

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Education (Scotland) Act 1980 (Modification) Regulations 2019	
Minister	Deputy First Minister and Cabinet Secretary for Education and Skills	
Lead official	Douglas Forrester	
Officials involved in the EQIA	name	team
	Laura Meikle	Support and Wellbeing Unit
Directorate: Division: Team	Learning: Improvement, Attainment and Wellbeing	
Is this new policy or revision to an existing policy?	This is the maintenance of an existing policy. The Regulation amends the current criteria in order to maintain the current policy.	

Screening

Policy Aim

The policy aim is to protect entitlement to Free School Meal provision as a passported benefit for those in receipt of both maximum Child Tax Credit and maximum Working Tax Credit.

Current criteria is that those in receipt of both maximum Child Tax Credit and maximum Working Tax Credit and your annual income is under £6,420 can receive free school meals. Recent changes to National Living Wage means that some families who would otherwise be entitled to Free School Meals under this criteria would lose out as a result of the increase of the National Living Wage taking them above this threshold. On 1 April 2019, the National Living Wage increased to £8.21 per hour for people aged 25 and over - equivalent to £6,830 per year. This means that anyone working at least 16 hours a week will earn at least £410 above the current qualifying threshold for free school meals (£6,420). As a result, the policy decision to increase the income threshold to protect those in receipt of both maximum Child Tax Credit and maximum Working Tax Credit to £6900 has been taken.

None of the other [criteria for Free School Meal entitlement](#) is being amended at this time.

Who will it affect?

The policy will affect families whose eligibility for free school meals is linked to their being in receipt of both maximum Child Tax Credit and maximum Working Tax Credit. The provision of free school meals is primarily an anti-poverty measure, to ensure that children and young people are able to access nutritious, high quality meals whilst they attend school, free of charge. Free School Meals are provided universally to pupils in Primary 1-3, so the benefit of this policy action will be felt most for families whose children are in P4-S6.

What might prevent the desired outcomes being achieved?

This regulation will enable both the immediate and unintended consequences of the rise in National Living Wage to be rectified, and to future proof the entitlement to free school meals as a passported benefit for the period 2019-2020.

An interim measure, where local authorities have been asked to use their powers to provide free school meals, is already in place to secure immediate continuation of entitlement. Therefore there is nothing identified which would prevent the desired outcomes being achieved.

Stage 1: Framing

Results of framing exercise

This policy measure is predominantly an anti-poverty measure rather than a measure which applies to particular protected characteristics. It is most likely that this group relates to single parents or those who are self-employed. This particular policy action relates to a very particular set of circumstances where a parent or carer is eligible for free school meals as a consequence of being in receipt of both maximum Child Tax Credit and maximum Working Tax Credit (Annex A sets out the criteria in full).

Whilst free school meals are provided to children and young people, the qualifying criteria and income threshold apply to their parents in this case. Information on the protected characteristics of pupils parents is not collected and therefore this EQIA is based upon the probability of potential positive or negative affect. Young people themselves are unlikely to be attending school, and employed to such a degree that they would meet the income criteria themselves.

In Scotland P1-P3 pupils are universally entitled to free school meals and therefore are unaffected by this proposed policy approach. This policy therefore applies to P4-S6 pupils only. In 2018, there were 78,794 pupils in P4-S6 pupils registered for free school meals, of which 54,183 were taking them.

There are a number of criteria which enable the passported benefit of free school meals, this policy change only relates to one of those criteria and therefore would only potentially affect a proportion of those children and young people above. As a result it is concluded that there is likely to be a minimal effect as a result of this proposal.

Extent/Level of EQIA required

It is considered that as the policy is focussed as an anti-poverty measure rather than a measure to promote equality, an EQIA is required, but that impact of the policy (both negative or positive) is minimal.

