

Explanatory Memorandum to the Free School Lunches and Milk (Universal Credit) (Wales) Order 2019.

This Explanatory Memorandum has been prepared by the Education Directorate of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Free School Lunches and Milk (Universal Credit) (Wales) Order 2019. I am satisfied that the benefits justify the likely costs.

Kirsty Williams, AM
Minister for Education
6 February 2019

PART 1

1. Description

This Order amends the current eligibility criteria for free school lunches and milk ('free school meals') by specifying that, from 1 April 2019, families that receive Universal Credit are eligible for free school meals if their annualised net earned income is £7,400 or less.

Net earned income is defined as household income after taxes and deductions. It does not include income from Universal Credit or other benefits. The same threshold will apply to single adult and two-adult families. Net income from employee earnings will be taken into account. For families who are self employed and in receipt of Universal Credit, actual declared net earnings (and not a Minimum Income Floor¹) will be used when determining a self employed claimant's eligibility for free school meals. In assessing earned income, earnings information from up to three of a claimant's most recent Universal Credit assessment periods will be used, in recognition of the fact that earnings can fluctuate on a monthly basis.

The intention is to keep the net earned income threshold at £7,400 until the end of the rollout of Universal Credit, which is currently scheduled to complete in December 2023 (see section 10 of the Regulatory impact Assessment below).

The Order also includes provision for transitional protection. Transitional protection relates to measures that ensure families are shielded from the effects of a policy change for a limited period of time during the move to the new arrangements. Our measures will protect every pupil who is eligible for free school meals at the point at which the criteria are changed (or any new claimants under the threshold who gain free school meals during the rollout of Universal Credit) whilst Universal Credit is rolled out across the UK, even if their eligibility changes during the rollout of Universal Credit. Also, any protected pupils who are still receiving free school meals once the transition is complete would continue to receive protection until the end of their current phase of education (i.e. primary or secondary).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

Subsection (2) and subsection (3) of section 512ZB of the Education Act 1996 ("the Act") provides that pupils are eligible for free school lunches and milk

¹ Universal Credit includes a 'Minimum Income Floor' for those who are gainfully self-employed, and who have a business that has been running for more than 12 months. The MIF is an assumed level of earnings based on what the Department for Work and Pensions expect an employed person to receive in similar circumstances.

respectively if they or their parent(s) / guardian(s) are in receipt of any of the benefits/support payments listed under subsection (4) of that section and a request that the school lunches/milk be provided free of charge has been made by the pupil or on their behalf to the local authority.

Section 512ZB(4)(a)(ai) of the 1996 Act provides that receipt of Universal Credit can be prescribed as one of the support payments made to a household that can qualify a child to receive FSM.

Section 512ZB(4)(b)(ai) of the 1996 Act provides that receipt of Universal Credit can be prescribed as one of the support payments made to the child that can qualify a child to receive free school meals.

Section 568 of the Education Act 1996 provides that any Order made by the Welsh Ministers under that Act can include such saving or transitional provisions as the Welsh Ministers think fit.

The relevant functions of the Secretary of State in the Education Act 1996 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 SI 1999/672 and then to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The Order prescribes the circumstances in which Universal Credit would allow the provision of a free school meal. This is when the child or the child's parent is in receipt of UC on and after 1 April 2019 and is earning below the annualised net earned income threshold of £7,400. The Order also provides for transitional protection which will mean that no child will lose their eligibility during the Universal Credit rollout period, and then until the end of their school phase and revokes the Free School Lunches and Milk (Universal Credit) (Wales) Order 2013.

The Order is subject to the negative procedure.

4. Purpose and intended effect of the legislation

Free school meals are intended to support children in the lowest-income households, by giving them a healthy school meal, with the aim of improving health and educational outcomes.

Free school meals are currently available to low income families who are in receipt of certain legacy benefits².

² 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

Since September 2013, all families in receipt of Universal Credit have also been entitled to free school meals. This was done as an interim measure³ to ensure that families who might previously have been able to claim free school meals under the legacy benefits system did not lose out because of the rollout of Universal Credit.

Universal Credit, which is being gradually rolled out by the UK Government, is replacing legacy benefits. 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.

Therefore the Order will ensure that, from the end date for roll out of Universal Credit, only certain Universal Credit claimants will be entitled to free school lunches and milk.

The purpose of the Order is to amend the current eligibility criteria for free school meals by introducing an annualised net earned income threshold for households in receipt of Universal Credit. This will ensure that free school meals are targeted at those most in need. 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 once benefits are taken into account⁴. It will also ensure that free school meal costs remain affordable for local authorities and the Welsh Government. Extending eligibility for free school meals to all of children in Universal Credit families goes beyond the aim of providing free school meals to children in the lowest-income households.

The Order also provides for transitional protection which will mean that no child will lose their eligibility during the Universal Credit rollout period, and then until the end of their school phase. This will mean the change to the free school meals eligibility criteria causes the minimum possible amount of disruption to families. Under our transitional protection measures, the following pupils would be protected against losing their free school meals:

- From 1 April 2019, all existing free school meals claimants would continue to receive free school meals whilst Universal Credit is rolled out. This would apply even if they no longer meet the eligibility criteria period (e.g. if their earnings rise above the new threshold) at a later point during this period.

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).

³ Written Statement - Free School Lunches and Milk (Universal Credit) (Wales) Order 2013 – 16 August 2013:

<https://gov.wales/about/cabinet/cabinetstatements/previous-administration/2013/freeschoollunch/?lang=en>

⁴ 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>

- Any pupil gaining eligibility for free school meals after 1 April 2019 would be protected against losing free school meals during the Universal Credit rollout period. This would still be the case even if they no longer meet the eligibility criteria at a later point during the rollout period.
- Following the completion of the roll out of Universal Credit, any existing pupil that no longer meets the eligibility criteria at that point (e.g. if their parent(s) earn above the threshold or are no longer entitled to Universal Credit) will continue to receive free school meals until the end of their child's current phase of education (i.e. primary or secondary).

