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Consultation Document

Revised eligibility criteria for free school meals

Revised eligibility criteria for free school meals in Wales due to the rollout of Universal Credit

Date of issue: 6 June 2018

Action required: Responses by 14 September 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Revised eligibility criteria for free school meals in Wales due to the rollout of Universal Credit

Overview

This consultation seeks views on amending the eligibility criteria for free school meals, specifically eligibility based on receipt of Universal Credit.

How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **14 September 2018** at the latest.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

The consultation documents can be accessed from the Welsh Government's website at gov.wales/consultations

Contact details

For further information:
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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail: Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

Contents

Ministerial foreword	2
Introduction	4
What are the main issues?	5
Eligibility criteria for free school meals in Wales	5
Universal Credit	6
Roll-out of Universal Credit in Wales	6
Free school meals as an indicator of deprivation	7
Why do we need to amend the eligibility criteria for free school meals?	9
Our proposals	11
Introduction of an annualised net earned income threshold of £7,400	11
Transitional protection for families affected by the change	13
Financial support to manage the impact of the threshold and transitional protection	15
Managing the impact on deprivation indicators	15
Impact on equality	15

Ministerial foreword

The continued expansion of Universal Credit across Wales means that the Welsh Government must update the eligibility criteria for free school meals. At present, a child or young person attending school on a full time basis may be eligible for free school meals if their parents or carers are in receipt of one of a range of benefits or support payments. Some of these benefits are being replaced by Universal Credit.

Universal Credit has been an eligibility criterion for free school meals since the Free School Lunches and Milk (Universal Credit) (Wales) Order 2013 came into force on 6 September 2013. It has always been made clear that this was done as an interim measure, to ensure that families who would otherwise have been eligible for free school meals because of the legacy benefits¹ they received, were not disadvantaged because of the roll out of Universal Credit.

As well as out-of-work benefits, Universal Credit will also replace in-work benefits (e.g. Working Tax Credit), receipt of which would not currently result in eligibility for free school meals. Under Universal Credit, there is no distinction between out-of-work and in-work benefits. Therefore, as it is rolled out, more in-work claimants on low incomes will become eligible for Universal Credit, increasing the number of families who are eligible for free-school meals.

To date, the number of families receiving Universal Credit in Wales is relatively small. The Department for Work and Pensions' timetable is subject to change, but, the latest version indicates a continued gradual expansion of Universal Credit to jobcentres across Wales, with the rollout in respect of new claimants due to complete in Wales in December 2018. Some families in receipt of the benefits which it will replace have already been migrated on to Universal Credit (if they have had a change in their circumstances). All remaining existing claimants are due to be migrated onto Universal Credit between 2019 and 2022.

By the time Universal Credit is fully rolled out in 2022, we estimate around half of all pupils would be eligible for free school meals (compared to 16 per cent in January 2017). This

¹ The legacy benefits that are being replaced by Universal Credit are Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Child Tax Credit, Working Tax Credit, and Housing Benefit. The current free school meal eligibility criteria include Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance and Child Tax Credit (provided they are not entitled to Working Tax Credit and their annual income does not exceed £16,190).

would cost a significant amount of money. If we were to commit to it, we would need to make some very difficult decisions and savings or reductions to budgets would have to be made elsewhere.

I am aware that there have been calls for free school meal entitlement to be extended to all families in receipt of Universal Credit but, it is important to be aware that no additional funding has been provided to the Welsh Government to manage the impact of the UK Government's Welfare Reform agenda on free school meals.

We are therefore proposing to introduce an earned income threshold in January 2019. This will mean that those who have annualised net earnings from employment or self employment of more than £7,400 (in addition to their Universal Credit payment) will not be entitled to free school meals. Overall, we estimate that this would lead to a relatively modest increase of around 3,000 in the number of children benefiting from free school meals by the time Universal Credit is fully rolled out in 2022. This is in comparison to a situation where Universal Credit is not rolled out and eligibility for free school meals remains the same. There would also be measures put in place to protect families from losing entitlement to free school meals for a limited period of time, helping to avoid hardship by giving them more time to adjust.

This consultation document describes what we are proposing to do and sets out, in full, the reasons why we think we should do it.

I would welcome your comments.