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 ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>There are 78,794 children and young people in P4-S6 registered for free school meals in Scotland. Of these, 54,183 take up free school meals.</p> <p>Age is not a relevant matter in relation to the criteria for the passported benefit which applies or doesn't apply in relation to circumstances which are not related to age.</p>	<p>https://www.gov.scot/binaries/content/documents/govsco/publications/statistics/2018/08/summary-statistics-attainment-leaver-destinations-healthy-living-8-2018-edition/documents/005336953-pdf/005336953-pdf/govscot%3Adocument</p>	<p>Some information available in relation to children and young people, but as age is not a direct criteria for the passported benefit no further action taken to establish further data.</p>
DISABILITY	<p>It is estimated that 32% of the adult population has a disability. This may impact on the ability of a parent/carer to work, but this would not limit the opportunity of the child or</p>	<p>https://scotland.shinyapps.io/sg-equality-evidence-finder/?utm_source=website&utm_medium=navigation&utm_campaign=statistics-evaluation-tools</p>	<p>It is recognised that a disability may affect a parent or carers ability to work, but this would not necessarily prevent access to the benefit – due to other eligibility criteria. Disability</p>

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>young person to benefit from free school meal entitlement, nor would it be relevant in relation to this specific element of entitlement criteria.</p> <p>In 2015-18, the relative poverty rate after housing costs was higher for lone mothers (39%) than for other single working-age adults.</p>		<p>is not a directly relevant criteria for access to this passported benefit therefore no further action taken to establish further data.</p>
SEX		<p>https://scotland.shinyapps.io/sg-equality-evidence-finder/?utm_source=website&utm_medium=navigation&utm_campaign=statistics-evaluation-tools</p>	<p>This confirms our understanding that single parents are likely to be the biggest beneficiaries from this policy change and protection. No further information needed on this element</p>
PREGNANCY AND MATERNITY	<p>There was limited information available in relation to pregnancy and maternity.</p>	-	<p>Pregnancy and maternity would not necessarily prevent access to the benefit – due to other eligibility criteria. Pregnancy and maternity is not a directly relevant criteria for access to this passported benefit therefore no further action taken to establish further data.</p>
GENDER REASSIGNMENT	<p>There was limited information available in relation to gender reassignment</p>	-	<p>Gender reassignment would not necessarily prevent access to the benefit – due to other eligibility criteria.</p>

			<p>Gender reassignment is not a directly relevant criteria for access to this passported benefit therefore no further action taken to establish further data.</p>
<p>SEXUAL ORIENTATION</p>	<p>There was limited information available in relation to sexual orientation</p>	<p>-</p>	<p>Sexual orientation would not necessarily prevent access to the benefit – due to other eligibility criteria. Sexual orientation is not a directly relevant criteria for access to this passported benefit therefore no further action taken to establish further data.</p>
<p>RACE</p>	<p>In 2013-18, people from minority ethnic (non-white) groups are more likely to be in relative poverty after housing costs compared to those from the 'White - British' group. The poverty rate was 38% (30,000 people each year) for 'Mixed, Black or Black British and Other' ethnic groups, and 34% (40,000 people) for the 'Asian or</p>	<p>https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/03/poverty-income-inequality-scotland-2015-18/documents/poverty-income-inequality-scotland-2015-18/poverty-income-inequality-scotland-2015-18/govscot%3Adocument</p>	<p>This information confirms the potential impact of poverty in relation to race – this may in turn lead to increased registration and uptake of free school meals. Further evidence is not required to confirm this point.</p>

	<p>Asian British' ethnic group. The poverty rate amongst the 'White – Other' group (26%, 70,000 people) was higher than that of the 'White – British' group (18%, 850,000 people).</p>		
<p>RELIGION OR BELIEF</p>	<p>In 2015-18, 41% of people who identified their religion as Muslim were living in poverty after housing costs.</p> <p>Those who identify their religion as Church of Scotland had a slightly lower poverty rate after housing costs (14%) than found for all individuals.</p> <p>All other religious groups and those with no religion had a relative poverty rate after housing costs similar to that found for the whole population (19%).</p>	<p>https://scotland.shinyapps.io/sg-equality-evidence-finder/?utm_source=website&utm_medium=navigation&utm_campaign=statistics-evaluation-tools</p>	<p>This information confirms the potential impact of poverty in relation to race – this may in turn lead to increased registration and uptake of free school meals. Further evidence is not required to confirm this point.</p>
<p>MARRIAGE AND CIVIL PARTNERSHIP N/A</p>			

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 is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation.
Advancing equality of opportunity			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it support additional advancement of equality of opportunity.
Promoting good relations among and			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an

between different age groups				unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.
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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	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation.
Advancing equality of opportunity			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it support additional advancement of equality of opportunity.

