

The Education (Scotland) Act 1980 (Modification) Regulations 2024

Equality Impact Assessment - Results

April 2024

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Title of Policy: The Education (Scotland) Act 1980 (Modification) Regulations 2024

Brief summary of aims and desired outcomes of Policy: The policy aim is to protect the eligibility to free school meal provision as a passported benefit for those pupils whose parents are in receipt of both Child Tax Credit and Working Tax Credit or Universal Credit.

Directorate: Division: Team: Directorate for Learning: Improvement, Attainment and Wellbeing Division: Support and Wellbeing Unit

Executive summary

The Education (Scotland) Act 1980 (Modification) Regulations 2024 will increase the maximum income levels at which families will be eligible to receive free school meals with effect from 1 April 2024. The Regulations will apply where families are eligible to receive free school meals through being in receipt of either both Child Tax Credit and Working Tax Credit or Universal Credit. This measure became necessary following the rate of the National Living Wage increasing from £10.42 per hour to £11.44 per hour on 1 April 2024.

This change has become necessary since some families who had previously been eligible for free school meals, under the eligibility criteria introduced on 1 April 2023, might have been at risk of losing their entitlement since the latest increase in the National Living Wage would have taken their income above those existing maximum income levels. This protection for families was essential to ensure those who were previously eligible for free school meals through being in receipt of either both Child Tax Credit and Working Tax Credit or Universal Credit did not lose out on support.

Background

The Scottish Government is committed to supporting families during the financial crisis and has taken a number of policy decisions to protect families including expanding our free school programme and increasing the clothing grant.

To ensure families continued to receive free school meals from 1 April 2024, The Education (Scotland) Act 1980 (Modification) Regulations 2024 came in to force and increased the maximum income levels at which families are eligible to receive free school meals for their children.

These Regulations apply for families who are in receipt of both Child Tax Credit and Working Tax Credit or Universal Credit. For families in receipt of both Child Tax Credit and Working Tax Credit, the maximum income levels for free school meals eligibility has been raised from £8,717 to £9,552 per year. For families in receipt of Universal Credit the maximum monthly earned income level has been increased from £726 to £796.

These Regulations will therefore continue to protect families who currently receive free school meals through being in receipt of either of those qualifying benefits following the latest increase to the National Living Wage.

To ensure families are protected, the process of laying Regulations to amend the free school meals eligibility criteria for families in receipt of either both Child Tax Credit and Working Tax Credit, or Universal Credit, has taken place each year since 2019 to account for annual increases to the National Living Wage.

These Regulations do not affect the free school meals eligibility criteria for families who are in receipt of any other qualifying benefits. Further information about the eligibility criteria for free school meals is available through the following web link:

[Free school meals - mygov.scot](https://www.mygov.scot/free-school-meals)

The Scope of the EQIA

This Equality Impact Assessment has assessed the potential impact of the Regulations, by considering whether the evidence we have gathered indicates potentially different impacts upon persons with protected characteristics or whether there is an opportunity to improve equality in an area.

In line with the requirements of the general equality duty, we have considered the need to:

- eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the act;
- advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
- foster good relations between persons who share a relevant protected characteristic and those who do not.

The following protected characteristics have been considered with the Equality Impact Assessment:

- Age
- Disability
- Gender
- Sexual orientation
- Ethnicity
- Religion or belief

There was limited information available in relation to the following protected characteristics, although we consider these protected characteristics will not prevent access to free school meals due to other eligibility criteria already in place.

- Pregnancy and maternity
- Gender reassignment
- Marriage or civil partnership

There was no stakeholder consultation process since these Regulations were designed to maintain an existing policy, in protecting the eligibility of an existing cohort to free school meals, rather than creating new policy.

Our findings were taken from data provided within the Pupil Census 2023 Supplementary Statistics in relation to age and from the Poverty and Inequality in Scotland Statistics, covering the period from 2020-2023, for all other protected characteristics. Both statistical reports were published during March 2024.

Key Findings

The provision of free school meals to children and young people from primary 6 onwards is predominantly a policy focussed upon tackling poverty. The purpose of the policy within these Regulations is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement among children and young people. Therefore, they are an essential action in supporting and protecting families.

The following protected characteristics have been considered when preparing this Equality Impact Assessment and we do not expect any negative impact from this policy action:

Age

In 2023, the Pupil Census Supplementary Statistics noted that there were 81,606 children and young people in Primary 6 to Secondary 6 who were registered to receive free school meals in Scotland: [Pupil census supplementary statistics - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Whilst the Scottish Government and local authorities have an agreement in place to offer universal free school lunches to children in primaries 1 to 5, at local authority run and grant-aided schools, age is not a direct qualifying criteria in itself for the passported benefit of free school meals.

Disability

The Poverty and Inequality Statistics Report, covering the period 2020-23, noted there was a higher proportion of households in relative poverty after housing costs, with a disabled person in the household (24%) in comparison to households with no disabled persons (18%): [Poverty and Income Inequality in Scotland 2020-23 \(data.gov.scot\)](http://data.gov.scot).

