

Children's Rights Impact Assessment

All completed Children's Rights Impact Assessments must be sent to the CRIA@gov.wales mailbox.

Policy objectives

Welsh Government is considering the issue of the Transitional Protection (TP) order. In Wales, the introduction of an earned income threshold for families in receipt of Universal Credit (UC) from 1 April 2019, reserved entitlement to free school meals for those with annualised net earnings from employment or self-employment of less than £7,400. The TP order aims to protect households migrating to Universal Credit (UC) from losing their free school meal entitlement, despite their household earnings remaining the same. Providing TP alongside an annualised net earnings threshold of £7,400, would provide stability for families by ensuring that no child would lose their entitlement to free school meals during the rollout of UC.

To protect the children identified, TP was enacted within legislation from 1 April 2019¹, with a prescribed end date of 31 December 2023, by which point it was anticipated that UC would be fully rolled out across Wales. As part of the [2022 Autumn statement](#), it was announced by the UK Government, that the full roll-out of UC would be delayed until September 2028.

The proposal is not to extend TP beyond 31 December 2023. This impact assessment considers the impact of this decision on Children and Young People.

Gathering evidence and engaging with children and young People

Learners in maintained schools in Wales are eligible² for Free School Meals if their parents receive any the following support payments:

- Income Support
- Income-based Jobseeker's Allowance
- Income-related Employment and Support Allowance
- Support under Part VI of the Immigration and Asylum Act 1999
- Child Tax Credit (as long as they don't also get Working Tax Credit and their annual income is £16,190 or less before tax)
- The guaranteed element of Pension Credit
- Working Tax Credit run-on - paid for 4 weeks after they stop qualifying for Working Tax Credit

¹ The Free School Lunches and Milk (Universal Credit) (Wales) Order 2019 – Article 3 Transitory Provisions

² Education Act 1996 (legislation.gov.uk)

- Universal Credit - their household earnings must be less than £7,400 a year after tax. This does not include any income from benefits.

Free school meals are also made available for those families protected under our TP Order.³ It does not include the additional learners that are now receiving Universal Primary Free School Meals.

Under TP, once children become eligible for free school meals, they are protected from losing their entitlement even if their circumstances change. Recent pupil level annual school census (PLASC) data for 2023 (published in September 2023) shows that there are 121,550 children in Wales who are known to be eligible for free school meals or transitionally protected. The cohort of TP learners will continue to be protected up to the point they finish their current phase of education (primary or secondary) even if the order ends on 31 December.

Our central estimates suggest the number of pupils aged 4-15 ⁴in Wales who will be transitionally protected will be around 30,800 in January 2024, increasing to 38,000 in January 2025 (+23%) and then decreasing to 37,100 in January 2026 (-3%) and 31,100 in January 2027 (-16%)

The big jumps in the number of pupils who are transitionally protected between 2019/20 to 2021/22 will follow the cohorts across the years. These delayed spikes mean we don't see total TP numbers drop immediately as protections end (December 2023) as pupils are protected until the end of their school phase.

The main cohort at risk of not extending TP to 31 March 2025 are children receiving free school meals that are being taught in year 6 on 31 December 2023 and are living in Child Tax Credit (CTC) households with earnings over £7,400 when they migrate to UC between the end of summer term 2024 and March 2025 (estimated to be around 1,000 pupils).

Although an extension of TP to 31 March 2025 would protect these children, it would also protect an additional 8,000 by January 2026 when compared to not extending. This would include supporting families where household circumstances or earnings have improved significantly, potentially such that they no longer receive a qualifying benefit. A more targeted approach would be to explore options for local authorities to use their discretionary powers not to charge for school meals in specific circumstances.

A range of characteristics are present within the eFSM and TP cohort, some of which will be over-represented. As such, it is possible that the impacts will be

³ [Written Statement: Revised eligibility criteria for free school meals in Wales due to the rollout of Universal Credit \(6 December 2018\) | GOV.WALES](#)