If this subordinate legislation is not made and no earnings threshold is in place by the time Universal Credit is fully rolled out, we estimate that around half of all pupils would be eligible for free school meals, compared to 16 per cent in January 2018 as reported from the school census⁵. This would be unaffordable and, as a consequence, we would need to make some very difficult funding decisions. It would also go against the policy aim of providing free school meals to children in the lowest-income households, targeting those who are most in need⁶.

5. Consultation

Details of the consultation have been included in the Regulatory Impact Assessment in Part 2.

⁵ <https://gov.wales/docs/statistics/2018/180725-school-census-results-2018-en.pdf>

⁶ The Department for Education's response to the consultation on *Eligibility for free school meals, the early years pupil premium and the free early education entitlement for two-year-olds under Universal Credit* states '... some Universal Credit households will be on middle-incomes, sometimes exceeding £40,000 a year, and receiving in most cases only a small amount of Universal Credit.'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692644/Government_response_FSM_and_EY_entitlements_under_Universal_Credit.pdf

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Different options were considered before the consultation, and a Summary of a Draft RIA was published as part of the consultation, which set out these options alongside their estimated costs and benefits. The Summary of the Draft RIA is available via the link below:

<https://beta.gov.wales/sites/default/files/consultations/2018-06/regulatory-impact-assessment-ria.pdf>

The Summary of the Draft RIA identified ‘Option C: Introduce an annualised net earnings threshold of £7,400’ as the preferred option and that remains the case. Option C supports the policy aim of providing free school meals to children in the lowest-income households. It is also affordable within existing Welsh Government budgets as no additional funding has been provided by the UK Government to manage the impact of its welfare reform agenda. This RIA does not reassess the alternative options but instead focuses on the preferred option.

This has been assessed against a baseline scenario where the legacy benefits system, as it was prior to the introduction of Universal Credit, is in place, along with the corresponding free school meals eligibility criteria. This has been chosen as the baseline scenario because the current status quo (i.e. free school meals for all families on Universal Credit) was introduced as a temporary measure⁷ when Universal Credit was first rolled out on a limited basis, ahead of the wider rollout of Universal Credit. In the longer term, when Universal Credit has been fully rolled out (currently expected to be in 2023-24), extending free school meals to children in all families in receipt of Universal Credit has been deemed to be unaffordable and not in keeping with the policy aim of providing free school meals to children in the lowest-income households.

Methodology

We have undertaken analysis to estimate the potential impact of the preferred eligibility criteria for free school meals on the number of eligible children and the associated costs. Our analysis has used two models developed by the Department for Work and Pensions (DWP), namely the integrated forecasting model (INFORM) and the Policy Simulation Model (PSM).

The data and methodology we have used is very similar to that undertaken by the Department for Education (DfE) to inform the development of new eligibility criteria for free school meals in England. We have, however, made some adjustments to derive appropriate estimates for Wales. We used school census data to help inform estimates at a Wales level.

⁷ Written Statement - Free School Lunches and Milk (Universal Credit) (Wales) Order – 16 August 2013:

<https://gov.wales/about/cabinet/cabinetstatements/previous-administration/2013/freeschoollunch/?lang=en>

As outlined in DfE's publication '[Estimating the number of additional free school meal pupils under Universal Credit](#)', INFORM is a dynamic micro-simulation model that generates estimates of monthly flows across and between legacy benefits and Universal Credit. This provides estimates of the volumes of children in households moving onto Universal Credit, split by the corresponding legacy benefit type on the legacy system.

The PSM is a static micro-simulation model that calculates the effects of tax and benefit policies on a random sample of households from the 2015-16 Family Resources Survey (FRS). Future years are modelled by simulating announced policies consistent with growth in relevant economic forecasts. This model is used to estimate the earnings and age of children in those households moving on to Universal Credit, and to calculate whether or not they will be eligible for free school meals after the transition. It also tells us whether they would have been eligible for free school meals if they had never moved across to Universal Credit. From these models, we are able to estimate the impact of the £7,400 earned income threshold on the number of eligible pupils.

Our analysis does take free school meal claiming rates into account given that not every entitled household will claim free school meals. This is based on our analysis of HM Revenue and Customs (HMRC) Tax Credit data and school census data, as well as a DfE report on the proportion of pupils not claiming free school meals⁸.

To estimate the impact of our transitional protection measures on the free school meals caseload, we have used the same methodology as DfE, supplemented with the use of school census data to help inform estimates at a Wales level. As outlined in DfE's publication '[Estimating the number of additional free school meal pupils under Universal Credit](#)', we used the estimate of the number of children who would have been eligible for FSM under the legacy system, but will not be under the new eligibility system (derived from the models outlined above). This provides an estimate of how many children might lose their eligibility during the transition to Universal Credit, and when. These children will have their free school meal eligibility protected as part of our transitional protection measures.

Given the coverage of our transitional protection measures, we also needed to take into account other routes via which a pupil might enter protections. For example, we also take into account those families on legacy benefits who would have lost their free school meals due to a natural change of circumstances (e.g. a parent starts working 16 hours per week and receives Working Tax Credit), and those that that may lose eligibility after the transition.

To do this, historical administrative data from the National Pupil Database (NPD)⁹ was used to estimate the free school meal cohort growth we would expect to see because of the pupils who would naturally lose eligibility due to a change in circumstance, but retain it because of the transitional protection. This

⁸ These data sources suggest a claiming rate of around 90 per cent.