Promoting good relations among and between disabled and non-disabled people			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people.
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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 is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation.
Advancing equality of opportunity	Y			This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people. However, given that relative poverty affected lone mothers more

					predominantly than other single people, this policy change would potentially benefit those households more positively.
Promoting good relations between men and women			Y		This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

Do you think that the policy impacts on women because of pregnancy and maternity?

	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation..
Advancing equality of opportunity			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a

					result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it support additional advancement of equality of opportunity.
Promoting good relations				Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation..
Advancing equality of opportunity			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to

					a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it support additional advancement of equality of opportunity.
Promoting good relations				Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

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 is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation..
Advancing equality of opportunity			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to

					a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it support additional advancement of equality of opportunity.
Promoting good relations				Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

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 is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change eliminate unlawful discrimination, harassment or victimisation..
Advancing equality of opportunity	Y			This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to

				<p>a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people. Action to continue access to free school meals as a passported benefit through this particular criteria would enable those to benefit from school meals, should they otherwise have been at risk of loss of benefit as a result of an increase in National Living Wage.</p>
Promoting good race relations			Y	<p>This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.</p>

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>This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will this change</p>

				eliminate unlawful discrimination, harassment or victimisation..
Advancing equality of opportunity	Y			This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people. Action to continue access to free school meals as a passported benefit through this particular criteria would enable those to benefit from school meals, should they otherwise have been at risk of loss of benefit as a result of an increase in National Living Wage
Promoting good relations			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			Y	This is a predominantly anti-poverty focussed policy. The purpose of the policy is to rectify an unintended consequence, which may have led to a reduction in free school meal entitlement. As a result of interim measures already in place the policy will neither positively nor negatively benefit children and young people, nor will it promote good relations.

²

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?	There have been no negative impacts identified as a result of this policy approach. There may be some benefit to those who identify as from minority ethnic (non-white) groups, as they are more likely to be in relative poverty after housing costs compared to those from the 'White - British' group. Further, some religious groups who experience poverty may also benefit, should they be in the particular circumstances of being eligible for free school meals for people in receipt of both maximum Child Tax Credit and maximum Working Tax Credit.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	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

Describing how Equality Impact analysis has shaped the policy making process

This is considered a predominantly anti-poverty related action, which is intended to ensure continued access to the passported benefit of free school meals. That said the EQIA process has confirmed that single parents are likely to benefit, lone mothers are likely to benefit

³ See EQIA – Setting the Scene for further information on the legislation.

particularly, as a result of their increased risk of poverty in comparison to others. The EQIA process also confirmed that those identify as from minority ethnic (non-white) groups, and some religious groups are more likely to experience poverty, and as a result are may be more likely to benefit from this policy change, should they also they be in the particular circumstances of being eligible for free school meals for people in receipt of both maximum Child Tax Credit and maximum Working Tax Credit.

Monitoring and Review

The implementation of free school meals policy will continue to be monitored through annual statistical analysis of returns. This particular element of the policy will required to be reviewed again between 2020-2023, as it is expected that further increases to National Living Wage will occur.

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 Education (Scotland) Modification Regulations 2019 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Graeme Logan

Position: Deputy Director: Improvement, Attainment and Wellbeing Division

Authorisation date: 16 May 2019

Children and Young People can get free school lunches after primary 3 if parents and carers are receiving:

- [Universal Credit](#) (where monthly earned income is not more than £610)
- [Income Support](#)
- income-based [Job Seeker's Allowance](#)
- income-based [Employment and Support Allowance](#)
- support under [Part VI of the Immigration and Asylum Act 1999](#)

Children and Young People can free school lunches if parents and carers receive:

- [Child Tax Credit](#), but not [Working Tax Credit](#), and income is less than £16,105
- both maximum Child Tax Credit and maximum Working Tax Credit and income is under £6,420

Getting free school meals if parents or carers do not receive benefits or tax credits

Children and young people might still get a free school meal if parents and carers are experiencing financial hardship. This could be because:

- parents and carers immigration status means they can't get help from the government
- parent or carer is still waiting on their first Universal Credit notice