



Department  
for Education

# **Eligibility for the free early years entitlement for two-year-olds under Universal Credit**

**Government consultation**

**Launch date: 4 December 2017**

**Respond by: 15 January 2018**

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## Foreword

There is an overwhelming evidence base from this country that shows high quality early education has long lasting benefits for children, and that children from disadvantaged backgrounds stand to benefit from it most.

But we also know that children from low income families are far less likely to access formal early education than children from more affluent backgrounds.

This is why in 2013 the Government introduced 15 hours a week of free early years provision for disadvantaged two-year-olds in England. We are committed to maintaining this entitlement, in order to improve outcomes and help close emerging development gaps.

At the same time, Universal Credit is reshaping the welfare system. This consultation seeks views on making a necessary change to the eligibility criteria for the free entitlement for two-year-olds following the introduction of Universal Credit, to ensure that we continue to reach the children who need the entitlement most.

In proposing these new criteria, we are committed to ensuring that the new arrangements are fair, consistent and simple to deliver.

I look forward to hearing your views.



**Robert Goodwill MP**

**Minister of State for Children and Families**

# 1. About this consultation

- 1.1 This consultation invites views on our proposed approach to setting eligibility for the free early education entitlement for two-year-olds under Universal Credit. This would increase the number of eligible children once Universal Credit is fully rolled out, compared to now.
- 1.2 In 2013, to improve children's early years development and to support families with the cost of childcare, the Government introduced 15 hours of free childcare a week for disadvantaged two-year-olds which we are committed to maintaining.
- 1.3 The current eligibility criteria for the free early education entitlement for two-year-olds mean that families both in and out of work are eligible for a free place if they receive certain benefits, or if they receive tax credits and their income falls below a certain level. The introduction of Universal Credit – which will replace the legacy benefit system – means we need to set similar eligibility criteria for families in receipt of Universal Credit, to ensure that the early years offer continues to be targeted at those children who can most benefit from it. This consultation seeks views on the level at which to set a net earned income threshold under Universal Credit.
- 1.4 This consultation document explains:
  - The general principles we have taken into account in considering changes to the eligibility criteria for the free early education entitlement for two-year-olds in light of the introduction of Universal Credit. Our intention is that these entitlements are targeted at less advantaged households in a way that is consistent, fair and simple.
  - Our plans for communicating these changes to parents, early years providers and local authorities, and the steps we will take to support their implementation.
- 1.5 We do not intend to change the current eligibility criteria for children whose parents receive support provided under Part 6 of the Immigration and Asylum Act 1999 or the guarantee element of State Pension Credit. These are not to be replaced by Universal Credit. We also have no plans to amend the non-economic criteria (which are outlined below).
- 1.6 The free early education entitlement for two-year-olds applies to England only.

## 2. Background and context

### The free early education entitlement for two-year-olds

- 2.1 The free early education entitlement for two-year-olds offers children from less advantaged backgrounds 15 hours a week, or 570 hours a year, of free early years education. As of January 2017, over 160,000 children were benefitting from the free entitlement.<sup>1</sup> This sits alongside the 15 hours of early years education that all three- and four-year-olds are entitled to as well as the additional 15 hours for three- and four-year-old children of eligible working parents.
- 2.2 Evidence from the Effective Pre-School, Primary, Secondary Education (EPPSE) study is clear that high quality early education can have a profound impact on social mobility.<sup>2</sup> Findings from the Department for Education's key longitudinal study, the Study of Early Education and Development (SEED), shows that early years education and care have a positive impact on a child's development, regardless of the economic background of their parents, but that given the lower starting point among disadvantaged children, and reduced likelihood to take up childcare, early education is particularly important for this group.<sup>3</sup>

### Eligibility for the two-year-old entitlement

- 2.3 Two-year-olds are eligible for a free early years place if their family receives any of the qualifying benefits for free school meals. These are:
- Income Support
  - Income-based Jobseeker's Allowance
  - Income-related Employment and Support Allowance
  - Support under Part VI of the Immigration and Asylum Act 1999
  - The guaranteed element of Pension Credit
  - Child Tax Credit, provided they are not also entitled to Working Tax Credit and have an annual gross income of no more than £16,190
  - Working Tax Credit run-on – paid for four weeks after they stop qualifying for Working Tax Credit

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<sup>1</sup> <https://www.gov.uk/government/statistics/education-provision-children-under-5-years-of-age-january-2017>

<sup>2</sup> [http://dera.ioe.ac.uk/23344/1/RB455\\_Effective\\_pre-school\\_primary\\_and\\_secondary\\_education\\_project.pdf](http://dera.ioe.ac.uk/23344/1/RB455_Effective_pre-school_primary_and_secondary_education_project.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627098/SEED\\_ECEC\\_impact\\_at\\_age\\_3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627098/SEED_ECEC_impact_at_age_3.pdf)