⁹ <https://www.gov.uk/government/collections/national-pupil-database>

proportion was applied to pupil population projections¹⁰ and a final adjustment on a year by year basis was made to account for the fact that the number of free school meal pupils still on the legacy benefits system decreases over time. This provides an estimate of the number of pupils entering protections due to natural turnover, which is added to the number of children entering protections because of the transition to Universal Credit. In practice, some of these families may be eligible for Universal Credit and meet the eligibility criteria at some point in the future. However, the nature of the PSM, FRS and rollout data does not allow us to identify these individuals. It is therefore likely that our estimates of the protected cohort may experience some 'double-counting' during the earlier years of rollout.

The modelling does not attempt to take into account how eligibility might change after the transition to Universal Credit as a result of fluctuating incomes. This is because the FRS and PSM do not allow us to track individuals on a month by month basis. This means that the approximations made above may lead to some undercounting in the later years.

Our estimates of the protected cohort figures should therefore be treated with caution and used as an indication of the order of magnitude only.

To estimate the cost of providing free school meals, we have used the estimates of the number of additional eligible pupils as a result of the threshold and transitional protection derived from the modelling along with an assumed annual cost of £440 per pupil¹¹.

Although our analysis does have its limitations (as explained further in the risks section), it is based on the best available models and data. However, there is a lot of uncertainty surrounding these estimates due to factors such as behavioural change, for example. In addition, economic forecasts (e.g. Office for Budget Responsibility forecasts of earnings growth and employment rates) and the underlying data (e.g. Universal Credit caseload projections and the Family Resources Survey) used in the models for this analysis will continue to be updated. New data and forecasts will have an effect on our estimates of the potential impact of new eligibility criteria for free school meals. Therefore, our estimates are subject to change.

¹⁰ <https://www.gov.uk/government/statistics/national-pupil-projections-july-2017>

¹¹ In England, the free school meal factor value in the national funding formula (NFF) is £440 per pupil. This covers the cost of ingredients, labour costs and direct costs (e.g. contribution to building overheads) associated with the provision of school meals. Schools in England are expected to pay for free school meals through their core funding, which is allocated to local authorities through the NFF. See the following link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731589/FSM_Supplementary_Grant_Guidance.pdf. It is not possible to isolate the funding provided to schools in Wales for free school meals because this is included in an overarching category of 'delegated school catering expenditure' in the Local Government Settlement, alongside other funding for milk and other refreshments in schools, including the staff costs of associated kitchen and canteen staff. This also includes repair and maintenance of kitchen equipment. Therefore, funding rates in England have been used in this analysis as they are deemed to be a reasonable approximation for Wales.

A summary of the key findings from our analysis is below.

Results

Estimated impact of the £7,400 threshold on the number of eligible pupils (rounded to the nearest 1,000 pupils)

As shown in Table 1, our central estimate is that overall an annualised net earnings threshold of £7,400 will increase the number of children benefitting from free school meals in Wales by around 3,000 by the time Universal Credit is fully rolled out in 2023-24. This represents the estimated net change in the cohort size due to the new eligibility criteria proposed (i.e. the £7,400 net earned income threshold). It is relative to the estimated number of children that would have received free school meals under the benefit system that Universal Credit is replacing, and excludes the impact of transitional protection.

Table 1 also shows our central estimates for the number of pupils who would not have been eligible for FSM under the legacy system, but will be under the new eligibility system (9,000) and those pupils who would have been eligible for FSM under the legacy system, but would not be under the new eligibility system (6,000). However, it is important to note that **no child will lose their free school meals during the rollout of Universal Credit (and then until the end of their school phase) due to our transitional protection measures**. The number of protected pupils is analysed separately on pages 10- 11.

Given the uncertainty surrounding the impact of the new eligibility criteria, we have also considered upper and lower estimates, which provide a reasonable expectation of what might happen if, for example, our assumptions regarding claimant rates are lower/higher than expected, or if wage growth and earnings are better/worse than expected.

Table 1 – Estimated impact of a £7,400 threshold on the number of pupils eligible for free school meals once Universal Credit is fully rolled out in 2023-24 (rounded to nearest 1,000 pupils¹², R-Y11 only)

	Pupils who would not have been eligible for FSM under the legacy system, but will be under the new eligibility system	Pupils who would have been eligible for FSM under the legacy system, but would not be under the new eligibility system (in the absence of transitional protection)	Net change
Lower estimate	7,000	6,000	1,000
Central estimate	9,000	6,000	3,000
Upper estimate	9,000	6,000	3,000

¹² The lower, central and upper estimates do differ. However, rounding to the nearest 1,000 pupils (due to the uncertainty associated with the estimates) conceals some of these differences.

Our lower estimate is that by the time Universal Credit is fully rolled out, around 1,000 more children will benefit from a free school meal compared to the legacy benefits system. While our upper estimate is that by the time Universal Credit is fully rolled out, around 3,000 more children will benefit from a free school meal compared to the legacy benefits system.

The number of additional eligible pupils is expected to peak at some point during the Universal Credit rollout due to the interaction between the stage of this rollout, National Living Wage rates, and the pattern of families' working hours which are influenced by the current hours rules for Working Tax Credit. It is difficult to currently estimate in which year this peak will occur as we do not yet have up-to-date data that takes into account the revised Universal Credit implementation schedule announced in October 2018 in the UK government's [Budget 2018](#). We will undertake further analysis upon receipt of this data.