Furthermore, when disability related benefits are not included in the household income the relative poverty rate after housing costs becomes 28% for households with a disabled person, compared to 17% for households with no disabled persons.

Disabilities may impact on the ability of a parent/carer to work, but this would not limit the opportunity of the child or young person to benefit from free school meal entitlement, nor would it be relevant in relation to this specific element of entitlement criteria.

Gender

The Poverty and Inequality Statistics Report, covering the period 2020-23, noted the relative poverty rate after housing costs was highest amongst single men with no children - with a relative poverty rate of 33%: [Poverty and Income Inequality in Scotland 2020-23 \(data.gov.scot\)](#).

The relative poverty rate amongst single mothers and single women with no children was lower at 29% for both demographics.

In addition, the relative poverty rates amongst married and co-habiting adults was lower still at 15% and 16% respectively.

Poverty rates over the period 2020-23, after housing costs, were 30% among all single adults and 28% among divorced or separated adults.

Sexual orientation

The Poverty and Inequality Statistics Report, covering the period 2020-23, noted the relative poverty rate was higher amongst LGB+ adults (25%) than among straight/heterosexual adults (19%), or those whose sexual orientation was unknown (21%) (although the latter category also includes those who chose not to answer the question): [Poverty and Income Inequality in Scotland 2020-23 \(data.gov.scot\)](#).

Therefore the statistics report on poverty and inequality in Scotland notes the measurement of uncertainty is quite wide for this group.

Ethnicity

The Poverty and Inequality Statistics Report, covering the period 2020-23, noted people from minority ethnic (non-white) groups were more likely to be in relative poverty after housing costs compared to those from the White - British or White - Other groups: [Poverty and Income Inequality in Scotland 2020-23 \(data.gov.scot\)](#).

The relative poverty rate was 51% amongst 'Mixed, Black or Black British and Other' ethnic groups, and 50% amongst the 'Asian or Asian British' ethnic group. However the poverty rate amongst the 'White - Other' group (22%) was also higher than that of the 'White - British' group (18%).

It is also worth noting the median age for the highest income earner was 55 among the 'White - British' group, compared to 39 among 'Asian or Asian - British'; 38 for 'White - Other'; and 36 for 'Mixed, Black, Black British or Other' ethnic groups.

The poverty rate among older adults is lower, which may partly explain the lower poverty rate among the 'White - British' group. However, this age difference cannot explain the entire gap in poverty rates between ethnic groups.

Religion and belief

The Poverty and Inequality Statistics Report, covering the period 2020-23, noted, 61% of people who identified their religion as Muslim were living in relative poverty after housing costs: [Poverty and Income Inequality in Scotland 2020-23 \(data.gov.scot\)](#).

Those who identify their religion as Church of Scotland had a lower relative poverty rate after housing costs (16%) than found for all individuals.

The relative poverty rate, after housing costs, for those identifying their religion as Roman Catholic was 17% and those identifying with no religion was 18%.

The relative poverty rate, after housing costs, for those identifying with other Christian denominations was 21% and whilst the figure for those identifying with other religions was 31%.

Differences in the age profiles between the various religions should be noted. The median average age for those identifying as Muslim was 36, in comparison to 64 for those affiliated to the Church of Scotland. The average median age for those identifying with no religion was 42.

Whilst the poverty rate among older adults is lower, which may partly explain the lower poverty rate among those affiliated to the Church of Scotland, the age difference cannot explain the entire gap in poverty rates between different religious groups.

Pregnancy and maternity, gender reassignment and marriage and civil partnership

There was limited information available in relation to the protected characteristics of pregnancy and maternity, gender reassignment and marriage and civil partnership. Since none of those protected characteristics are direct qualifying criteria for access to the passported benefit of free school meals, no further action has been taken to establish further data.

Recommendations and Conclusion

The Education (Scotland) Act 1980 (Modification) Regulations 2024 have increased the maximum income level at which families will be eligible to receive free school meals, during the 2024-25 financial year, if they were previously eligible for them through being in receipt of either both Child Tax Credit and Working Tax Credit or Universal Credit.

The EQIA did not identify any negative impacts under any of the protected characteristics.

The measures brought about by these Regulations will therefore prevent a potential loss of entitlement to free school meals for some families as a result of the rate of the National Living Wage being increased.

Uptake of free school meals is monitored through the annual Schools Healthy Living Survey Statistics report ([School Healthy Living Survey: school meal uptake and PE provision statistics 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/school-meal-uptake-and-pe-provision-statistics-2023-2024/pages/1-1-introduction.aspx)), published annually in September, whilst registrations are monitored through the Pupil Census Supplementary Statistics ([Pupil census supplementary statistics - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/pupil-census-supplementary-statistics-2023-2024/pages/1-1-introduction.aspx)) which is published annually in March.

The Regulations will next be reviewed when the next increase in the National Living Wage is announced.



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