- Universal Credit (regardless of income amount, as a temporary measure during the early stages of rollout).
- 2.4 There are also a number of non-economic eligibility criteria for the entitlement, as follows, but these will not be affected by the proposals in this consultation:
- they (the child) are looked after by the local authority; or
  - they (the child) have left care through special guardianship or an adoption or child arrangements order
  - they (the child) have a current statement of SEN or an education, health and care plan (EHC); or
  - they (the child) are entitled to Disability Living Allowance.
- 2.5 From September 2014, children have also been entitled to a place if their family receives Working Tax Credit and has an annual gross household income of no more than £16,190. This was so that two-year-old children of low income working families, as well as those not in work, would be able to benefit.
- 2.6 When the eligibility criteria for the two-year-old entitlement were extended, this entitlement has deliberately targeted a much broader cohort than for free school meals. We want this to continue to be the case so that a wider group of less advantaged children can benefit from high quality early education. These families are least likely to access, but most likely to benefit from, early education.

## **The introduction of Universal Credit**

- 2.7 Universal Credit is a single payment for people who are looking for work or who are on a low income. It aims to create greater fairness in the welfare system and to help more families move out of poverty by making work pay. The Government is introducing Universal Credit in stages across the country.
- 2.8 Universal Credit replaces six existing benefits with a simpler monthly payment that gradually reduces as earnings increase, making sure people are better off in work. It delivers a fairer system, by removing inconsistencies that exist between different benefits and tax credits in the current system, and targets resources to those who need it most.
- 2.9 Universal Credit is reshaping the welfare system by making work pay and helping people into work more quickly. The simplification of the system means a number of the benefits that currently entitle families to the early education offer for two-year-olds will cease to exist.
- 2.10 In 2012 the Government consulted on widening the eligibility criteria for the two-year-old offer and at that time proposed introducing an income threshold under Universal Credit to determine eligibility for the two-year-old entitlement. In

response to this consultation the Government committed to confirm the benefits and earnings criteria for families on Universal Credit at a later date.

- 2.11 In 2013, as a temporary measure to ensure that no family lost their entitlement to a two-year-old place as a result of moving from legacy benefits to Universal Credit in the early stages of rollout (for example, those in pilot areas), all families in receipt of Universal Credit were entitled to a free two-year-old place pending the introduction of an income threshold. Now that the national rollout of Universal Credit is accelerating, we are bringing forward as planned proposals to replace this temporary measure with an earned income threshold under Universal Credit, in order to target the offer effectively.
- 2.12 This approach is consistent with the wider approach to determining eligibility to other passported benefits that flow from Universal Credit eligibility. On 16 November the Department for Education published a consultation on introducing a net earned income threshold under Universal Credit to determine eligibility for free school meals and the early years pupil premium.<sup>4</sup>

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<sup>4</sup> <https://consult.education.gov.uk/healthy-pupil-unit/fsm/>

### 3. Proposed eligibility criteria for the early education entitlement for two-year-olds

- 3.1 We are proposing to amend the eligibility criteria for the entitlement by introducing an earnings threshold for those families in receipt of Universal Credit. This is consistent with how the Department for Work and Pensions (DWP) and other government departments have established new criteria for other passported benefits.
- 3.2 In setting this threshold, we have used DWP modelling data to help identify an appropriate earnings threshold for eligibility. This takes into account factors such as the impact of the National Living Wage and the number of people expected to claim benefits in the future.
- 3.3 Our suggested net earnings threshold is **£15,400 per annum**.<sup>5</sup> It is important to note that a household's net earnings do not include their additional income through benefits. So a typical family earning around £15,400 per annum would, depending on their exact circumstances, have a total household income of between £24,000 and £32,000 once benefits are taken into account. We estimate that under this proposal around 8,000<sup>6</sup> more children would take up the entitlement by the time Universal Credit is fully rolled out, compared to the number receiving the entitlement at present.
- 3.4 This new earnings threshold for families receiving Universal Credit would sit alongside the existing eligibility criteria under the legacy benefit system, until Universal Credit is fully rolled out.
- 3.5 The entitlement lasts for three terms and once it has commenced, children continue to benefit from it until they become eligible for the universal three- and four-year-old free entitlement, even if their family circumstances change. Therefore, two-year-olds do not lose their entitlement once they have taken it up and no child who has started their entitlement would lose it as a result of the introduction of the new earnings threshold.
- 3.6 We intend for the proposed earnings threshold for the two-year-old entitlement to take effect from 1 April 2018. Therefore, children whose parents are in receipt of Universal Credit and who intend to start the two-year-old entitlement in the 2018 summer term would be subject to the proposed threshold.
- 3.7 We propose to introduce the net earnings threshold and hold it constant until Universal Credit is fully rolled out. We will keep the level of the threshold under

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<sup>5</sup> This is based on calculating earnings on a monthly basis. See the glossary at Annex A for a definition of net earned income.

<sup>6</sup> This is based on population projections, modelling of the number of families likely to be eligible under the proposed earnings threshold, and assumptions relating to future take-up rates.



review and may amend the threshold in future (once the Universal Credit roll-out is complete) to ensure those who need the support the most are benefiting.