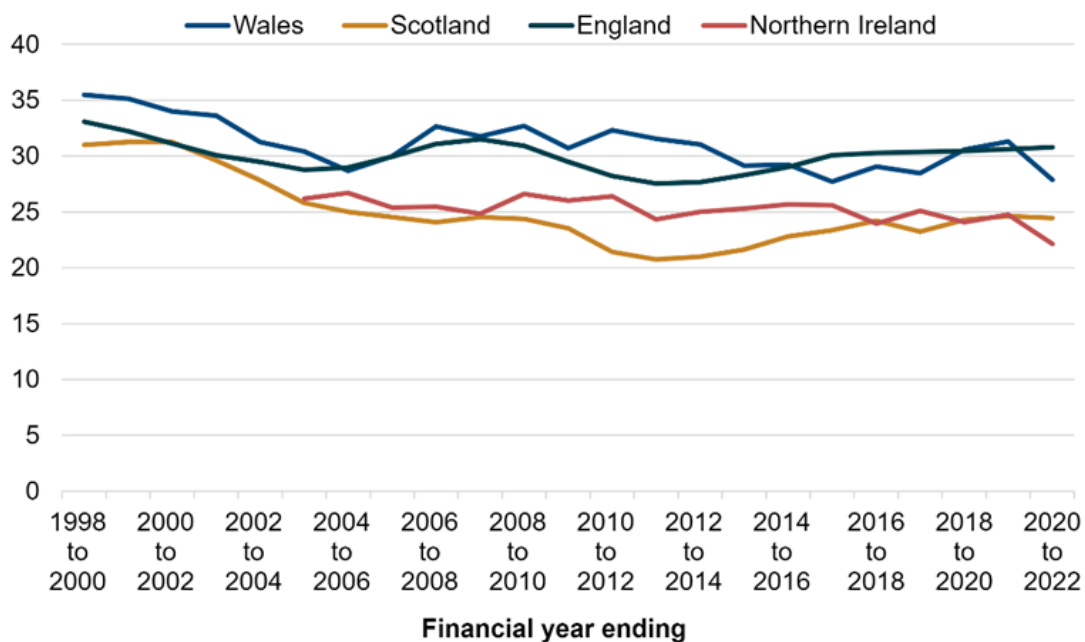
⁴ DfE is unable to provide TP projections for post-16 pupils. Therefore, the TP projections could be regarded as underestimates as they don't include the post-16 age group.

disproportionately felt by some groups of people, for example, children with ALN/SEN (as a proxy for disabled children) and families with a disabled member, women who are lone parents, children and families living in socio-economic disadvantage and some ethnic minority families.

Not extending TP will mean children, particularly Black, Asian and Minority Ethnic children, and their families (including, but not limited to asylum-seekers, refugees and Gypsy Roma and Travellers), disabled children and families with a disabled member as well as women who are lone parents and/or victims of Violence Against Women, Domestic Abuse and Sexual Violence, will not be able to access additional support as they progress into work or migrate to UC and may continue to experience food insecurity. This could impact negatively upon mental and physical health, as well as reducing engagement in community, education, and cultural activities. Families may also be forced to reduce spending in other areas, like heating, which could impact on children and their families, particularly disabled children, and families where.....?

Children in relative income poverty

Percentage of children in each UK country living in relative income poverty (after housing costs), three-financial-year averages



Source: Households Below Average Income, Department for Work and Pensions. Children are consistently the age group most likely to be in relative income poverty. In Wales, 28% of children were living in relative income poverty in financial year ending (FYE) 2020 to FYE 2022.⁵ This figure has decreased from 31% reported last year. This is approximately 180,000 dependent children under the age of 19.

⁵ [Relative income poverty: April 2021 to March 2022 | GOV.WALES](#)

Children in Wales Report on the 7th Annual Child and Family Poverty Surveys 2023

Children in Wales recently published their findings from their [annual child poverty surveys](#). The survey sought to gain an insight into the experiences and observations of those working with children, young people and their families, either directly or indirectly. Practitioners and professionals responded from all 22 local authority areas across Wales. A total of 371 responses were received, with 84% of respondents working directly with children, young people and families.

Over 66% of respondents worked with families where at least one child was receiving universal free school meals (UFSM) through the first phase of this programme. There was overwhelming praise for this provision with the focus of the comments being “children were not as hungry” throughout the day; children were eating at least “one nutritional meal a day”; a significant “reduction of stigma” both for children themselves and their parents; and “children feel more included and have better self-esteem”.

Whilst a proportion of children and young people are eligible for and do currently receive free school meals, respondents noted that many more are in need, but do not meet the criteria for provision. This was seen to be particularly relevant to children of working, low-income families

The Bevan Foundation’s research on the Welsh Benefit’s System

The Bevan Foundation published research in June 2023, on the [Welsh Benefits System](#). It identified that in its efforts to end child poverty, the Welsh Government has designed a number of schemes to support families with their living costs, such as Free School Meals during the holidays, the Pupil Development Grants and Healthy Start Vouchers. These schemes can be reformed and further improved to help lift children out of poverty.

