



Department  
for Education

# **Eligibility for free school meals and the early years pupil premium under Universal Credit**

**Equality analysis**

**November 2017**

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## The public sector equality duty

1. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
    - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - i. tackle prejudice
    - ii. promote understanding
2. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:
  - age
  - disability
  - gender reassignment
  - pregnancy and maternity
  - race (including ethnicity)
  - religion or belief
  - sex
  - sexual orientation

## Proposals in the ‘Eligibility for free school meals and the early years pupil premium under Universal Credit’ consultation

3. This equalities analysis accompanies the ‘Eligibility for free school meals and the early years pupil premium under Universal Credit’ consultation and assesses its impact against the Equality Act 2010 duties.
4. The ‘Eligibility for free school meals and the early years pupil premium under Universal Credit’ consultation invites views on the proposed approach to setting free school meals eligibility and the early years pupil premium under Universal Credit for pupils in early years, primary and secondary education, and students aged 16-18 in further education.
5. The current eligibility criteria for free school meals mean that some of the most disadvantaged, low-income households do not qualify for free school meals at present. The Department for Education is now consulting on eligibility criteria under Universal Credit based on a household’s earnings rather than the number of hours worked. This is consistent with the wider approach to determining eligibility to passported benefits under Universal Credit.
6. The consultation document explains:
  - The general principles the Department has taken into account in considering changes to the eligibility criteria for free school meals and the early years pupil premium. The intention is that these entitlements reach the most disadvantaged households, in a way that is consistent, fair and simple.
  - The measures planned to protect those families who would otherwise lose entitlement to free school meals as a result of this criteria change. Under our proposals, no child in England should lose their free school meal during the transition to Universal Credit. In addition, any protected pupils who are still receiving free meals once the transition is complete should continue to receive protection until the end of their current phase of education (e.g. primary, secondary school). Similarly, no child should lose their early years pupil premium during the Universal Credit rollout.
  - The Department for Education’s plans for communicating these changes to parents, providers and local authorities, and the steps that will be taken to support their implementation and encourage all eligible families to register for free school meals.
7. These changes do not affect the criteria for universal infant free school meals, which will continue to be available to all pupils in reception, year 1 and year 2 regardless of parental income.

8. The Department for Education does not intend to change the current free school meals 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.
9. This consultation is about free school meal eligibility in England only. Northern Ireland, Scotland and Wales have responsibility for establishing their own criteria for free school meals.

## Consideration of the protected characteristics identified in the Equality Act 2010

10. This document provides an assessment, pursuant to the public sector equality duty, of the potential effect of the proposals set out in the 'Eligibility for free school meals and the early years pupil premium under Universal Credit' consultation. Since 2013, as a temporary measure to ensure that any families moving on to Universal Credit in the early stages of rollout (for example, those in pilot areas) did not lose their entitlements, all such families were entitled to free school meals pending the introduction of eligibility criteria. As planned, we are now bringing forward proposals to replace this temporary measure with clear eligibility criteria under Universal Credit as its national rollout accelerates.
11. It is proposed to introduce a net income threshold of £7,400 a year before benefits are taken into account (equivalent to between £18,000 and £24,000 in total household income per year) for families to benefit from free school meals. Additionally, it is proposed that all pupils eligible for free school meals because they or their parents or guardians are either in receipt of Universal Credit or a qualifying legacy benefit at the point of the threshold being introduced should continue to be eligible until the end of the rollout of Universal Credit, and then until the end of their phase of education. We estimate that our proposals would make around 50,000 more pupils eligible for free school meals by the time Universal Credit is fully rolled out, compared to the number receiving these meals at present.
12. This document assesses the impact of these proposals on the eight protected characteristics identified in the Equality Act 2010. The assessment is based on a comparison between these proposals and what would be the position in the absence of Universal Credit (based on legacy benefits).
13. From this initial assessment, the Department for Education would expect more children with a special educational need or disability, more pupils attending schools with no religious character, and children from certain ethnic groups to benefit more than others from an increase in the size of the free school meal cohort (outlined in more detail below). We do not have evidence to suggest there will be a negative impact on individuals who share the other protected characteristics.

## Age

14. The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of benefits, facilities or services to pupils in schools<sup>1</sup>.

## Sex

15. The Department for Education does not consider there to be any negative impact on the protected characteristic of sex. Under the new criteria, we would expect the number of pupils (both male and female) who are eligible to increase. As all pupils in England who are eligible for free school meals at the point of introducing the threshold should continue to be eligible until the end of the rollout of Universal Credit, and then until the end of their phase of education at that time, there should be no negative impact on this protected characteristic. For the same reason, we expect there should be no negative impact on this protected characteristic in respect of the early years pupil premium.

## Gender reassignment, pregnancy and sexual orientation

16. The Department for Education is not aware of any evidence indicating that changes to free school meals and the early years pupil premium eligibility would differentially affect children and young people with these characteristics and therefore does not believe there to be any direct impact from these proposals.

## Religion

17. The proposals on the free school meals and the early years pupil premium thresholds will be applied consistently to all schools and children, including in faith schools. Currently, pupils attending schools with no religious character are more likely to be eligible and claiming free school meals than pupils at schools with a religious denomination. Data<sup>2</sup> shows that certain religious groups (e.g. Muslim, Hindu and Sikh) have a greater likelihood of experiencing poverty and are therefore more likely to benefit under the new criteria.

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<sup>1</sup> Schedule 18 of [the Equalities Act 2010](#)

See also the Department for Education, '[Equality Act 2010: advice for schools](#)', June 2014

<sup>2</sup> <http://csi.nuff.ox.ac.uk/wp-content/uploads/2015/03/religion-and-poverty-working-paper.pdf>

## Race (including ethnicity)

18. Certain ethnic groups are twice as likely to have a household income below 60% of the median, including Bangladeshi, Pakistani, and Black/African/Caribbean/Black British and Other Ethnic Groups. 60% of median household income is currently around £15,800<sup>3</sup>. The Department for Education expects these groups to be more likely to have earnings below the threshold outlined in our consultation and subsequently to become eligible for free school meals and the early years pupil premium under the new criteria.

## Disability

19. Currently, pupils with a special educational need or disability (SEND) are more likely to be in receipt of free school meals, with 26.8% claiming compared to 13.9% of those without SEND<sup>4</sup>. Pupils with a special educational need or disability have a greater likelihood of experiencing poverty and so are more likely to benefit under the new criteria.

20. The early years pupil premium gives providers additional funding (up to £302 for the maximum 570 hours per year) for each disadvantaged three and four-year-old taking up the universal 15-hour free early education entitlement. There are no specific eligibility criteria related to disability. Disabled children taking up the free entitlement may attract wider funding such as Disability Access Fund payments, high needs funding and funding through the Special Educational Needs Inclusion Fund.

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<sup>3</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2016>

<sup>4</sup> Special educational needs in England: January 2017, Department for Education, 2017

## Next steps

21. The Department for Education would welcome further views and evidence on the equality impact of the proposals, which will inform decision-making arising from this consultation.
22. The Department for Education will review this equalities impact assessment in the light of responses received to the consultation and publish any updates to it through the consultation process. The Department for Education will continue to review the impact of the proposals in line with the Public Sector Equality Duty throughout the consultation process.



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