

# **The Social Security (Miscellaneous Amendment and Transitional Provision) (Scotland) Regulations 2022**

**Child Rights and Wellbeing Impact  
Assessment (CRWIA)**

**September 2022**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

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## 1. Which articles of the UNCRC does this policy/measure impact on?

**Article 2 - Non-discrimination.** Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

**Article 3 - Best interests of the child.** Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing – and that the institutions, services and facilities responsible for their care and protection conform with established standards.

**Article 4 - Protection of rights.** Governments should undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the UNCRC.

**Article 5 - Parental guidance and a child's evolving capacities.** Governments must respect the rights, responsibilities and duties of parents and carers, as well as members of the extended family, to direct and guide the child in the exercise of their rights.

**Article 12 – Respect for the views of the child.** Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

**Article 18 – Parents or legal guardians to have primary responsibility for the upbringing of the child.** Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best for the child. Governments must provide appropriate assistance to parents and carers to help them.

**Article 23 – Children with disabilities.** A disabled child has the right to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. Governments must recognise the right of the disabled child to special care, and ensure the disabled child has effective access to education, training, health care, rehabilitation, preparation for employment, and recreational opportunities.

**Article 24 - Right to health and health services –** Every child has a right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Governments must strive to ensure that no child is deprived of his or her right of access to such health care services and take appropriate measures to ensure full implementation of this right.

**Article 26 – Social security.** Every child has a right to benefit from social security, taking into account the resources and circumstances of those who have responsibility for the child.

**Article 27 – Adequate standard of living.** Every child has a right to a standard of living adequate to their physical, mental and social development. Governments should take measures to assist parents and carers who cannot afford to provide this, and in particular to provide assistance and support with food, clothing and housing.

**Article 28 – Right to education.** Every child has the right to education. Governments must recognise this with a view to achieving this right progressively and on the basis of equal opportunity.

**Article 31 - Right to leisure, play and participation in cultural and artistic activities.** Every child has the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. Governments must respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

## 2. What impact will your policy/measure have on children's rights?

**Positive:** the extension to the eligibility criteria for Scottish Child Payment (SCP) will provide additional social security support to parents of children aged 6-15. Increasing the value of the payment to £25 a week will provide greater financial support to all eligible families. This is specifically targeted at low income families. Scotland is the only part of the UK to offer this type of support.

It will also ensure that, in the unfortunate situation where a child to whom a claim relates dies, these amendments will also provide for a payment, equivalent to the value of Scottish Child Payments made in the 12 weeks prior to the child's death, to be made. This will bring the payment closer in line with the reserved benefits which act as qualifying benefits for SCP.

Widening the meaning of kinship care for Best Start Grant (BSG), Best Start Foods (BSF), and SCP will ensure, as we roll out Scottish Child Payment to under 16s, that eligible kinship carers who are not related to the child but are known to them and have a pre-existing relationship with the child are included.

Introducing auto-award for elements of BSG will reduce the need for applications, making it easier for eligible families to receive their entitlement.

Providing new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child, will provide greater support for families in the following situations, who are more likely to be starting from scratch without the items that the Pregnancy and Baby payment is intended to provide:

- individuals granted refugee status, humanitarian protection, or leave under the Afghanistan resettlement schemes or the Ukraine resettlement schemes, who have a child/children from before they arrived in the UK
- individuals who took on responsibility for a child/children who was not their own when that child/children was more than 12 months old
- individuals who have been forced to leave their home with a child/children due to domestic abuse

Widening the meaning of surrogacy for BSG and BSF will ensure that all individuals who are responsible for a child through formal surrogacy arrangements can be classed as having responsibility for the child, and removing the condition that the child is not looked after by the local authority in residential care for BSG, will allow more low income families to benefit from this support.

### **Children's Rights**

Our assessment of the impact of the changes we are proposing on the relevant articles of the UNCRC is as follows:

#### **Article 2 - Non-discrimination.**

Social Security Scotland is committed to treating all applicants equally. The principle of non-discrimination is enshrined in the Social Security (Scotland) Act 2018.<sup>1</sup> Therefore, all those who submit a claim can expect the decision to be made fairly and there are procedures in place for complaints and appeals if they believe that standard has not been met.

The approach taken by Social Security Scotland is centred on non-discrimination making the application process as accessible as possible to reduce the stigma around claiming benefits. We have committed to a multi-channel approach for the Five Family Payments (FFP) as with the other devolved benefits with applications taken over the phone, online or on a paper form. In addition, Social Security Scotland has set up a Local Delivery Service with staff in all 32 local authority areas. These staff operate at the local level helping and informing clients of benefits available and assisting clients claim what they are entitled to. They give clients a choice in regard to how they access the service by offering support in outreach locations, home visits and prisons, removing a significant barrier to applying. Clients are able to receive one to one support, to understand what devolved benefits they are entitled to and help them to complete applications.

Once fully operational, there will be at least 400 staff spread across all local authority areas in Scotland. Over the coming year they will seek to become embedded and known in the local community.

The Scottish Commission on Social Security (SCoSS) recognised in their report<sup>2</sup> on the initial roll out of SCP that it is a positive measure protecting against

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<sup>1</sup> [Social Security \(Scotland\) Act 2018](#)

<sup>2</sup> Scottish Commission on Social Security (2020) [Scrutiny report on draft regulations: Scottish Child Payment Draft Regulations 2020](#)

discrimination. They highlighted that the decision to pay under 6s early, meant those over the age of 6 would be at a disadvantage. However, they deemed this approach acceptable under international law which allows for the progressive realisation of social and economic rights, with the payment for children aged 6 to 15 being launched at a later date. By now rolling out SCP to all eligible children under 16 we are further advancing social and economic rights.

We have considered the eligibility criteria for Scottish Child Payment in line with UNCRC at particular length when considering the definition of a child in UNCRC and the age limit for the payment. The payment has been designed to deliver support to those responsible for children under 16, as we believe this will have the biggest impact on child poverty.

For BSG, we are providing new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child, for those who are more likely to be starting from scratch without the items that the Pregnancy and Baby Payment is intended to provide. This will protect these families from being discriminated against in the amount of support that they receive.