This [report](#) by the Bevan Foundation found that nearly half of people on Universal Credit or legacy benefits have skipped or cut down on the size of a meal (49 per cent cut down on or skipped a meal (46 per cent).

The Trussell Trust’s research on Hunger in the UK

The Trussell Trust’s latest and most in-depth study published in June 2023 - [Hunger in the UK](#), reveals its causes, impacts and who is affected. The research explores the experience of hunger in the UK, with reports on Scotland, Northern Ireland, and Wales. They report record numbers of people across the country already forced to turn to food banks, with millions more struggling with hunger, but not yet reaching out for support.

They report that:

- More than half of households experiencing food insecurity, and three quarters of people referred to food banks in the Trussell Trust network say that they or a member of their household are disabled.
- Families with children are at a high risk of food insecurity. Nearly half (47%) of all households experiencing food insecurity include children under the age of 16.
- Structural inequalities shape hardship and food insecurity. People from ethnic minority groups, women, people who are LGBTQ+, people who have sought or ever applied for asylum, and people who were in care as a child, are all overrepresented in the proportion of the population experiencing food insecurity and receiving food aid.

The research provides evidence that we need to be able to change systems, policies, and practices, so that everyone in the UK has the dignity of being able to afford the essentials.

Engagement with young people

The people most affected by this decision are children and young people and their families on legacy benefits, who migrate to Universal Credit after our current transitional protection order ends on 31 December and whose annualised net earnings are above the threshold of £7,400.

This specific proposal to consider extending the TP order has not been consulted upon, however the introduction of a UC earnings threshold and the associated TP policy, was consulted upon in 2018.

Numerous respondents at the time, welcomed the transitional protection plans, stating that they were fair and would enable the impact of the policy to be monitored effectively, whilst ensuring that children who were no longer eligible for free school meals under the new eligibility criteria would not be disadvantaged, particularly considering the uncertainty regarding the numbers of families who will lose eligibility under the new criteria.

Other comments highlighted that transitional protection plans could lead to inequality for families that have the same circumstances and earnings, with some receiving FSM through transitional protection and others not able to receive FSM because they have never previously been eligible, with calls for transitional protection to be reviewed annually to ensure that all who need it receive it, rather than continuing eligibility for those whose employment situation has improved.

Insight has been gathered via other means. In particular, pre-consultation engagement activity on a new Child Poverty Strategy for Wales has provided evidence on this issue. This pre-consultation engagement included engagement with 3,358 children, young people, and families with lived experience, including 1,953 with protected characteristics. Food poverty was a common theme, with the cost of food, particularly healthy food identified as an issue and evidence about use of Food Banks and other free or low-cost food offers. Separately, the [Children's Commission for Wales report Ambitions for Wales](#) survey highlighted that food was a major concern amongst the 8,000 children and young people surveyed e.g.

44% of children aged 7-11 and 25.9% of children aged 11-18, are worried about having enough food to eat.

There is evidence that children, particularly the youngest children are worried about accessing food and eating.

Analysing the evidence and assessing the impact

PLASC data for 2023 shows:

Characteristic	Number of pupils	Number of FSM* pupils	% of pupils with characteristic eligible for FSM*	% of all FSM* pupils (121,550) with the characteristic	% of those with the characteristic and are FSM* of the whole school population (469,872)	% of pupils with the characteristic of the whole school population
ALN/SEN	63,089	26,635	42.2	21.9	5.7	13.4
BAME	64,561	18,430	28.5	15.2	3.9	13.7
GRT	1,534	1,050	68.4	0.9	0.2	0.3
Mixed	18,242	5,466	30.0	4.5	1.2	3.9
Asian	13,217	2,228	16.9	1.8	0.5	2.8
Black	6,378	2,152	33.7	1.8	0.5	1.4
Female	230,384	59,693	25.9	49.1	12.7	49.0
Male	239,488	61,857	25.8	50.9	13.2	51.0

* FSM pupils includes both eFSM and TP pupils

It is projected that an extension would see around an additional 8,000 pupils transitionally protected in January 2026, when compared to not extending. The positive impact of extending the policy for affected families would include.