Estimated impact of transitional protection on the number of eligible pupils (rounded to the nearest 10,000 pupils)

Our analysis suggests that the majority of children would see no change in their entitlement to free school meals under our preferred option. However, as shown in Table 1, moving to an earnings threshold would create winners (mainly those currently in receipt of Working Tax Credit who work too many hours to be entitled to free school meals, but are low paid) and losers (mainly those currently in receipt of Child Tax Credit and earning above the £7,400 threshold when they migrate to Universal Credit). Throughout the Universal Credit rollout period, we estimate that the number of children that would lose entitlement (in the absence of transitional protection) would be outweighed by the number of children that would gain entitlement. Based on our analysis we expect that the majority of the gainers would be children in lone parent families, and the majority of the losers would be children in two adult families. The gainers typically work longer hours, but have lower hourly earnings than those losing. However, it is important to note that as we will be providing transitional protection alongside an annualised net earnings threshold of £7,400, this will ensure that no child would lose their entitlement to free school meals during the rollout of Universal Credit (and beyond for some children).

Transitional protection relates to measures that ensure families are shielded from the effects of a policy change for a limited period of time during the move to new arrangements. This protection would provide an adjustment period for affected families. The transitional protection measures due to be implemented are outlined on pages 4-5 above.

Given these measures, we estimate the total number of children receiving transitional protection in any given year during the Universal Credit rollout period will be in the tens of thousands (e.g. in the range of 20,000 – 40,000 pupils¹³ in October 2023 based on our low, central and upper estimates). However, this estimate is uncertain and subject to change.

¹³ This estimate is not directly comparable with the estimates in Table 1 of the number of pupils who would have been eligible for free school meals under the legacy system, but would not be under the new eligibility system. The estimates in Table 1 relate to the impact of the threshold

Risks

It is very difficult to accurately predict the impact of an earnings threshold on the size of the free school meals cohort. We are targeting the group of households most affected by reforms, including changes to work incentives under Universal Credit and the National Living Wage. We cannot predict the behaviour of individuals as they migrate onto Universal Credit and the new free school meals net earnings threshold might also introduce its own behavioural effects. Our estimates are also sensitive to changes in the underlying data and economic forecasts that underpin our analysis.

There are risks that if we set the threshold too low, we could reduce the size of the free school meals cohort, which goes against the policy aim. On the other hand, if we set the threshold too high, we could expand the cohort too much, which would have financial implications for the free school meals budget. There would also be wider knock-on effects on the Pupil Development Grant (PDG), for example (as outlined in the Wider Impacts section below).

In order to mitigate these risks, we will carefully monitor the impact of the new eligibility criteria on the number of children eligible for free school meals.

only. Our transitional protection measures are broader than this and cover pupils who lose eligibility throughout the Universal Credit rollout period for other reasons beside the introduction of the threshold. For example, if their earnings rise above the new threshold at a later point during this period.

7. Costs and benefits

Costs

Pupils/parents

No child will lose their entitlement to free school meals during the rollout of Universal Credit (and then until the end of their school phase) due to the transitional protection measures we are putting in place. The free school meals eligibility criteria will be kept under review during the Universal Credit rollout period to ensure that those children most in need are benefitting from this support. During, and at the end of the rollout of Universal Credit, we will review the policy, and this will include looking at the actual impact of the threshold and the transitional protection offer on families (see Section 10 of this Regulatory Impact Assessment).

Welsh Government

The cost of free school meals is currently met by local authorities, including through funding provided through the Welsh Government's Local Government Settlement. The [Welsh Government's Final Budget 2019-20](#) showed that an additional £7 million will be made available through the Settlement in 2019-20. This additional funding aims to cover the estimated cost associated with providing meals for the additional number of pupils estimated to be eligible for free school meals as a result of the threshold and transitional protection.

The additional annual cost of the threshold and transitional protection (over and above the cost under the legacy benefits system) is estimated to be in the range of £10 million - £20 million¹⁴ in 2023-24 (when Universal Credit is fully rolled out) based on our low, central and upper estimates. This is our best estimate at this point in time, and is subject to change, as data and analytical models are updated. We will revisit our cost estimates each year so that the most up-to-date analysis is fed into the budget setting process.

The Welsh Government has incurred other one-off costs in relation to the threshold and transitional protection offer, namely the cost of making technical changes to the free school meal eligibility checking system and change management support for local authorities.

Changes to free school meal eligibility checking system

The Welsh Government pays for all local authorities in Wales to use the free school meal eligibility checking system, developed by DfE in England, which allows eligibility for free school meals to be checked online.

Local authorities use the eligibility checking system to check claimants' eligibility to claim free school meals for their children. The eligibility checking system takes a live feed from DWP, the Home Office and HMRC systems in order to establish eligibility for free school meals. The eligibility checking

¹⁴ Rounded to the nearest £10 million.

system allows a claimant's eligibility to be checked using a parent's name, date of birth and national insurance number, as opposed to paper proof of benefit. The eligibility checking system does not report why a claimant is/isn't eligible, i.e. what benefit(s) they are in receipt of.

Technical changes needed to be made to the eligibility checking system in December 2018 (Phase 1 changes) because, from the start of February 2019, DWP will no longer be supporting the Legacy Benefits Checker, which the eligibility checking system calls upon. DfE advised that if these changes were not made, the eligibility checking system would no longer work for local authorities in Wales.

Further technical changes have been made to the eligibility checking system (Phase 2 changes) to accommodate the new annualised net earned income threshold of £7,400 for Universal Credit claimants from 1 April 2019.

The cost of the Phase 1 and Phase 2 technical changes is borne by the Welsh Government. The costs associated with Phase 1 are sunk costs, however, the split between the Phase 1 and Phase 2 changes is not known as both phases have been completed as one project by DfE.