Widening the definition of kinship care for the FFP will ensure that our regulations do not discriminate between different categories of kinship carers on the basis of their relationship with the child. Carers who do not have a legal order or agreement with the local authority may still be able to qualify providing they can demonstrate child responsibility by being in receipt of certain reserved benefits.

Widening the meaning of surrogacy will ensure all individuals who are responsible for a child through formal surrogacy arrangements are able to meet the child responsibility test for BSG and BSF.

Removing the condition for BSG that the child is not looked after by the local authority in residential care aligns with the approach taken for SCP and BSF and will mean individuals will still be eligible to apply for BSG where their child is in residential care as long as they are still responsible for the child and meet the other eligibility conditions.

### **Article 3 - Best interests of the child**

The FFP are one aspect of the Tackling Child Poverty Delivery Plan<sup>3</sup> (TCPDP), a holistic plan focussed on reducing child poverty with the best interest of every child at its centre. SCP and BSG can be spent to meet the best interests of each individual child, whether on clothes, hobbies or books.

In their report on the initial rollout of SCP, SCoSS highlighted that 'by directing additional resources to low-income households including children, it is all but certain that SCP would be regarded as being in the interests of the children who are projected to benefit from its introduction'.<sup>4</sup>

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<sup>3</sup> Scottish Government (2022) [Best Start, Bright Futures: tackling child poverty delivery plan 2022 to 2026](#)

<sup>4</sup> Scottish Commission on Social Security (2020) [Scrutiny report on draft regulations: Scottish Child Payment Draft Regulations 2020](#)

#### **Article 4 - Protection of rights**

Social Security Scotland's commitment to dignity, fairness and respect, enshrined in the Social Security (Scotland) Act 2018, and in the publication of Our Charter<sup>5</sup>, ensures that the protection of rights is at the core of the FFPs development and implementation.

#### **Article 5 - Parental guidance and a child's evolving capacities**

The FFP are awarded to parents and carers to spend based upon their child's needs. They will be the best judge of how best to allocate the funds being made available. The views of parents and carers, including young parents, have been extensively consulted as part of the development of the benefits and feedback will continue to be gathered as part of our commitment to continuous improvement.

#### **Article 12 – Respect for the views of the child**

The first TCPDP<sup>6</sup> was formed through extensive consultation with children and young people, and this formed the basis of SCP and BSG policy. Initial policy development of BSF was informed by a 2016 report by Nourish Scotland entitled *Living is More Important than Just Surviving - Listening to what children think about food insecurity*<sup>7</sup> and the report produced by the Children's Parliament in 2017 entitled *What Kind of Scotland?*<sup>8</sup>

Young parents and young people have been considered throughout the policy development of the FFP including through representative organisations and direct engagement and particularly through user research.

#### **Article 18 – Parents or legal guardians to have primary responsibility for the upbringing of the child.**

The FFP are paid to the person deemed responsible for the upbringing of the child, this is normally determined through the child being named on a child responsibility benefit or through a legal order demonstrating that the person is a kinship carer for the child.

For both BSG and BSF, child responsibility can also be determined through a legal order demonstrating that the person is an adoptive parent, surrogate parent or guardian. Furthermore, young parents who normally live with the child, are under 20 and are a dependant of someone else are also deemed as responsible for the child.

Currently, either of a couple in a household can apply for the FFP, including if they are the partner of the main carer of the child. This decision was taken given that we are utilising the same technical build for all of the FFP, which allows partner applications, to provide a streamlined application process and reduce the burden on client. In addition, the legal route that we have chosen to deliver the SCP means that child responsibility is determined through the data that we receive from the DWP and

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<sup>5</sup> Social Security Scotland (2019) [Our Charter](#)

<sup>6</sup> Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022](#)

<sup>7</sup> Nourish Scotland (2016) [Living more important than surviving](#)

<sup>8</sup> Children's Parliament (2017) [What Kind of Scotland](#)

HMRC. We are therefore reliant upon the information that they hold, recognising that a “main carer” is usually only determined via this data when a couple have separated. We do recognise the importance of the main carer accessing the funds as there is evidence demonstrating that they are more likely to spend the additional income on the child.<sup>9</sup>

In December 2021, we introduced amendment regulations which give Social Security Scotland additional powers when considering competing claims for SCP and BSG. These additional powers will help ensure that the individual who is actually looking after the child receives SCP and/or BSG in the event of a competing claim.

### **Article 23 – Children with disabilities**

Children with disabilities are more likely to experience poverty, therefore the additional financial resource is expected to have a positive impact upon this group. This financial disadvantage may be a result of the higher costs of living with a disability, reduced opportunities for adults in the household to undertake paid work and barriers to benefit take-up. Despite being well-reported, the reasons for the association between poverty and childhood disability are not yet fully understood.<sup>10</sup> We are committed to removing barriers to accessing our service both for those with disabilities and for those supporting children with disabilities, through inclusive communications and a flexible application process.

The needs of disabled children contributed to decisions in designing the BSG in the following ways:

- Disabled children do not necessarily meet developmental milestones in the same timescales as other children. The Early Learning Payment has a long application window which accommodates children with different needs;
- Disabled children may not take up a place in formal education at the same timescale. To ensure that this is not a barrier, there is no requirement to enrol/attend nursery or school to qualify for an Early Learning or School Age Payment; and
- Parents whose new baby has been identified as having a disability will have other priorities in the first few months. Allowing applications to be made up until the child is 6 months for Pregnancy and Baby Payment gives them time to apply.

### **Article 24 - Right to health and health services**

BSF supports families by enabling their children to have access to a healthy nutritious diet.

