education authority must not discriminate against, harass or victimise any pupil in the way it affords them with access to a benefit, facility or service.</p> <p>This would require that schools and education authorities must take account of the dietary needs of pupils who follow any religion or faith where particular dietary requirements are observed when they are planning their school menus, to ensure that all pupils have access to balanced and nutritious food which meets the requirements set out in the 2020 regulations.</p>
Promoting good relations			Y	There is a provision made under Section 85 of the Equality Act 2010 which states that a school or education authority must not discriminate against, harass or victimise any pupil in the way it affords them with access to a benefit, facility or service.

				<p>This would require that schools and education authorities must take account of the dietary needs of pupils who follow any religion or faith where particular dietary requirements are observed when they are planning their school menus, to ensure that all pupils have access to healthy and nutritious food which meets the requirements set out in the 2020 regulations.</p>
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Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership³	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This policy supports children and young people’s health and wellbeing through the provision of balanced and nutritious food. It will ensure that food and drink served in schools, at all times of the day, remains closely aligned with the Scottish Dietary Goals and continues to be based on up to date scientific evidence and dietary advice.

³ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	<p>No significant positive or negative impacts have been identified for any of the equality groups as a result of this policy.</p> <p>Some positive benefit could be claimed as a result of the regs. applying only to school age children as opposed to all other age groups too.</p> <p>Section 85 of the Equality Act 2010 requires that schools and education authorities must not discriminate against, harass or victimise any pupil in the way it affords access to a benefit, facility or service.</p>
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ⁴ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

⁴ See EQIA – Setting the Scene for further information on the legislation.

Describing how Equality Impact analysis has shaped the policy making process

The 2020 regulations on the nutritional requirements for food and drink in schools has been considered in light of scientific evidence that has emerged since the original regulations were first introduced in 2008, and also to align them more closely with the Scottish Dietary Goals which were revised in 2016.

Consideration was given to equality groups who have particular dietary needs, those being children and young people who are required to follow special diets as a result of their medical condition as well as those who observe religious beliefs which have particular dietary requirements.

The Equalities legislation of 2010 requires that schools and education authorities cannot discriminate against, harass or victimise any pupil in the way it affords them access to a benefit, facility or service. This requires that all pupils must have equal access to balanced and nutritious food which will meet the standards set out in the 2020 regulations.

Monitoring and Review

As part of the annual programme of school inspections, Education Scotland's Health and Nutrition Inspectors will continue to routinely carry out inspections and ensure that the new standards, set out in the 2020 regulations on school food and drink, are being complied with. These inspections will also ensure that school menus are reflecting the needs of pupils who follow special diets due to factors such as their religious beliefs or their medical condition. The 2020 regulations are expected to come into effect on 8 April 2020.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes

No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:
 - Eliminating unlawful discrimination, harassment, victimisation;
 - Removing or minimising any barriers and/or disadvantages;
 - Taking steps which assist with promoting equality and meeting people's different needs;
 - Encouraging participation (e.g. in public life)
 - Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken Free School Meals – The Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Kit Wyeth

Position: Deputy Director: Improvement, Attainment and Wellbeing Division

Authorisation date: 2 August 2019



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Edinburgh
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