Change management support for local authorities

Local authorities need to update local processes and systems in order to support the introduction of the earned income threshold and the transitional protection offer (see '*Local Authorities*' section below). The Welsh Government is therefore procuring change management support for local authorities, from February to May 2019, to help them adjust to this change.

The cost of the change management is borne by the Welsh Government.

Local Authorities

When the earned income threshold is in place, some tasks undertaken by local authorities will continue much as before. However, even with change management support, there will be some additional administration for local authorities arising from the change to the free school meal eligibility criteria and the transitional protection offer. Information was sought from a sample¹⁵ of local authorities on the cost of undertaking new tasks, and the feedback received has informed our cost analysis. The feedback received shows a variable picture across Wales. Our estimates should be treated with caution as they are based on a sample of local authorities across Wales.

a) Checking claims for free school meals using the eligibility checking system

Some of the changes in local authority administration processes in verifying claims for free school meals via the eligibility checking system, are partly due to the Phase 1 technical changes to the eligibility checking system, and the use of the more detailed qualifiers. These changes to local administration process are

¹⁵ Swansea, Caerphilly, Neath Port Talbot, Flintshire, Rhondda Cynon Taf, Ceredigion, Conwy and Gwynedd, to allow for a sample encompassing north, south and mid Wales, city, urban and rural authorities.

not therefore a direct result of the introduction of an earned income threshold and transitional protection offer. The new qualifiers introduced under Phase 1 should ultimately help local authorities save time, by giving staff a strong steer on the next steps they need to take, and reduce challenge from parents, which is time consuming to deal with.

There are no additional costs anticipated for the majority of local authorities in continuing to verify claims for free school meals on the eligibility checking system, this is not affected by the change in eligibility criteria.

Only one local authority automates¹⁶ its checks with the eligibility checking system; and will update its systems so that it can continue to automate its checks with the eligibility checking system once the earned income threshold is in place. At this stage the local authority does not envisage there will be any additional costs arising from this update. The other 21 local authorities access the eligibility checking system via the web browser.

b) Undertaking manual checks

Manual checks are required:

- as is currently the case, if a claimant insists they are eligible following the initial “not found” response.
- when local authorities using the eligibility checking system receive the qualifier *Not Found - Unknown – Raise manual query*, which was introduced on 11 December 2018. (This was done as part of the Phase 1 changes to the eligibility checking system, as set out on pages 12-13.) When this qualifier is returned, the DfE helpdesk for the eligibility checking system advises local authorities to carry out a manual check of the claimant’s paperwork before submitting a manual query to the helpdesk, because the helpdesk is only able to contact DWP to undertake a manual check, DfE has no agreed remit to check with HMRC.
- from 1 April, 2019, when local authorities using the eligibility checking system receive the qualifier *Not Found - Manual Process*.

DfE has provided statistics on the proportion of total checks undertaken that are likely to result in manual checks, based on the qualifiers *Not Found - Manual Process* and *Not Found - Unknown – Raise manual query*¹⁷. In England, between April and December 2018, only 0.2 per cent of checks returned by the eligibility checking system were manual checks. If you apply this proportion to the overall number of checks carried out at a Wales level for the same period¹⁸, this is only 70 manual checks in total for Wales, approximately 94 checks for a year. Even if the proportion of manual checks is double (i.e. 0.4 per cent) that recorded in England between April and December 2018, this would result in

¹⁶ This means their MIS system has been built so that it links directly to the eligibility checking system, so the local authority staff are able to perform checks within the authority’s own MIS, rather than having to log in separately.

¹⁷ These two qualifiers have been used in England since April 2018.

¹⁸ 34,719 checks over a 9 month period.

141 manual checks, which would be equivalent to 7 manual checks¹⁹ per local authority in Wales over this period.

Information was sought by the Welsh Government from the sample of local authorities on the cost of undertaking manual checks. The feedback showed a variable picture across Wales. For example:

- one local authority does not carry out any manual checks at present, so was unable to estimate the cost.
- one local authority advised that manual checks are already incorporated into its assessing entitlement process.
- estimates on how long a manual check would take ranged from 5 minutes to 1 hour.
- the estimated cost of undertaking a manual check ranged from £1.20 to £16.11.
- one local authority flagged up there might be additional manual checks required if a child was transitionally protected and moved to one local authority area from another. However, the cost implications were not quantified.

Based on the above assumptions regarding the proportion of manual checks and the estimates of the cost of a manual check, the total estimated costs for carrying out manual checks over a year across Wales are as follows (rounded to the nearest £100):

	Assuming minimum cost of £1.20	Assuming maximum cost of £16.11
Based on 94 manual checks per annum	£100	£1,500
Based on 141 manual checks per annum	£200	£2,300

Carrying out additional manual checks as a result of the new qualifiers is therefore likely to create negligible additional costs for local authorities.

c) Continuing to keep a record of pupils who are eligible for free school meals, and helping to ensure that they receive free school meals

There are no additional administration tasks arising, therefore there would be no additional costs.

d) Protecting the identity of pupils who are eligible for free school meals or transitionally protected for free school meal purposes

Local authorities and governing bodies are already required to take reasonable steps to protect the identity of pupils receiving free school lunches or milk. Statutory guidance²⁰ sets out that schools must ensure that teachers, any other person employed in the school, any person working in the school on an unpaid

¹⁹ Allowing for rounding up.

²⁰ *Healthy eating in maintained schools* (2014):

<http://learning.gov.wales/docs/learningwales/publications/160226-healthy-eating-maintained-schools-en-v2.pdf>

basis or any other person employed by the local authority or governing body, do not make disclosures about the fact that a pupil receives lunches or milk free of charge to anyone other than an 'authorised person'.