### **Article 26 – Social security**

The Scottish Government is committed to the principle that social security is a human right, with Section 1 of the Social Security (Scotland) Act 2018 stating that ‘social security is itself a human right and essential to the realisation of other rights’.<sup>11</sup> The importance of this was echoed by the children and young people

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<sup>9</sup> Lundberg et al (1997) Do Husbands and Wives Pool Their Resources? Evidence from the United Kingdom Child Benefit, *The Journal of Human Resources*, Vol. 32, No. 3., pp. 463-480; Fisher (2014) [British tax credit simplification, the intra-household distribution of income and family consumption](#);

<sup>10</sup> Iriss (2019) [Disability, Poverty and Transitional Support](#)

<sup>11</sup> [Social Security \(Scotland\) Act 2018](#)

consulted through the development of the first TCPDP.<sup>12</sup> The payments will expand upon the right of a child to benefit from social security. This is accompanied by a concerted effort by Social Security Scotland to change the perception of social security to a human right.

We have considered the SCP eligibility criteria stopping at 16 in accordance with the definition of a child for the purposes of the UNCRC. We recognise that once a child reaches 16 and remains in non-advanced education they may be eligible for Education Maintenance Allowance. We also recognise that they may be eligible for certain reserved benefits if they do not remain in education. We consider 16 and 17 year olds have adequate alternative social security provision upon reaching the age of 16.

### **Article 27 – Adequate standard of living**

The payments are intended to ensure that children have an adequate standard of living, and is part of the overall TCPDP approach to tackling child poverty. Young parents told us that the early years are costly, with children regularly needing new clothes and shoes as they grow. The children and young people consulted recommended SCP provides an increased income to allow access to transport, school trips and activities. BSG provides additional money to families when their children make transitions in the early years, while BSF provides pregnant women and families with children under the age of three increased income via a payment card to purchase healthy foods and milk.

By increasing the value of SCP to £25 a week we will provide greater financial support for eligible children.

By providing new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child, we will provide greater support for a small group of vulnerable families who are more likely to be starting from scratch without the items that the Pregnancy and Baby Payment is intended to provide.

### **Article 28 – Right to education**

The BSG Early Learning Payment can help with costs during early learning to support child development, travel costs, trips out and toys for home learning or the costs associated with taking up a place at nursery. The application window has been designed to align with the take up of nursery place at either age 2 or 3, potentially allowing for a link to be made with the take up of early learning and childcare places for eligible 2's. The School Age Payment can help with costs of preparing for primary school, after school activities or with the cost of school trips. SCP provides an increased income to allow access to school trips and activities.

### **Article 31 - Right to leisure, play and participation in cultural and artistic activities.**

Both the BSG and the SCP help those responsible for the child to provide items for play, recreation and leisure activities.

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<sup>12</sup> Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022](#)

### 3. Will there be different impacts on different groups of children and young people?

Under the UNCRC, 'children' can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. 'Groups' can also refer to children by age band or setting, or those who are eligible for special protection or assistance.

Most of the changes to SCP are specifically aimed at supporting individuals who are responsible for children under 16. Parents or carers of a child under 16 in receipt of certain qualifying reserved benefits can apply for SCP.

It is also expected that the policy will impact young parents who are responsible for a child under the age of 16, as they can claim SCP on that child's behalf provided they are in receipt of a qualifying reserved benefit.

All SCP recipients will benefit from an increase in the payment from £20 a week to £25 a week.

BSG is aimed at pre-school children and pregnant women while BSF is aimed at children under 3 and pregnant women.

The changes we are proposing to BSG are specifically aimed at:

- increasing support to: individuals granted refugee status, humanitarian protection, or leave under the Afghanistan resettlement schemes or the Ukraine resettlement schemes, who have a child/children from before they arrived in the UK; individuals who took on responsibility for a child/children who was not their own when that child/children was more than 12 months old; and individuals who have been forced to leave their home with a child/children due to domestic abuse
- extending support to children who are looked after by the local authority in residential care
- providing an automatic award of Early Learning Payment and School Age Payment without the need for an application for children where SCP is in payment

The change we are proposing to both BSG and BSF is specifically aimed at extending support to the children of individuals who have a surrogacy order under section 54A of the Human Fertilisation and Embryology Act 2008

We are also proposing to widen the definition of kinship care across BSG, BSF and SCP to ensure that as we roll out SCP to children aged 6-15, eligible kinship carers who are not related to the child but are known to them and have a pre-existing relationship with the child are included.

Under 18s are automatically entitled to BSG without the need for a qualifying benefit. This is also true for 18 and 19 year olds who are still dependent on someone who is either receiving benefits for them or is a kinship carer for them. Pregnant women

who are under 18 and their partners are automatically entitled to BSF, without the need for a qualifying benefit. This is also true for parents who are under 18 and have a child who is under 1. Where a pregnant woman is under 18 and her or her partner are in receipt of BSF they continue to be eligible for BSF without the need for a qualifying benefit once the pregnant woman turns 18 up until their child turns one. In all other cases, eligibility for the FFP is based upon being in receipt of a qualifying, reserved benefit which means that when eligibility for that benefit ends, entitlement to the FFP also ends. As a result, we are unable to provide payments for a set period of time following a change in circumstances (e.g. an individual entering employment), to allow time for the financial adjustment.

#### 4. If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

In most cases, eligibility for both BSF and BSG is based on receipt of a qualifying benefit to ensure that support is targeted at those on low incomes. As young mothers are considerably more reliant on state benefits and tax credits than older mothers – a position that remains the case as the child ages<sup>13</sup> – and as many find accessing the welfare and income to which they are entitled confusing and difficult, an exception is made for young parents (as set out above).

Basing eligibility on receipt of a qualifying benefit is an effective and efficient alternative to means testing. The benefits and tax credits are also used to check other criteria, such as identity and residency. This reduces the evidence requirements on applicants, making it easier to apply.

SCP was introduced through secondary legislation, using the powers to top up a reserved benefit contained in Section 79 of the Social Security (Scotland) Act 2018. This decision was taken as it was the quickest and simplest route to introduce the payment and therefore help tackle child poverty. Primary legislation would have delayed introduction of the payment, potentially by two or three years. The decision to proceed using the Section 79 power means that eligibility for SCP is based upon receipt of a qualifying reserved benefit.<sup>14</sup>

Basing eligibility on receipt of a qualifying benefit has placed some restrictions on eligibility, in particular, the following groups do not qualify:

- Those with no recourse to public funds cannot receive a qualifying, reserved benefit and are therefore not eligible for SCP. This is a reserved benefits matter and, therefore, not within the Scottish Government's powers to address.
- However, as those aged under 18 do not require a qualifying, reserved benefit to be eligible for BSG, we have sought and received agreement from the UK Government that for BSG Pregnancy and Baby Payment, individuals who are under 18 and have no recourse to public funds are able to receive support.