- Reduced anxiety for families and food insecurities for children.
- Parents would be better able to provide essential needs for children.
- Families and children not having to 'go without' other necessities. For example, heating the house, parents and other family members going without food, ability to access community, education, and cultural opportunities.

By not extending the TP Order, these families would be impacted. However, a certain number of this cohort would include families where household circumstances or earnings had improved significantly, potentially to the extent that they no longer receive a qualifying benefit with support and therefore would no longer be the families that the policy was originally aimed at supporting.

It is estimated that if TP is not extended to March 2025, around 1,000 pupils being taught in year 6 on 31 December 2023 could lose free school meals solely because of transferring from legacy benefits to UC between the end of their primary phase of education in July 2024 and 31 March 2025 (date by which DWP anticipate that families with children will be migrated to UC).

Although an extension of TP to 31 March 2025 would protect these children, it would also protect an additional 8,000 by January 2026 when compared to not extending. Whilst in the main, this is likely to support in work households that are more likely to be living in relative poverty, it would also include those:

- That have not migrated from legacy benefits and so are not at risk of losing free school meal entitlement because of a move to UC.
- That have claimed UC for the first time since the introduction of the £7,400 threshold and so are not at risk of losing free school meal entitlement due to the introduction of the earnings threshold.
- Where circumstances have changed, and the household is no longer receiving a qualifying benefit.
- Where earnings have increased substantially and, in some cases, has removed them from the welfare benefit system completely.

If TP were not to be extended beyond December 2023, there are existing safety nets in place for families. Most children in primary schools would continue to access a free meal through the Universal Primary Free School Meals scheme, with this position extending to all primary school children from September 2024 and local authorities are able to use their discretionary powers not to charge for school meals in specific circumstances and would be encouraged to do so for those families impacted by a forced migration to UC.

It is important to recognise the baseline level of support already available to the children and families who are eligible for free school meals through the UK benefit system. They are eligible for free school meals due to, in part, already being in receipt of benefits administered by UK government which aim to provide a minimum subsistence level. The TP order overlays this offer and was originally introduced as a short-term intervention during a period of change as benefits were migrated to UC. However, whether the policy is extended or not, families will continue to be able to access their base level of support provided through the UK benefit system, which can be used to help feed their children. It should be noted that some families may have had a change in circumstances that means they are no longer eligible for support through the UK Government benefit system but continue to receive free school meals until the end of their child's current education phase.

A decision to not extend TP could potentially have longer-term impacts on some children and their families, for example, by removing an intervention that support efforts to prevent health inequalities and improve educational engagement, attainment and outcomes. These longer-term outcomes require a strategic structural response across education, health, and social services to drive health prevention and increase education and employment outcomes. Any decision to move money from school budgets, which could be required if a decision to extend was taken

forward, would undermine the programme of education reform which strives to address these structural inequalities.

Impact on children's rights

Improving the outcomes of children and young people from low-income backgrounds is central to delivering on children's rights in Wales.

There are three specific rights that will be most impacted by this policy proposal:

Article 24(2)(c) of the UNCRC states parties shall take appropriate measures to combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution). The appropriateness of the measures pursued must take account of the existence of the UK Government's social security system, which provides subsistence level benefits, the safety net of social services, and finite budgets.

Article 26 of the UNCRC provides that State Parties shall recognise for every child the right to benefit from social security and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.

Article 27 states that States Parties recognise the right of every child to a standard of living adequate of the child's physical, mental, spiritual, moral, and social development. The primary responsibility for this rests with parents. Article 27(3) provides that States Parties, in accordance with national conditions *and within their means* shall take appropriate measures to assist parents and others responsible for the child to implement this right, and shall, in case of need, provide material assistance and support programmes, particularly regarding nutrition, clothing and housing. The extension of TP would enhance a child's standard of living. The means taken to assist parents in this regard are those set out in the UK social security system, and the other forms of support outlined in this IIA. Moreover, the duty to take appropriate steps to assist parents applies only where the State has the means to do so.

TP was introduced as a short-term intervention with a prescribed end date of 31 December 2023, by which point it was anticipated that UC would be fully rolled out across Wales. It was never designed to be a longer-term government intervention to help those most in need as strategic, systemic policy solutions are required to address the impact of socio-economic disadvantage on children and their families.