Protecting the identity of pupils who are transitionally protected for free school meal purposes is therefore unlikely to create an additional cost for local authorities.

e) Correctly recording transitional protection status, which means:

- keeping a record of pupils who are transitionally protected for free school meal purposes.
- passing on the necessary information to schools regarding which pupils are eligible for free school meals and which pupils are transitionally protected for free school meal purposes.
- carrying out validation checks on transitional protection information on schools' PLASC returns

The free school meal eligibility checking system will not identify pupils who are transitionally protected. The Welsh Government asked the sample of local authorities for feedback on the costs of carrying out administrative tasks linked to the recording of transitional protection status. Feedback received from local authorities indicated a mixed picture. This is largely due to the fact that, in Wales, local authorities use a range of different management information systems (MIS), and in each local authority different systems from different suppliers may be used for different purposes, e.g. human resources, revenue, benefits, payroll, social services etc., depending on what provider the local authorities choose to use to meet their needs. In Wales, there are currently 7 or 8 primary software suppliers servicing local authorities.

The financial impact of the planned changes therefore depends to a large extent on the MIS used by the individual local authorities. Four of the sample of local authorities fed back that their systems would be able to accommodate transitional protection.

Two local authorities were not sure whether their MIS were being adapted to accommodate transitional protection; one local authority was pursuing this with their MIS supplier, but was not, at this stage, able to quantify any additional cost arising from adapting their information management system.

If local authority information management systems were not adapted in time, local authorities anticipated the administrative burden would be greater, and would involve:

- maintaining a spreadsheet of transitionally protected pupils
- for the PLASC data return, cross referring schools data returns to the local authority's own records of transitional protection.

A small number of local authorities were able to provide estimates of the costs of carrying out administrative tasks linked to recording transitional protection, although a number of local authorities raised concerns about adopting/changing

processes but were unable to quantify the cost implications because of unknown factors.

Where local authority MIS have been adapted to record the number of transitionally protected pupils, one local authority estimated the cost of maintaining a record of transitionally protected pupils at around £3,000, another estimated the cost to be around £5,000 (for staff resources only). This would equate to between £66,000 and £110,000 at a national level.

Where local authority MIS have not been adapted to record the number of transitionally protected, one local authority estimated staff costs in the region of £9,000 for maintaining a record of transitional protection with additional (unquantifiable) costs. This would equate to £198,000 at a national level.

(Only two local authorities provided these overall estimates of the additional cost of maintaining a record of transitionally protected pupils.)

When asked about the additional cost of including transitional protection status as part of the information sent to schools on free school meal eligibility, three local authorities thought there would be no additional costs, and one thought they would probably not be affected. No other local authorities provided an estimate of costs, one local authority was unable to estimate at this point, one local authority was concerned about implications for staffing.

As regards the costs of cross referring schools PLASC data returns to the local authority's own records of transitional protection, two local authorities thought there would be no additional costs, two local authorities cited costs of £520 and £178 for undertaking all the checks, two cited (unquantified) staff costs and one local authority reported this was dependant of software being available. One local authority did not respond to this question.

It is important to consider that as each individual local authority will have their own preferred methods and procedures for maintaining the data, the choice to have an additional feature built into their MIS by their supplier would be their own decision as there are other methods, e.g. maintaining a spreadsheet on their own secure network.

For those local authorities that experience a larger financial impact because of the new task of recording transitional protection status, an additional £7 million is being made available through the Local Government Settlement in 2019-20 and an additional £5 million is being made available in 2018-19, as a grant to local authorities, for additional free school meal costs arising from the continued rollout of Universal Credit by the UK Government. The change management (page 13), which is also being funded by the Welsh Government, will support local authorities as they update local processes and systems.

f) Accommodating additional pupils in school canteens

In Wales, 20 local authorities provide in house catering for their schools, although one of these has set up an 'arms length company of the local authority', and another is working towards the same arrangement. In the

remaining two areas the local authorities have contracted out the service to the majority maintained schools. There is also a minority of schools (approximately 160) that have opted out of local authority catering.

If more pupils are receiving free school meals (particularly because of the transitional protection offer) then this will have an impact on available space and staffing requirements for providing additional meals in some school canteens. However, some pupils who become eligible for free school meals or transitional protection, might already be taking paid school meals, so would not require extra accommodation.

The Welsh Government asked a sample of eight local authorities in Wales for feedback on the estimated costs of accommodating additional pupils in school canteens, focussing in particular on the cost of introducing additional sittings for school lunches to accommodate additional pupils (should this be necessary). The feedback from the seven local authorities that provided this information showed a variable picture, due to the fact that canteen size and spare capacity varies from school to school. Some school canteens have enough space, so that children who bring their food from home sit with children who have a school meal. In other schools, with canteens that are too small for the school population, the school meal service may already be offering additional sittings, with children eating sandwiches accommodated in classrooms. Within a local authority area, the impact of having additional children receiving school meals will vary from one school canteen to the next.

We are unable to robustly estimate the impact on the number of additional pupils receiving free school meals as a result of the threshold and transitional protection offer at a school and local authority level. In the absence of this information, and given the variation in canteen accommodation, it is challenging for local authorities to quantify any potential additional costs of accommodating extra pupils in canteens. As well as food and staff costs, accommodating additional pupils may give rise to other costs, such as crockery, cutlery, trays, additional dining furniture (if sandwiches are currently eaten away from the canteen), and possibly additional equipment, to cope with high increases in provision. These factors will need to be considered on a case by case basis by local authorities, when any increase in the number of eligible pupils is known. However, to provide an indication of the scale of costs that may be incurred when an additional lunch sitting is required, we can use the information (albeit limited and unrepresentative) from the three local authorities that provided estimates. This shows that their estimates for the cost of an additional sitting over the course of a year, based on additional staff costs, varied somewhat from around £1,600 to £5,300 per school. We will continue to monitor such impacts.