<sup>13</sup> Scottish Government (2016) [Pregnancy and Parenthood in Young People Strategy](#)

<sup>14</sup> For a full list of qualifying benefits see - [Scottish Child Payment - Who should apply](#)

Furthermore, we have plans to extend BSF eligibility to children aged under three, with British citizenship, and whose parent or guardian meets the financial eligibility criteria but do not have a qualifying benefit due to having no recourse to public funds. In the meantime, equivalent payments are being made. The financial eligibility criteria is a family income of £660 or less per month after tax. The Home Office has confirmed that they have no plans to add BSF to their list of public funds and payments to parents or guardians of children with British citizenship will not breach their 'no access to public funds' condition.

- Some kinship carers (and thus the children they support) who access local authority funding rather than the qualifying benefits. However, we have endeavoured to ensure that those kinship carers who are on a qualifying benefit are able to access their entitlements, being as flexible as possible with what they can use as evidence of child responsibility. By broadening the definition of a kinship carer we aim to ensure that, as we roll out SCP to under 16s, eligible kinship carers who are not related to the child but are known to them and have a pre-existing relationship with the child are included. Those accessing local authority funding have alternative financial support in place.

Upon balance, the need to tackle child poverty quickly means we believe the decision to proceed using the Section 79 power to deliver Scottish Child Payment was the right approach. However, these considerations will all be factored in to the review of the effectiveness of delivering SCP via the Section 79 power, which we have committed to undertake after the policy is fully rolled out to under 16s.

SCP is targeted to those who are responsible for children under 16 years old. Whilst we have adopted a narrower definition of a child from the definition in the UNCRC, children over 16 may be eligible for other sources of social security support in their own right, depending on their circumstances. For example, Education Maintenance Allowance (EMA), is available to 16 and 17 in year olds in non-advanced education and ensures this particular group still have access to social security support. Children over 16 who do not remain in non-advanced education may qualify for reserved benefits in their own right.

## 5. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

These policies fulfil the UNCRC Article 26 – right to social security.

The extension to the eligibility criteria for SCP will provide additional social security support to parents of children aged 6-15. Increasing the value of SCP to £25 a week we will provide greater financial support for eligible children.

Widening the meaning of kinship care for BSG, BSF, and SCP will ensure that, as we roll out SCP to under 16s, eligible kinship carers who are not related to the child but are known to them and have a pre-existing relationship with the child are included.

Introducing auto-award for elements of BSG will make it easier for eligible families to receive their entitlement.

Providing new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child, will provide greater support for families who are more likely to be starting from scratch without the items that the Pregnancy and Baby Payment is intended to provide.

Widening the meaning of surrogacy for BSG and BSF and removing the condition that the child is not looked after by the local authority in residential care for BSG will allow more low income families to benefit from this support.

We are also taking a number of actions to support the implementation of these benefits which are intended to maximise take up.

## **Our Charter**

The FFP are being delivered by Social Security Scotland and the service it provides is fundamental to successful delivery for children and young people. Our Charter<sup>15</sup> sets out what people can expect from Social Security Scotland and includes the eight principles legislated in the Social Security (Scotland) Act 2018<sup>16</sup>, some of which relate specifically to human rights and non-discrimination:

- social security is an investment in the people of Scotland;
- social security is itself a human right and essential to the realisation of other human rights;
- respect for the dignity of individuals is to be at the heart of the Scottish social security system;
- the Scottish social security system is to contribute to reducing poverty in Scotland; and
- opportunities are to be sought to continuously improve the Scottish social security system in ways which — (i) put the needs of those who require assistance first, and (ii) advance equality and non-discrimination.

This approach, centred on rights and wellbeing, supports the full realisation of the benefits of the FFP. There are measures in place to ensure this happens, with Scottish Government and SCoSS obliged to report to the Scottish Parliament on the commitments within Our Charter, and how they are being delivered.

## **Benefit Take-Up**

To ensure the FFP have the level of positive impact on children's rights and wellbeing that is required to meet the ambitious targets in the TCPDP<sup>17</sup>, high levels of take-up are essential, particularly amongst those who would not normally access their entitlement.

We have already introduced a single application form to apply for the FFP to make it easier to apply and increase uptake. The introduction of auto-award for the Early

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<sup>15</sup> Social Security Scotland (2019) [Our Charter](#)

<sup>16</sup> [Social Security \(Scotland\) Act 2018](#)

<sup>17</sup> Scottish Government (2022) [Best Start, Bright Futures: tackling child poverty delivery plan 2022 to 2026](#)

Learning and School Age Payment for eligible families in receipt of SCP will build on this work and ensure more families receive their entitlement.

Starting in August 2020, Social Security Scotland has also written to families inviting them to apply for the Early Learning and School Age Payments of BSG and for BSF. This exercise also took place in early 2021 ahead of the opening of SCP. Information obtained from DWP and HMRC allow Social Security Scotland to identify people who may be eligible because they receive certain benefits or tax credits and have children of the right age. This proactive approach to maximising benefit uptake was a first for Social Security Scotland.

Where possible, we intend to continue to invite to apply. We are engaged with HMRC to obtain information on their clients in receipt of Working Tax Credits and Child Tax Credits

We have published our second Benefit Take-up Strategy<sup>18</sup>, setting out the ongoing work of the Scottish Government and Social Security Scotland to address barriers to benefit uptake. As eligibility for the FFP is based on being in receipt of a qualifying benefit (e.g. Universal Credit) we confirmed with the UK Government that we can promote the fact that eligibility for them is based upon take-up of reserved benefits, it was confirmed this will not pose a fiscal detriment to the Scottish Government. This was particularly important in light of COVID-19 with high numbers of people becoming eligible for Universal Credit.