Kirsty Williams AM
Cabinet Secretary for Education

Introduction

This consultation asks for your views on proposals to revise the eligibility criteria for receipt of free school meals. We need to change the current eligibility criteria because Universal Credit will eventually replace other benefits and support payments which qualify recipients to make a claim for free school meals.

What are the main issues?

Eligibility criteria for free school meals in Wales

Free school meals are provided for the most disadvantaged pupils in families on low incomes. They help to ensure that eligible children have access to a nutritious meal, with the aim of improving health and educational outcomes.

In Wales, free school meals are provided to children and young people if:

- they attend school on a full time basis; and
- their families meet the eligibility criteria for the provision of free school meals; and
- a request has been made by, or on behalf of the parent or pupil for free school meals.

Eligibility for free school meals prior to September 2013 was largely based on non-working families² in receipt of certain means-tested out-of-work benefits:

- Income Support
- Income-based Jobseeker's Allowance
- Support under Part VI of the Immigration and Asylum Act 1999
- Income-related Employment and Support Allowance
- Child Tax Credit, provided they are not entitled to Working Tax Credit and their annual income does not exceed £16,190
- Guarantee element of State Pension Credit
- Working Tax Credit 'run-on' - the payment someone may receive for a further four weeks after they stop qualifying for Working Tax Credit

Pupils who receive income-related Employment and Support Allowance, Income Support or income-based Jobseeker's Allowance in their own right could also be eligible to receive free school meals.

Receipt of the above benefits/support payments acts as a passport to free school meals, so these benefits are sometimes referred to as 'passporting benefits'. The cost of free school meals is met from local authority budgets and the Welsh Government expects local authorities and schools to encourage the uptake of free school meals.

² Non-working families are classed as those who do not meet the requirements around hours worked that enable them to qualify for Working Tax Credit.

Universal Credit

Universal Credit is a means-tested benefit for people of working-age who are on a low income. It is intended to be simpler than the current system of benefits and tax credits and has been introduced by the UK Government to replace six benefits ('legacy benefits'), as part of their Welfare Reform agenda:-

- Income Support,
- Income-based Jobseeker's Allowance,
- Income-related Employment and Support Allowance,
- Housing Benefit,
- Child Tax Credit, and
- Working Tax Credit.

These benefits are a mixture of in-work benefits (i.e. benefits paid to individuals to supplement their earnings) and out-of-work benefits (benefits paid to those who are not working or working less than the hours required to be entitled to Working Tax Credit, i.e. 16 hours a week for single people and 24 hours a week for couples).

On 6 September 2013, the Free School Lunches and Milk (Universal Credit) (Wales) Order 2013 ("the 2013 Order") came into force and extended the eligibility criteria for free school lunches and milk to include all families in receipt of Universal Credit. This was done in anticipation of the wider rollout of Universal Credit as an interim measure to protect the children of Universal Credit claimants who would have been eligible for free school meals under legacy benefits, to ensure they weren't disadvantaged because their parent(s) received Universal Credit instead.

Roll-out of Universal Credit in Wales

To date the number of families in Wales that are eligible to claim free school meals because they receive Universal Credit is low. This is because Universal Credit has not yet been rolled out fully to families in Wales.

Universal Credit is being introduced in stages across the UK. In Wales, Universal Credit has been rolled out in respect of new claims for families in the Shotton area of Flintshire since January 2015 (as Shotton was one of the pilot or 'pathfinder' sites for the rollout of Universal

Credit). This was expanded to Flintshire County Council as a whole in April 2017, and thereafter to:

- Torfaen (July 2017)
- Neath Port Talbot and Wrexham (October 2017)
- Swansea (December 2017)
- Cardiff (February 2018)
- Denbighshire (April 2018)
- Bridgend, Conwy, Merthyr Tydfil and Monmouthshire (June 2018)
- Blaenau Gwent (July 2018)
- Caerphilly and Pembrokeshire (September 2018)
- Gwynedd (job centre area served by Machynlleth JCP only), Powys and Vale of Glamorgan (October 2018)
- Rhondda Cynon Taff (November 2018)
- Carmarthenshire, Ceredigion, Gwynedd and Anglesey (December 2018)

The roll out of Universal Credit in Wales in respect of new claims for families is due to be completed in December 2018. After the expansion process is complete, all remaining claimants in receipt of legacy benefits will begin to be migrated to Universal Credit from July 2019 (those with a change of circumstance are being migrated on to Universal Credit before then). It is currently anticipated that the full roll out will be completed by 2022 when all existing legacy benefit claimants will have moved to Universal Credit (but, this may be subject to change).