Furthermore, our analysis of the potential impact of our new free school meals eligibility criteria and transitional protection on the number of eligible children and the associated estimated costs (see pages 6-11 above) uses an assumed annual cost per meal of £440 per pupil per year. It is important to note that this covers the cost of ingredients, labour costs and direct costs (e.g. contribution to building overheads) associated with the provision of school meals, and has

been used to inform levels of funding provided by the Welsh Government in response to this policy change.

Schools and Pupil Referral Units

When the earned income threshold is in place, schools and pupil referral units we anticipate that the impact on their administrative processes will be fairly minor.

a) Knowing which pupils are eligible for free school meals and which are transitionally protected for free school meals purposes

As set out in the previous section, local authorities will need to inform schools which pupils are transitionally protected for free school meal purposes, as well as those that are eligible for free school meals. There are no additional costs anticipated for schools in receiving this information from local authorities.

b) Protecting the identity of pupils who are eligible for free school meals or transitionally protected for free school meal purposes

As set out in the previous section, local authorities and governing bodies are already required to take reasonable steps to protect the identity of pupils receiving free school lunches or milk.

There is therefore unlikely to be an additional cost to schools arising from protecting the identity of pupils who are transitionally protected for free school meal purposes.

c) Correctly recording transitional protection status by keeping a record of transitionally protected pupils and returning the eligibility status of each pupil (including transitional protection) as part of their PLASC and, where available, EOTAS data collection returns.

Schools, like local authorities, will need to keep a record of pupils who are transitionally protected, using information that is sent to them by local authorities. The Welsh Government is working with school MIS suppliers to introduce a new data item into school MIS from April 2019 for the purpose of recording transitional protection status. This data item can then be collected as part of the PLASC data return. This falls under regulation 8 of Schedule 2, Part 1 of the Education (Information About Individual Pupils) (Wales) Regulations 2007 that allow the Welsh Government, pursuant to sections 512(2) and 512ZB of the Education Act 1996, to collect data on whether the pupil has applied for free school meals and their eligibility status.

For this reason, it is anticipated that the costs for schools arising from keeping a record of pupils who are transitionally protected and recording that information on the PLASC and, where available, EOTAS data collection returns is minimal as schools already maintain a multitude of pupil level data on their MIS and in reality will mean selecting a new check box or drop down item on their MIS. However, we do anticipate minor transitional costs as school staff adjust to the new system, and that schools with higher numbers of additional

pupils eligible for free school meals as a result of the threshold and transitional protection will be more affected.

Benefits of the proposed changes

Funding for free school meals is estimated to be around £440 a year per child²¹. This provides an indication of the extent to which parents/children benefit from free school meals. However, the amount actually spent on food by families for school lunches may be higher than this²². Given links between hunger in the classroom, free school meals, health, behaviour and educational attainment²³, there may also be wider knock-on effects in these areas. This includes wider wellbeing, as shared mealtimes offer a sense of containment and familiarity and offer children and young people the opportunity to pause and listen to and interact with others.

Given the targeting of the policy towards the most disadvantaged children, low income families will disproportionately benefit from this policy. 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 once benefits are taken into account²⁴.

Our published [Equality Impact Assessment](#) concluded that we expect that children and parents with certain protected characteristics (disabilities, those in non-white ethnic groups, and Muslims, Sikhs and those with no religion) would be more likely to benefit from the new eligibility criteria than other groups. We have no evidence to indicate that the new eligibility criteria for free school meals would have a negative impact on other protected characteristics.

The technical changes to the eligibility checking system will allow local authorities to continue to use it after the new threshold is introduced, saving administration time, as in most cases they will not need to check paper proof of benefit received. There is no alternative electronic option for checking free school meal eligibility electronically (and due to development costs and economies of scale it seems unlikely that a Wales only system would be cheaper). On the occasions when the eligibility checking system directs staff to perform manual checks, this will provide additional surety that eligible families are able to claim free school meals for their children.

The change management support being provided to local authorities should minimise disruption by helping them update local processes and systems so

²¹ Based on DfE funding rates for free school meals, which cover the cost of ingredients, labour costs and direct costs (e.g. contribution to building overheads) associated with the provision of school meals.

²² An article by Dearden, L. and Farquharson, C. (2017) reports that some families with one child spend around £70 on food each week <https://www.ifs.org.uk/publications/9202>

²³ <https://www.ifs.org.uk/publications/9202>; [http://jandonline.org/article/S0002-8223\(05\)00151-3/fulltext](http://jandonline.org/article/S0002-8223(05)00151-3/fulltext); <http://www.sciencedirect.com/science/article/pii/S0047272714002497>; <http://www.nature.com/ejcn/journal/v64/n11/full/ejcn2010150a.html?foxtrotcallback=true>

²⁴ 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>

they can correctly identify pupils whose parent(s)²⁵ meet the eligibility criteria for free school meals and those who are transitionally protected. This should to minimise occurrences of eligible pupils missing out on free school meals.

Furthermore, being able to correctly identify pupils whose parents meet the eligibility criteria for free school meals and those who are transitionally protected will:

- help monitor and evaluate the costs of the transitional protection policy by knowing how many protected status pupils there are in each school, local authority and nationally.
- allow stakeholders to track progress made on reducing the attainment gap between pupils from disadvantaged backgrounds and their peers, by ensuring pupils who are eligible for free school meals and those who are transitionally protected are correctly identified.
- enable full consideration of the definition and suitability of eligibility for free school meals as a deprivation indicator in certain funding formula (e.g. the Local Government Settlement and the Pupil Development Grant).