The Scottish Government has also committed in the Benefit Take up Strategy to provide £10 million of funding over this parliamentary term to increase access to advice services to maximise incomes, tackle the poverty penalty and improve wellbeing. This will be in accessible settings, for example schools, with a focus on families.

As part of this, The Scottish Government has committed £3.17 million over two years to placing money advisors in up to 150 GP practices in some of Scotland's most deprived areas. Evidence has shown that money and welfare advisors in health centres often reach people who do not engage with traditional advice services.

We have also encouraged take-up via an extensive communications campaign with Social Security Scotland actively promoting the payments to eligible families. This involved working closely with a range of stakeholders who parents will come across at various points. This included campaign literature in maternity packs, arming health visitors with information, working with Scottish Book Trust to get information to all parents who receive the free Bookbug bags and parent emails. A targeted social media campaign was developed for a range of age groups, including young parents, including posts from our social media channels, as well as paid-for targeted posts adjusting the look and messaging depending on who it is aimed at.

We will conduct a further targeted campaign ahead of the rollout of SCP to children aged between 6 and 15 and will work with relevant stakeholders to promote awareness of all of the changes that we are introducing and ensure that the implications of them are well understood.

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<sup>18</sup> Scottish Government (2021) [Social Security \(Scotland\) Act 2018: benefit take-up strategy - October 2021](#)

## 6. How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

There has been policy engagement with stakeholders throughout the development of the FFP and since launch. This has included workshops with anti-poverty organisations, think tanks, local authorities and academia to develop the policy and delivery model for them. We have held one to one meetings and attended a number of member events organised by the Scottish Campaign for Welfare Reform, the Social Security Consortium in Scotland and the Poverty Alliance, amongst others. These events have been designed to seek views on the policy for the FFP, identify any barriers towards claiming, and consider how we can best maximise uptake of the benefit.

We also hosted a series of events and meetings to consider the impact of the FFP on those with protected characteristics, including on young people. We engaged with Fife Gingerbread; Young Scot; Inclusion Scotland; CEMVO Scotland; Engender; Scottish Women's Aid; Families Outside; Shakti; and religious groups.

The Cabinet Secretary for Social Security and Older People hosted a stakeholder roundtable in January 2020 in relation to SCP, which was an open discussion with key stakeholders allowing them to ask questions about the policy and delivery of the benefit. The Cabinet Secretary for Social Justice, Housing and Local Government held an additional roundtable with stakeholders in August 2021.

We have also held a number of meetings with our Five Family Payments Reference Group, which is made up of a number of key stakeholders with an interest in the policy area, including Child Poverty Action Group, Citizens Advice Scotland, Engender and a number of other groups.

At our meeting in January 2022, we provided the Reference Group with an overview of our proposed changes. The overall feedback we received was positive. It was felt that introducing auto-award for elements of BSG would make it easier for people to receive what they are entitled to. There was a suggestion that BSG would need to be auto-awarded to the person who would normally have applied for it and that this might not be the person receiving SCP for the child. However, we are only able to auto-award payments on the basis of an individual receiving SCP. As we set out above, SCP is paid to the main carer of the child. However, where someone contacts the agency to ask not to be auto-awarded Early Learning or School Age Payment they can be removed from the process, allowing another eligible person to apply within the application window.

In relation to providing new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child, it was highlighted that it will be important to work with relevant third sector organisations to raise awareness among refugees who may be eligible. We intend to work with a range of stakeholders to promote awareness of all of the changes we are making. It was also suggested that those who have been

forced to leave their home due to domestic abuse should be included and we have now expanded on our original proposals to include this group.

In relation to SCP, the proposed improvements to the regulations were viewed overwhelmingly positively and thought to better match policy intent as part of the extension to children aged between 6 and 15. Generally, stakeholders were positive about efforts to drive take-up of SCP. It was suggested that a significant effort must be taken to ensure take-up amongst those families who had received SCP for a child who ages out before the extension of the payment to older children. This will be addressed through a comprehensive communications and engagement plan featuring targeted communications and local delivery.

We consulted with island stakeholders as part of the Islands Community Impact Assessment process and some of the feedback raised by islands stakeholders was relevant to this impact assessment. One stakeholder told us that removal of the condition that the child is not looked after by the local authority in residential care will support families dealing with children in care situations, which can often be fluid depending on the circumstances of the case. It was felt that this change could be seen to be in line with the objectives of The Promise<sup>19</sup> and supportive of children both in care and returning home.

The proposal to provide new exceptions to the general rule that an individual is only entitled to the higher Pregnancy and Baby Payment when they are applying in respect of their first child was also welcomed. The exception being made for parents or carers of a child who came into their care after 12 months old was thought to be important to support and encourage kinship care arrangements and help to keep more children within their extended family.

Finally, it was highlighted that for auto-award it would be important to ensure that where families are in crisis or transition (through domestic violence, children coming into care or moving in and out of kinship care etc.) that the benefits are paid to the appropriate people.

The SCoSS scrutiny report on the original regulations for SCP<sup>20</sup> recognised the challenges of engaging directly with children aged under 6, however, we engaged with representatives of children and young people, such as Young Scot and Who Cares Scotland, and met with young parents via Fife Gingerbread to learn directly from their experiences.

These events were designed to seek views on the policy for SCP, identify any barriers towards claiming and consider how we can best maximise uptake of the benefit. Those we engaged with were highly supportive of SCP policy telling us that it would make a tangible difference to the lives of children and young people. The most important thing is that young people are made aware of their eligibility.

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<sup>19</sup> Independent Care Review (2020) [The Promise](#)

<sup>20</sup> Scottish Commission on Social Security (2020) [Scrutiny report on draft regulations: Scottish Child Payment Draft Regulations 2020](#)

We recognise the value of consulting children and young people directly, as well as through representative organisations and will continue to explore further engagement once the payment has been rolled out to older children.