Free school meals as an indicator of deprivation

Free school meals eligibility is used as an indicator of deprivation for pupils. It is used to help determine how funding is distributed and for statistical purposes, for example:

- grant funding streams, such as the Welsh Government's Pupil Development Grant (PDG)³, the Education Improvement Grant for schools (EIG)⁴, and the Local Government Settlement⁵ funding formula.

³Pupil Development Grant: <http://gov.wales/topics/educationandskills/schoolshome/deprivation/pdg-and-early-years-pdg/?lang=en>

⁴ Education Improvement Grant: <http://gov.wales/topics/educationandskills/schoolshome/raisingstandards/education-improvement-grant-for-schools/?lang=en>

⁵ Local Government Settlement: <http://gov.wales/topics/localgovernment/finandfunding/settlement/?lang=en>⁶
Pupil Development Grant: <http://gov.wales/topics/educationandskills/schoolshome/deprivation/pdg-and-early-years-pdg/?lang=en>

- monitoring the progress made in narrowing the attainment gap between pupils who are from more deprived backgrounds and those who are not.

Why do we need to amend the eligibility criteria for free school meals?

At present all families that receive Universal Credit are eligible to claim free school meals for their children, including those that would have previously been ineligible under the legacy benefits system, i.e. single parents working 16 hours or more a week, or couples working 24 hours or more a week (with one member working at least 16 hours a week).

When Universal Credit is rolled out fully in Wales ((this is subject to change, but currently due to be 2022, based on the Department for Work and Pension's latest timetable https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693928/universal-credit-transition-rollout-schedule.pdf), if all families in receipt of Universal Credit were eligible for free school meals, this would lead to a significant increase in the number of families eligible for free school meals. As there is no distinction between out-of-work and in-work benefits under Universal Credit and all claimants in receipt of Universal Credit are currently eligible for free school meals, a lot of extra in-work claimants on low incomes would become eligible.

This is not an issue at the moment as the rollout of Universal Credit to families in Wales is quite limited. However, this will change as the rollout progresses. Our analysis suggests that by the time Universal Credit is fully rolled out, around half of all pupils would be eligible for free school meals (compared to 16 per cent in January 2017), which would be unaffordable.

The cost of free school meals is currently met by local authorities. No additional funding has been provided to the Welsh Government to manage the impact of the UK Government's Welfare Reform agenda on free school meals. An increase in the size of the free school meals caseload would mean savings would have to be made elsewhere and reductions to other Welsh Government budgets, to fund the additional cost to local authorities of providing free school meals.

Eligibility for free school meals is used as a deprivation indicator to help determine how money is distributed for certain funding streams, such as the Welsh Government's Pupil Development Grant (PDG)⁶, the Education Improvement Grant for schools (EIG)⁷ as well as

⁶ Pupil Development Grant: <http://gov.wales/topics/educationandskills/schoolshome/deprivation/pdg-and-early-years-pdg/?lang=en>

the Local Government Settlement⁸ funding formula. Changes to the number of pupils eligible for free school meals could potentially affect the amount of funding and how this is distributed.

⁷ Education Improvement Grant: <http://gov.wales/topics/educationandskills/schoolshome/raisingstandards/education-improvement-grant-for-schools/?lang=en>

⁸ Local Government Settlement: <http://gov.wales/topics/localgovernment/finandfunding/settlement/?lang=en>

Our proposals

Introduction of an annualised net earned income threshold of £7,400

There is a balance to be struck in ensuring that those most in need are provided with a means of accessing free school meals, while at the same time ensuring that our proposals are affordable. We need to avoid new financial burdens for local authorities (funding additional free school meals) and the Welsh Government. We therefore propose to amend the eligibility criteria for free school meals by introducing a net earned income threshold⁹ for families who are in receipt of Universal Credit. We propose that families who receive Universal Credit and have an annualised net earned income of more than £7,400 will not be eligible to claim free school meals for their children, unless they are transitionally protected (see page 13). The earned income threshold would be introduced from January 2019.