Protecting the identity of pupils who are transitionally protected means those pupils are less likely to feel embarrassed or experience stigma because they have free school meals.

Wider impacts

The PDG, which provides funding to schools, is based on the number of pupils eligible for free school meals. An increase to the size of this cohort will increase PDG costs. The funding mechanism for allocating the PDG in 2018-19 and 2019-20 is based on a two year allocation. Part of the rationale for 'fixing' allocations for two years is the current uncertainty around Universal Credit. 'Fixing' will provide some stability for schools and allow us time to consider the impact of the new eligibility criteria on the number of pupils eligible for free school meals.

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.

Data on the number of children eligible for free school meals is used as part of the Local Government Settlement calculation. Therefore, changes to the eligibility criteria for free school meals will have an effect on the distribution of

²⁵ The definition of 'parent' in section 576 of the Education Act 1996 includes any person who has care of the child. This includes foster parents. The child does not have to be living with the parent who qualifies for free school meals.

the Settlement funding formula. The Distribution Sub Group – the technical group which oversees the local government settlement funding formula – has considered papers on this issue and agreed to use a three year average of Free School Meals data for the calculation of the 2019-20 settlement and to re-visit future years under its 2019 work programme. As well as looking at the potential implications of changes to the eligibility criteria, the group will also consider the potential of using a different indicator of pupil-age deprivation.

The Education Improvement Grant (EIG) for schools is a further area where data on the number of pupils eligible for free school meals is used. The data is used in part to determine Local Authority/consortia allocations. When we use this data, we will monitor what impact any new eligibility criteria have on these allocations.

An [Equality Impact Assessment](#) was published alongside the consultation. This provided an assessment of the impact of the proposals for new eligibility criteria for free school meals on various equality groups.

8. Consultation

A consultation ran for 8 weeks (not including the school holidays), from 6 June 2018 to 14 September 2018, on the following proposals:

- from 1 January 2019, to introduce an annualised net earned income threshold of £7,400 for Universal Credit claimants who want to claim free school meals for their children; and
- to offer transitional protection which will mean that no child will lose their eligibility during the Universal Credit rollout period, and then until the end of their school phase.

The consultation was drawn to the attention of a wide audience of key stakeholders

It was not considered appropriate to consult directly with children and young people who are the recipients of free school meals. Not only is this a very technical subject area, but some children and young people might not be aware that they, or their classmates, receive free school meals. It was felt that there was a risk that, in highlighting this issue directly with children or young people, it would cause distress and make them worry about household finances and/or create stigma for those that receive benefits/support payments and passported benefits such as free school meals.

In view of this, during the consultation period officials met with third sector organisations that work with and on behalf of children and young people, and also those that represent vulnerable families who will be most affected by the change.

We received 98 responses to our consultation. Almost half of the responses were anonymous. The largest number of identified respondents were from the third sector, local authorities and the education sector.

Responses to the consultation raised a number of issues. There were calls for free school meals to be available to all Universal Credit claimants. However, extending eligibility for free school meals to all children in families claiming Universal Credit goes beyond the policy aim of providing free school meals to children in the lowest-income households²⁶. If no threshold is introduced, we estimate that, by the time Universal Credit is fully rolled out in 2023 around half of all pupils would be eligible for free school meals, compared to 16 per cent of pupils in January 2018²⁷.

Other responses to the consultation proposed variable thresholds or a taper system, for families with more than one child or families experiencing additional financial pressures. However, systems of this nature would be particularly complicated to administer, increasing the risk of claims being dealt with incorrectly, which could cause distress or hardship to families.

Having considered all the responses, one important issue emerged, namely the need to give local authorities the support and guidance they need so they are prepared for the new threshold and the transitional protection offer, to ensure that families' claims are dealt with efficiently and accurately. With this in mind, the introduction of the new threshold has been postponed until 1 April 2019, to allow the Welsh Government to set an appropriate programme of change management support in place for local authorities. This will support local authority staff in dealing with claims for free school meals under the more complex circumstances of Universal Credit.

A summary of the consultation responses is available at:

<https://beta.gov.wales/sites/default/files/consultations/2018-12/eligibility-for-free-school-meals-summary-of-responses.pdf>

9. Competition Assessment

The Welsh Government has considered the potential competition concerns arising from the change in free school meal eligibility criteria and the transitional protection offer in relation to:

- suppliers of school management information systems
- suppliers of local authority management information systems
- external catering suppliers contracted by local authorities
- external catering suppliers contracted by schools

In applying the competition filter to these areas, in each instance there were "Yes" answers to less than half the questions, which suggest that the Free School Lunches and Milk (Universal Credit) (Wales) Order 2019 is unlikely to have a significant detrimental effect on competition.

²⁶ As set out in footnote 6, the Department for Education's response to the consultation on *Eligibility for free school meals, the early years pupil premium and the free early education entitlement for two-year-olds under Universal Credit* indicates that some Universal Credit households will be on middle-incomes, sometimes exceeding £40,000 a year, and receiving in most cases only a small amount of Universal Credit.'

²⁷ <https://gov.wales/docs/statistics/2018/180725-school-census-results-2018-en.pdf>

10. Post implementation review

We plan to keep the threshold constant until the end of the Universal Credit rollout period, although we will keep the threshold under review. As part of this process we will continue to update our analysis, using the most up-to-date models, data and economic forecasts available to us.

During, and at the end of the rollout of Universal Credit we will review the policy, to include looking at the actual impact of the threshold and the transitional protection offer up to that point. School census data will be used to provide an indication of such impacts, as well as additional data collection and analysis where necessary.

Our review will inform our future policy direction after Universal Credit has been fully rolled out.