## 7. What evidence have you used to inform your assessment?

In conducting this Child Rights and Wellbeing Impact Assessment, demographic information played an important role in the evidence base building on the work already undertaken as part of the first Tackling Child Poverty Delivery Plan<sup>21</sup> and more broadly on child poverty. We considered Scottish Government and UK Government data; stakeholder reports and insights; and consulted those with lived experience of the benefits system through user research.

Tackling child poverty is a Scottish Government priority with 24% of Scotland's children (240,000 children each year) living in relative poverty after housing costs in 2017-2020<sup>22</sup>. Prior to the outbreak of COVID-19, it was predicted that if no further action were taken to tackle child poverty one in three children in Scotland would grow up in poverty by 2030, damaging society and the economy.<sup>23</sup> The impact of COVID-19 on child poverty levels is still largely unknown, particularly the long term effects on families and our economy, however we know that the impacts have been felt most acutely by the most disadvantaged in our society.

Children in low income households tend to experience a range of disadvantages including lower educational attainment and poorer health. Poverty can have lasting impacts long into adulthood such as increased risk of homelessness, lower earning potential and greater likelihood of limiting illness. It is difficult to disentangle the effect of poverty from other factors associated with low income that may affect children's outcomes. However, the growing evidence in developed economies suggests that gaining additional income has positive causal effects on health, behavioural development and educational attainment for children in households at the lower end of income distribution<sup>24</sup>. This means the additional funding provided via the FFP is expected to have a positive impact on children's overall wellbeing.

We have also carried out an interim evaluation of SCP and BSG and an evaluation of BSF, with an external contractor carrying out interviews with a number of clients and gatekeeper organisations on their experiences of the payment to date.

The interim evaluation for BSG<sup>25</sup> found that it was viewed very positively by interviewed recipients and that most of the grant was spent on items families needed at the key transitional stages of birth, nursery and school. Receiving the BSG

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<sup>21</sup> Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022](#)

<sup>22</sup> Scottish Government (2022) [Additional child poverty analysis 2022](#) - Table 1 (target measures by priority group)

<sup>23</sup> Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022](#)

<sup>24</sup> Cooper & Stewart, Centre for Analysis of Social Exclusion (2017) [Does money affect children's outcomes? an update](#)

<sup>25</sup> Scottish Government (2020) [Best Start Grant: interim evaluation](#)

allowed parents and carers to buy what they needed for the children *when* they needed it. For some families, delays in purchasing items would have had a negative impact. For example, interviews with recipients indicated that a lack of BSG payment would have "resulted in families not being able to go outside as quickly without access to a buggy, children having to wear old or cheaper shoes that hurt their feet, or sleep in a bed or cot that they had outgrown."

The evaluation also suggested that BSG provided additional income to families at key transitional points in child's life that they could use to buy a range of essential items and various services for children for whom BSG was claimed and sometimes also for their siblings. BSG enabled a number of families to take part in a range of social opportunities that they would have otherwise been unable to participate in. It also enabled parents and carers to obtain items and services that would allow their children to take part in more physical activity either individually or socially with the family. Some recipients reported being able to travel further and experience memorable days out with the whole family. BSG helped some children and their families to take part in educational opportunities, too. This involved visits to museums or purchasing educational toys and other items for use at home.

Qualitative data from the commissioned research suggested that BSG is likely to generate positive feelings and behaviours among children and their families, while reducing negative ones, which could potentially translate into improved health and well-being for both children and their families. For children, their parents and carers reported positive feelings such as sense of excitement in the children as they were able to pick items for school. They also reported better bonding between themselves and their children as well as among siblings in families with more than one child thanks to purchases of items or services that enabled such bonding.

Although BSG is fully rolled-out, its impacts can only be fully assessed after at least 5 years from the roll-out by which time eligible families will have had a chance to receive multiple payments for the same child. We intend to commission a further evaluation to report in 2025 on these families' experiences.

The evaluation of BSF<sup>26</sup> describes a number of positive findings. They show the benefit helps people buy a greater quantity (and quality) of healthy foods than they could without the benefit. Payments also support healthier shopping habits and meal planning. For example, recipients report purchasing healthier snacks for their children, and some experiment with new healthy recipes, without worrying about wasting money or food.

BSFs may be contributing to better health and wellbeing for children. Recipients report observing their children eating more and a greater variety of fruits and vegetables and feeling positive that they can provide their children with more nutritious foods. It has also reduced financial pressure on households. For some recipients it guarantees they can afford essential foods even when their finances are difficult. For others the payments have freed up money for costs such as household bills. Healthcare professionals were pleased to see the positive impact Best Start

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<sup>26</sup> Scottish Government (2022) [Best Start Foods: evaluation](#)

Foods was having on the health and wellbeing of families as a preoccupation with finances could impact the relationship they had with their children.

On 29 July 2022 we published the interim evaluation of SCP<sup>27</sup>. This provides evidence on the lived experience the people receiving the benefit, including those with a disabled child and families from minority ethnic backgrounds. This evaluation focused on qualitative data gathering. A further evaluation of SCP will be undertaken after the policy has been fully rolled out to all eligible children under 16 and allowing for enough time to make a full assessment.

The interim evaluation of SCP describes a number of positive findings. In the broad, SCP has made a positive difference to children and families. SCP has led to more money being spent on children, including for essentials like food, family day trips, and medical items for families with disabled children. SCP has reduced the financial pressure on households. SCP has helped recipients avoid debt, and some feel they would be forced to use foodbanks without the benefit. The application forms were straightforward. SCP recipients reported that this gives them a sense they are entitled to the payment, as opposed to feeling they have to prove themselves for it.

Some SCP recipients still struggled financially when payments were at the £10 weekly rate, and felt rises in the cost of living limited its impact. The weekly rate of SCP has since increased to £20 in April 2022 and will increase again to £25 as part of these regulations. Recipients' perceptions of impact will continue to be monitored, and the rate of payment kept under review.

There have been increases in application processing times across both SCP and BSF. Some recipients also report issues - e.g. a lack of communication on the progress of claims, or long helpline waiting times. Steps could therefore be taken to review processing times and to keep applicants better informed about their claims.