It is important to note that the net earnings threshold does not represent a household's total income. For example, a typical family earning around £7,400 per annum would, depending on their exact circumstances, have a total household income of between £18,000 and £24,000 per annum once benefits are taken into account¹⁰.

We estimate that an annualised net earned income threshold for families in receipt of Universal Credit of £7,400 would increase the number of pupils benefitting from free school meals in Wales by around 3,000 by the time Universal Credit is fully rolled out in 2022 (compared to a situation where Universal Credit is not rolled out and free school meals eligibility remains the same)¹¹. By way of contrast, if there is no earnings threshold in place by the time Universal Credit is fully rolled out, we estimate around half of all pupils would be eligible for free school meals (compared to 16 per cent in January 2017), which would be unaffordable.

⁹ Net earned income is defined as household income after taxes and deductions. It does not include income from Universal Credit or other benefits. Net income from employee earnings and declared self-employment earnings would be taken into account.

¹⁰ Source: DfE (2017) Eligibility for free school meals and the early years pupil premium under Universal Credit <https://www.gov.uk/government/consultations/eligibility-for-free-school-meals-and-the-early-years-pupil-premium-under-universal-credit>

¹¹ In undertaking our analysis, we have used a number of different data sources (e.g. Family Resources Survey) and economic forecasts (e.g. Office for Budget Responsibility forecasts of earnings growth and employment rates). Our estimates are subject to change as new data is released and forecasts are updated. Further information on the data sources and methodology used can be found in the draft summary Regulatory Impact Assessment that has been published alongside this consultation.

Under the proposed annualised net earned income threshold of £7,400, we expect that the significant majority of children will see no change in their free school meals eligibility. However, moving to an earned income threshold means that some families who are eligible under the current criteria will not be eligible for free school meals when the threshold is introduced, unless they are transitionally protected (see page 13). There will also be some families who were not eligible for free school meals under the previous criteria who will gain entitlement under the new criteria.

It is important to highlight that it is very difficult to accurately predict the actual impact of any given earnings threshold on the size of the free school meals cohort. We are targeting the group of households most affected by welfare reform and the introduction of the National Living Wage (NLW). There is a lot of uncertainty regarding behavioural effects¹² (e.g. labour market choices) that may arise from the introduction of Universal Credit and also the free school meals threshold itself, as well as the influence of broader economic circumstances.

Once the £7,400 net earned income threshold is in place, our intention is to keep it constant until the end of the rollout of Universal Credit, to provide some stability in the eligibility criteria. At that point, we will know more about some of the unknowns we are currently facing with the rollout of Universal Credit, particularly the behavioural impacts of introducing a threshold. However, during the rollout of Universal Credit, and beyond, **we will need to keep the £7,400 threshold under review**, by monitoring whether the number of eligible pupils differs substantially to what we have projected. If there is a significant variation to our projections, the threshold may need to change in future.

Example 1: Sarah's mother is a single parent aged 24, earning the National Minimum Wage and working 16 hours a week, so she receives Working Tax Credit (WTC) and Child Tax Credit. Because she receives WTC she can't claim free school meals for Sarah. In March 2019, she moves house and because of this change in circumstances she is moved onto Universal Credit. At this point she becomes eligible to claim free school meals for Sarah because she earns less than £7,400 per year. Sarah's mother's earnings are supplemented by Universal Credit and other benefits, so her total household income is £18,200 per year.

¹² Our analysis does not include the impact of any behavioural responses that may occur due to policy changes. Such responses will influence the size of the free school meals cohort.

Example 2: Hefin and Mali's parents both earn the National Living Wage. Their mother works 7 hours a week and their father works 8 hours a week, so they don't qualify for WTC, their earnings are £6,179 per year. They are, however, eligible for Child Tax Credit and, as their joint earnings are under £16,190 a year, Hefin and Mali are eligible for free school meals under the legacy benefits system.

When they transfer on to Universal Credit, Hefin and Mali will still be eligible for free school meals as their parents' joint earnings are less than £7,400 per year.

Hefin and Mali's parents have a total household income of around £23,900 per year when you take into account all of their benefits.