Not extending TP could have some negative impact on the rights of this cohort of children as described under the articles above. However, officials consider the number of children impacted to be low. Any negative impact on children could be mitigated by exploring options for local authorities to use their discretionary powers not to charge for school meals in specific circumstances. This would ensure that this cohort of children continue to receive a nutritious meal at school (provided for by the LA at their discretion), where there is a need, and has no adverse impact on the child's rights to benefit from social security, or to have access to an adequate

standard of living. Alongside this, and to further reduce the risk, the Welsh Government continues to support people with the cost of living by providing targeted help to those who need it the most and through programmes and schemes which put money back in people's pockets. This ranges from free prescriptions and free swimming to helping hundreds of thousands of people with their council tax bills. Welsh Government provides cash payments to people facing financial emergencies and fund money and debt advice and credit unions. During 2022-23 and 2023-24, this support was worth more than £3.3bn. This approach continues to assist low-income households, by increasing their disposable income which can then be redirected to feed their children.

The distribution of information about alternative support services like food banks and local play schemes and additional financial support such as the Wales fuel support scheme and Discretionary Assistance Fund (DAF) would help to mitigate the impact, this will be particularly focused at engaging particular protected characteristic groups through stakeholder networks. The existing cost of the school day communications campaign can be boosted and continue to target families most in need. Further information can be shared with children and families through the 'Claim what's yours' communications campaign that is targeted at families most in need. This campaign promotes information on additional financial support that is available for families. This would also include promoting the support available through the voluntary sector, charitable means, and private sector aimed at tackling child hunger.

- Consider whether any EU Citizens Rights (as referenced in the Equality Impact Assessment) relate to young people up to the age of 18.

This policy does not impact on EU/EEA and Swiss Citizens' Rights. Any families that have 'No recourse to public funds' were not eligible for TP.

Ministerial advice and decision

It is considered therefore that most children are afforded sufficient protections through our current TP policy. The negative impact on the low number of children at risk were the TP Order not extended, could be better mitigated by exploring options for local authorities to use their discretionary powers not to charge for school meals in specific circumstances.

Whilst there are clear benefits of extending TP to March 2025, a decision to do so would need to be considered in the context of the current financial circumstances and be guided by our principles to protect core public services as far as possible and continue to target support towards those with the greatest need.

Continuing with TP beyond 31 December 2023 could bring forward calls from local authorities to provide additional funding. This could risk significant in-year spending cuts that would further impact on the rights of children that would have serious consequences and negative impacts on children across Wales who might not be able to access education, food, and support. If funding was reallocated from the existing education budget, then in-year savings would have to be made on existing education grants. This would probably mean cutting school budgets. This would

seriously challenge all children in Wales's right to education and particularly Article 29.

There are very difficult decisions to be made given the constraints of the current financial situation. Careful consideration of the impact of in-year budget cuts to education grants on access to education for children across Wales, particularly children in socio-economic disadvantage, disabled children and ethnic minority children has been given. These grants underpin the education reform programme which aims for high standards and aspirations for all, tackling the impact of poverty on attainment and ambition. All learners, whatever their background, are supported to be healthy, engaged, enterprising and ethical citizens, ready to play a full part in life and work.

It is not advised that there are in-year budget cuts to reallocate funding in order to extend the TP policy beyond December 2023

MA/JMEWL/1761/23 seeks the Minister's approval to not extend TP.

Communicating with Children and Young People

This specific proposal with regards to the future of the TP Order has not been consulted upon, however the introduction of a UC earnings threshold and the associated TP policy, was consulted upon in 2018.

Numerous respondents at the time, welcomed the transitional protection plans, stating that they were fair and would enable the impact of the policy to be monitored effectively, whilst ensuring that children who were no longer eligible for free school meals under the new eligibility criteria would not be disadvantaged, particularly considering the uncertainty regarding the numbers of families who will lose eligibility under the new criteria.

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people surveyed e.g., 44% of children aged 7-11 and 25.9% of children aged 11-18, are worried about having enough food to eat.

In addition, local authorities who delivered the provision on behalf of Welsh Government routinely reported on take-up (when the scheme was operating) and provide feedback on the level of enquiries they receive from families on its continuation ahead of previous upcoming holiday periods – indicating the continuing need.

Monitoring and Review

The proposal is to take no further action and to not extend the TP order beyond 31 December 2023. The Welsh Government will continue to work closely with key delivery partners and those representing the interests of children and young people including schools and local authorities, as well as the WLGA, to monitor the impact of this decision alongside our cross-government approach to child poverty. TP numbers will continue to be measured and monitored and continued dialogue with local authorities and schools will help provide local intelligence to further understand the impact of the proposal.