**Question 1:**

Do you agree with our proposed net earnings threshold to determine eligibility for the free early education entitlement for two-year-olds under Universal Credit?

## 4. Supporting families and local delivery

### Existing support for checking households' eligibility

- 4.1 All local authorities have access to the Eligibility Checking System, which can be used to determine households' eligibility for the free early education entitlement for two-year-olds. The Eligibility Checking System significantly reduces the time otherwise taken to check eligibility, and we will update this system to cater for the new eligibility criteria.

### Additional support under the new eligibility criteria

- 4.2 We want to ensure that local authorities and early years providers have the information they need to help families understand the changes to eligibility for the entitlement. We therefore propose to provide local authorities and early years providers with guidance so that they can communicate accurate information and respond to queries effectively.
- 4.3 We will write to local authorities with guidance on how to treat applications from families who intend to start two-year-old places in the summer term 2018, before we have made a decision on changing the eligibility criteria.

### Equality analysis

- 4.4 The Secretary of State is under a duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with protected characteristics. The protected characteristics are:
- age
  - disability
  - gender reassignment
  - pregnancy and maternity
  - race (including ethnicity)
  - religion or belief
  - sex
  - sexual orientation
- 4.5 The Department for Education published a Public Sector Equalities Analysis alongside this consultation document. This is a draft document and we will update it when we respond to the consultation.

#### **Question 2:**

Do you feel that the proposal in this consultation may adversely affect any children who share one or more of the relevant protected characteristics outlined in the Equality Act 2010?

## 5. Responding to this consultation

### Who is this consultation for?

We are particularly interested in the views of:

- parents and carers
- early years providers
- local authorities/councils

### Issue date

The consultation was issued on 4 December 2017.

### Enquiries

If your enquiry is related to the policy content of the consultation, please contact:

[TwoYearOldEarlyEducation.MAILBOX@education.gov.uk](mailto:TwoYearOldEarlyEducation.MAILBOX@education.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, please contact the DfE Ministerial and Public Communications Division by email: [Coordinator.CONULTATIONS@education.gov.uk](mailto:Coordinator.CONULTATIONS@education.gov.uk); by telephone: 0370 000 2288; or via the [DfE Contact us page](#).

**Additional copies:** Additional copies are available electronically and can be downloaded from <https://consult.education.gov.uk/>

**Respond online:** To help us analyse the responses please use the online system wherever possible. Visit <https://consult.education.gov.uk/> to submit your response.

**Other ways to respond:** If for exceptional reasons you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a Word document version of the form and return it by email or post.

- By email: [TwoYearOldEarlyEducation.MAILBOX@education.gov.uk](mailto:TwoYearOldEarlyEducation.MAILBOX@education.gov.uk)
- By post: Early Years, Department for Education, Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT

**Deadline:** The consultation closes on 15 January 2018.

**Our response:** The results of the consultation and the Department's response will be [published on www.gov.uk](#)

## **Annex A: Glossary of Terms**

### **Universal Credit**

Universal Credit is a new single system of means-tested support for working-age people who are in or out of work. Support for housing costs, children and childcare costs are integrated and it provides additions for disabled people and carers. As a result, some existing means-tested benefits will no longer exist, including income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, tax credits and Housing Benefit. More information about Universal Credit is available from the Department for Work and Pension website at:

[www.gov.uk](http://www.gov.uk).

### **Earnings threshold for households receiving Universal Credit**

A maximum monthly net earned income level for households in receipt of Universal Credit that qualifies an individual or a family to receive additional support. This means that where household earnings from employment or self-employment (as assessed by the Department for Work and Pensions) is at or below the threshold proposed in this consultation they will be entitled to the free early education entitlement for two-year-olds. Where the family's earnings from employment or self-employment exceed the threshold they will not be entitled to the offer.

### **Entitlement**

An entitlement is a guarantee of access to support for those who meet the qualifying criteria as provided by legislation for a given programme.

### **Eligibility**

Eligibility for the free early education entitlement for two-year-olds is set out in the Local Authority (duty to secure early years provision free of charge) Regulations 2014, made under section 7 of the Childcare Act 2006.

### **Eligibility Checking System**

The Eligibility Checking System is the online service local authorities use to check eligibility for the free early education entitlement for two-year-olds. This service was formerly known as the Hub and was set up by the Department for Education. We use the National Insurance number, date of birth and the first three letters of the surname of the person making the claim to check for eligibility.

## **Net earned income**

Earnings from employment or self-employment after deductions. The three common deductions are Income Tax, National Insurance and pension contributions. Examples of income that is not earned income are interest, dividends and benefit income.

## **Passported benefit**

People who are currently entitled to means-tested benefits or tax credits can be eligible for a range of other support known as passported benefits. Examples include the free early education entitlement for two-year-olds, the early years pupil premium, free school meals, free prescriptions and free dental treatment.



Department  
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