### **Children's views on poverty**

In the Children's Parliament report *What Kind of Scotland?*,<sup>28</sup> poverty is identified as the most important barrier to a good life. It affects children day to day, in terms of practical things like having enough food to eat and a house that is warm, but also because children may notice the stress money concerns cause the adults at home.

As part of the formation of the CRWIA for the first TCPDP,<sup>29</sup> the Poverty and Inequality Commission identified themes, which were developed through consultation with children and young people facilitated by the Children's Parliament, Young Scot and the Princes Trust, into recommendations including:

- Social Security: put more money towards benefits;
- Improve quality of life by providing greater support to those affected by poverty; and
- Increase incomes and reduce costs to support with: the cost of the school day; the cost of travel; and activity expenses.

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<sup>27</sup> Scottish Government (2022) [Scottish Child Payment: interim evaluation](#)

<sup>28</sup> Children's Parliament (2017) [What Kind of Scotland](#)

<sup>29</sup> Scottish Government (2018) [Every child, every chance: tackling child poverty delivery plan 2018-2022 , Annex 4 - Child Rights and Wellbeing Impact Assessment](#)

The FFP are one means of addressing these recommendations. They provide families in poverty with an increased income to support the range of costs identified. SCP and BSG are designed to be flexible so they can be used in a way that will best meet the needs of the individual child. BSF is designed to tackle the impact of poverty by supporting access to healthy foods and milk.

### Young parents

Parental age has a significant impact on child poverty rates: 55% of children whose mother is aged under 25 are in relative poverty, compared with 23% of children whose mother is 25 or over.<sup>30</sup> Naomi Eisenstadt, the First Minister's Independent Poverty and Inequality Advisor, produced a 2017 report<sup>31</sup> highlighting some of the reasons young people might experience poverty including: an increasing proportion are living in the private rented sector; they are more likely to be in low quality employment; and more likely to experience difficulties accessing the labour market. She recognised that the use of Scotland's social security powers could be useful to support young people.

The Scottish Government's *Pregnancy and Parenthood in Young People Strategy*<sup>32</sup> also highlights that young mothers are considerably more reliant on state benefits and tax credits than older mothers – a position that remains the case as the child ages, meaning that they are more likely to be eligible for the FFP.

The latest analysis of client diversity and equalities data<sup>33</sup> shows that for approved SCP applications between December 2020 and May 2021 15% (4,595) were from people aged 16-24. This analysis also shows that for approved BSF and BSG applications in the same period, 21% (3,005) were from people aged 16-24.

It is clear from our user testing that many young parents find accessing the welfare and income to which they are entitled confusing and difficult. We conducted user research workshops with young parents (under 18) through a charity. The input we got from this group highlighted their preference towards a digital service, finding contact via phone daunting, and helped to shape the wording and design of the application form e.g. we took forward their suggestion that pre-application content should be displayed over several pages. Through our policy engagement, some of the young mothers we spoke to highlighted the importance of being able to speak to someone about their entitlement. A multi-channel application process and promotion both digitally and through local services helps ensure young parents access the benefits that they are entitled to. In addition, we will continue to engage with stakeholders to ensure that promotion of the payment is embedded in pregnancy and maternity service to make young mothers aware of the support available.

Responses from the *A New Future for Social Security Consultation*<sup>34</sup> highlighted under 18s as a group which would benefit from simpler provision. Under 18s are

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<sup>30</sup> Scottish Government (2021) [Additional child poverty analysis 2021](#) - Table 4 (child poverty priority groups and targets - further analysis)

<sup>31</sup> Scottish Government (2017) [Shifting the curve: progress report](#)

<sup>32</sup> Scottish Government (2016) [Pregnancy and Parenthood in Young People Strategy](#)

<sup>33</sup> Social Security Scotland (2021) [Social Security Scotland client diversity and equalities analysis to May 2021](#)

<sup>34</sup> Scottish Government (2017) [Analysis of written responses to the consultation on social security in Scotland](#)

automatically entitled to BSG without the need for a qualifying benefit. This is also true for 18 and 19 year olds who are still dependent on someone who is either receiving benefits for them or is a kinship carer for them. Pregnant women who are under 18 and their partners are automatically entitled to BSF, without the need for a qualifying benefit. This is also true for parents who are under 18 and have a child who is under 1. Where a pregnant women is under 18 and her or her partner are in receipt of BSF they continue to be eligible for BSF without the need for a qualifying benefit once the pregnant woman turns 18 up until their child turns one.

## 8. How will the impact of the policy/measure be monitored?

The Scottish Government has established SCoSS who have provided independent scrutiny of these regulations. In their report,<sup>35</sup> SCoSS highlighted that the regulations would need to clearly provide Social Security Scotland with the discretion to defer or waive making an auto award of BSG Early Learning Payment or School Age Payment to ensure that the payment is made to the right person when families are in crisis or transition, for example, through domestic abuse or moving in and out of kinship care. We have therefore ensured that our regulations make clear that where an individual has indicated they do not want to receive payment via an auto award, an auto award will not be made. Furthermore, where an individual is no longer actually responsible for the child but continues to be in receipt of Scottish Child Payment due to receiving a reserved, qualifying benefit when they are no longer actually responsible for the child and they then receive an auto-award of Best Start Grant Early Learning Payment or School Age Payment, the person who is actually responsible for the child will still be able to apply and receive Best Start Grant due to the ability for a second payment to be made in certain circumstances where responsibility for the child has changed.

SCoSS also raised a concern that the rule to allow a higher Pregnancy and Baby Payment to be awarded where someone arrives in the UK with a child having been granted refugee status, humanitarian protection, or leave under the Afghanistan resettlement schemes or the Ukraine resettlement schemes would not just apply when an older child was born outside the UK or came to the UK with the refugee claimant, it would also apply when an older child was born in the UK e.g. to a new partner.

SCoSS are correct that this rule could apply to a child who was born in the UK, provided that the child was born in the UK to an individual who was living in the UK, who then later left the UK and returned to the UK seeking refugee status. This is because the child was born before the individual arrived in the UK as a refugee, i.e., before the individual claims BSG in respect of another child. This is within the policy intent as regardless of where the older child was born, the individual has arrived in the UK as a refugee and is therefore not likely to have retained the items that the BSG Pregnancy and Baby Payment is intended to provide.