Transitional protection for families affected by the change

Transitional protection refers to measures which ensure some people are shielded from the effects of a policy change for a limited period of time during the move to new arrangements, and not measures which in the long term involve a change in eligibility from those planned.

Moving from eligibility criteria based on hours worked to criteria based on earnings means that some families will lose entitlement (mainly those in receipt of Child Tax Credit and earning above the earnings threshold level when they migrate to Universal Credit).

However, these will be replaced by families who gain entitlement to free school meals (mainly those in receipt of Working Tax Credit who work too many hours to be eligible for free school meals, but are low paid).

We propose to introduce transitional protection which will ensure that the change to the free school meals eligibility criteria would cause the minimum possible amount of disruption.

Pupils eligible for free school meals when the criteria are changed on 1 January 2019, or any new claimants who gain free school meals during the rollout of Universal Credit (to 2022), will be protected against losing free school meals whilst Universal Credit is rolled out across Wales, even if their eligibility changes. From 1 January 2019, this protection would therefore encompass,:

- families whose children are already registered as eligible for free school meals because the family receives Universal Credit, whose earnings are currently above the new threshold

- families whose children are already registered as eligible for free school meals because the family receives Universal Credit, but whose earnings subsequently rise above the new threshold during the rollout period
- families whose children are registered as eligible for free school meals because the family receives legacy benefits, where the family transfers onto Universal Credit during the rollout period, and whose earnings are above the new threshold
- families whose children are already registered as eligible for free school meals because the family receives legacy benefits, and subsequently have a change in circumstances which means that they are taken out of the benefit system altogether, and are not transferred onto Universal Credit
- families who are not in the benefit system but who become Universal Credit claimants during the rollout period, and whose children are registered as eligible for free school meals because the family is below the new threshold, even if their earnings subsequently rise above the new threshold during the rollout period.

Once Universal Credit is fully rolled out (based on the Department for Work and Pension's latest timetable, this is currently due to be in 2022, but could be subject to change), any existing claimants who no longer meet the eligibility criteria (because they are earning above the threshold) will continue to receive protection. This will continue until the end of their current phase of education (e.g. primary, secondary).

Example 3:

On 1 January 2019 Max, who is in Year 7, is registered as eligible for free school meals, because his family receives Universal Credit. His family's net earned income is above the £7,400 threshold. However, he will continue to receive free school meals to March 2022 (when the rollout of Universal Credit is expected to complete), by which time he will be in Year 10. He will then continue to be protected for free school meals purposes until the end of Year 13 (July 2025).

Example 4:

On 1 February 2019, Nia, who is in Year 6, became eligible for free school meals, when her father (who is a lone parent) became unemployed and claimed Universal Credit. Nia's father applied for free school meals for her. In September 2019, Nia's father started a new job (earning £32,000 per annum). Nia continues to receive free school meals beyond the rollout

of Universal Credit in 2022, when she is in Year 9. Thereafter she will continue to be protected until the end of her school phase in July 2026, when she is in Year 13.

Financial support to manage the impact of the threshold and transitional protection

The cost of free school meals is currently met by local authorities, including through funding provided through the Local Government Settlement. The Welsh Government is considering financial support to meet the impact of the £7,400 threshold and the transitional protection offer. We will work with local authorities to manage the distribution of this financial support, in particular through the Distribution Sub-Group¹³ which advises on the Local Government Settlement formula.

Managing the impact on deprivation indicators

We measure the attainment of pupils who are eligible for free school meals and use it to help us monitor the progress made in narrowing the attainment gap between pupils who are from more deprived backgrounds and those who are not. Changes in the numbers eligible for free school meals will impact on our ability to monitor the progress made in narrowing the attainment gap. We remain committed to publishing data on the attainment of disadvantaged pupils but recognise that we will also need to take into consideration increases in the numbers of pupils eligible for free school meals whilst Universal Credit is rolled out.

Impact on equality

The Welsh Government is required to have arrangements in place to undertake an equality impact assessment across all of the protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The proposals in this consultation have been considered as part of the equality impact assessment process. The proposals seek to ensure that free school meals are targeted at families most in need, from available resources. A draft equality impact assessment is

¹³ Distribution Sub Group: <http://gov.wales/topics/localgovernment/finandfunding/dsg1/?lang=en>

published with this consultation document, and will be updated following the response to the consultation.