A refugee will not normally be entitled to be given the higher payment on multiple occasions. To be eligible for the higher payment, all individuals under 16 who are not the child the application relates to must be able to be disregarded because they fall within one of the categories specified in our regulations. An older sibling who was born in the UK after the

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<sup>35</sup> Scottish Commission on Social Security (2022) [Best Start Foods, Best Start Grants and Scottish Child Payment \(Miscellaneous Amendments\) Regulations 2022: scrutiny report](#)

refugee came to this country in most circumstances would not be disregarded under this rule.

SCoSS also highlighted that the definition of domestic abuse within our regulations needed to be widened to include abuse by an individual's ex-partner, in line with the definition used within the Domestic Abuse (Protection) (Scotland) Act 2021. We have consulted further with stakeholders regarding this matter and have widened our definition to include abuse by the ex-partner.

SCoSS also recommended that the Scottish Government's review of Scottish Child Payment must take into account the lived experience of people, and any disproportionate impact there may be on particular groups such as lone parents or disabled people, in relation to how they understand and manage the loss of income from Scottish Child Payment when entitlement ends as they move into work or increase hours or earnings and thus lose entitlement to Universal Credit. The Scottish Government is currently undertaking a formal public consultation on proposed changes to the Scottish social security system and, amongst other topics, seeks views on the advantages and disadvantages around making changes to the legislative basis for Scottish Child Payment. That consultation is open to everyone. Alternative formats, events and surveys are being developed to facilitate participation from the widest possible range of people, including from people with lived experience of the social security system.

SCoSS also asked that in its review of Scottish Child Payment, the Scottish Government should look for ways to make eligibility rules fairer by offering the same amount of support to all families whose child dies. In the sad event that a child to whom a claim of Scottish Child Payment relates dies we are providing payment equivalent to the value of payments made in the 12 weeks prior to the child's death. This approach was considered the fairest way we can support families in this situation through SCP using the powers available to us.

SCP is paid as a top-up of reserved benefits using the powers available to us under section 79(1) of the Social Security (Scotland) Act 2018 which means we are only able to make a payment for a period where there is a qualifying benefit in payment.

We will consider this again at any review of the Scottish Child Payment legislative footing.

We intend to commission a further evaluation report on BSG to report in 2025 as although BSG is fully rolled-out, its impacts can only be fully assessed after at least 5 years from the roll-out by which time eligible families will have had a chance to receive multiple payments for the same child. We will also conduct a full evaluation of Scottish Child Payment after the rollout of the payment for children aged under 16.

We will continue to engage with members of the FFP reference group to monitor their impact. Social Security Scotland also carry out regular surveys to understand the experience of clients who have applied for the FFP.

The Social Security (Scotland) Act 2018<sup>36</sup> places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish Social Security System during the previous financial year. The report is to describe what the

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<sup>36</sup> [Social Security \(Scotland\) Act 2018](#)

Scottish Ministers have done in that year to meet the expectations on them set out in the Charter.

Scotland's Commissioner for Children and Young People also has a role to play. The Commissioner has a duty to review law, policy and practice to examine their effectiveness in respecting the rights of children and young people. The Commissioner can investigate on behalf of groups of children and young people. As of April 2016, the Commissioner has also been able to investigate on behalf of an individual.

We have established a stakeholder take-up reference group. This group is a partnership of Scottish Government officials and organisations representing third-sector and local authority interests who have knowledge of issues surrounding benefit take-up. It is designed so that members will bring their experience, expertise, and extensive networks to bear, ensuring that our approach draws on the experience of, and best supports, third sector and local authority partners.

Since the publication of the first Benefit Take Up Strategy,<sup>37</sup> the Group has met twelve times and collaborated on a number of key activities with the goal of increasing take-up of Scottish Benefits. In late 2019 and early 2020 the Group played a central role in shaping the Benefit Take-up and Income Maximisation Funds to ensure that this funding was targeted to enable the maximum benefit to individuals and highest quality in learning.

We have also committed to reviewing the FFP during the course of the current TCPDP<sup>38</sup> (2022-2026) and continue to work closely with stakeholders to ensure that support is targeted on those families that need it most

### Wellbeing indicators

With regard to section 96(2) of the Children and Young People (Scotland) Act 2014,<sup>39</sup> these provisions are considered to measure positively against the following wellbeing indicators:

- **Healthy** – SCP and BSG can fund activities that promote both physical and mental health. BSF can support access to healthy foods and milk for a child or young pregnant woman.
- **Achieving** – SCP and BSG can fund activities to build up a child's skills, confidence and self-esteem. It could be used to pay for extra-curricular activities or study materials.
- **Nurtured** – SCP and BSG will provide assistance to families to nurture their children in various ways such as costs of care and family time together.
- **Active** – SCP and BSG can fund extra-curricular activities involving sport and recreation.
- **Included** – The FFP will help families to overcome social, educational, physical and economic inequalities, allowing the fuller participation of children within their community.

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<sup>37</sup> Scottish Government (2019) [Social security: benefit take-up strategy](#)

<sup>38</sup> Scottish Government (2022) [Best Start, Bright Futures: tackling child poverty delivery plan 2022 to 2026](#)

<sup>39</sup> [section 96\(2\) of the Children and Young People \(Scotland\) Act 2014](#)

## 9. How will you communicate to children and young people the impact of the policy/measure on their rights?

We are considering how best to engage with children and young people to ensure they are aware of the impact of the FFP. We will also work with organisations representing young people ahead of these regulations coming into force.

## 10. Sign & Date

Policy Lead Signature & Date of Sign Off: Richard Strachan 26 August 2022

Deputy Director Signature & Date of Sign Off: Ian Davidson 31 August 2022

**Once signed off, please send to [CRWIA@gov.scot](mailto:CRWIA@gov.scot) and publish on gov.scot website.**



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Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-80435-948-8 (web only)

Published by The Scottish Government, September 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1156663 (09/22)

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