

Department for Education – Northern Ireland

**Consultation on changes to eligibility criteria for free school meals and uniform grants
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 We welcome the opportunity to respond to this consultation document. Free school meals are an extremely important passported benefit for low income families.
- 1.2 It is hugely disappointing that the consultation document proposes an annual net earnings threshold for Universal Credit claimants to access free school meals without any consideration of how an annual threshold will work against a monthly assessed benefit.
- 1.3 Any mechanism that compares the monthly figure used by the Department for Work and Pensions (DWP) is likely to create winners and losers as compared to the current system and/or significantly increase the administrative burden on those delivering free school meals as well as those who claim them.
- 1.4 Universal Credit is a monthly assessed benefit and the DWP calculate awards using monthly net earned income combined with unearned income (that may be net or gross). In the case of most employed claimants this is done using real time earnings data obtained monthly from HM Revenue and Customs (HMRC). DWP do not have annual income information and so a mechanism will be required to either convert the monthly net figure into an annual figure to compare to the threshold or to convert the threshold into a monthly figure against which to compare the monthly net earnings used on the Universal Credit claim. The consultation document is silent on who will carry out this calculation and, most importantly, how it will be done and how often it will need to be done which may be crucial.

- 1.5 We strongly urge the Department to consider this issue further by examining in detail the mechanisms that could be used to assess claimants against the proposed annual threshold and what that means in terms of numbers of people who may lose out or gain entitlement to free school meals as compared to the current tax credits system. It is also important to establish what the impact of the chosen mechanism will be in terms of administrative burdens on both claimants and those administering free school meals, especially in terms of any resources allocated to schools on the basis of free school meals entitlement.
- 1.6 Transitional protection should be provided to families who lose entitlement to free school meals and uniform grants due to changes to the threshold level or to the mechanism used to determine their income against the threshold when they move from tax credits to Universal Credit.
- 1.7 We broadly agree with the aims and objectives set out in the consultation, although we think three further significant objectives should be added:
- Ensure that claimants can easily access their entitlements
 - Ensure that the criteria do not erode the work incentives created by Universal Credit
 - Ensure that the criteria are delivered in a way that is non-stigmatising for claimants and their children
- 1.8 However, we cannot see how the current proposed criteria in relation to Universal Credit will meet the objectives set out because of the issue of annual versus monthly income. Whatever mechanism is chosen to convert the monthly figure from DWP into an annual figure to set against the free school meal criteria, it is very likely to lead (a) to even more winners and losers over the current system while failing to deliver support to those who most need it, and (b) a system that needs a claim and assessment each month which will add significant time and cost in terms of administration compared to the current system.
- 1.9 A single annual income threshold does not take account of the number of children in a family and it creates a cliff edge in the system. A family with income just over the threshold who have four children will not get any help with free school meals, whereas a family with one child with income just under the threshold will be entitled to free school meals. The more children a family has, the less income they have available to pay for costs, including school meals.
- 1.10 The cliff edge created means that working an extra hour, or earning a few pence an hour more, could leave the person considerably financially worse off, thereby negating the principle that work will always pay under Universal Credit. We recommend that further thought is given to a run-on or other alternatives that could alleviate the harshness of this cliff edge.
- 1.11 The proposed criteria refer to 'net earnings not exceeding £14,000'. It is not at all clear whether earnings in this context equates to 'earned income' under Universal Credit which is calculated net of tax, national insurance and pension contributions or whether it also

includes unearned income which is based on the amount received, which in some cases will be the gross rather than net amount.

- 1.12 If the proposed threshold is only based on earned income, some claimants who are not entitled to free school meals now will be entitled under the new criteria. This will lead to unfairness between families with similar household incomes but with different sources of that income. If the earnings threshold is referring to both earned and unearned income under Universal Credit then some thought will need to be given to income that is taken into account on a gross basis (rather than net) for UC and how the net figure will be calculated for free school meals purposes.
- 1.13 Nothing is stated in the consultation document about the evidence requirements for claimants under Universal Credit. Currently, claimants use their tax credit award notice as proof of income in order to claim free school meals for the whole year. They only do this once a year. Under Universal Credit, claimants are not automatically sent paper award notices and instead have their award shown on the online system. It is not clear whether there will be a feed of data from the Universal Credit system that will enable free school meals to be awarded automatically or whether evidence in paper form will continue to be required. Nor is it clear whether the once annual assessment for free school meals will continue for the whole year or whether it will be revisited more frequently. Further work needs to be done to understand the implications and possible problems for claimants as well as whether the data held by DWP will establish whether 'net earnings' do not exceed £14,000.
- 1.14 Finally, the consultation document is silent on how those who are subject to the minimum income floor as self-employed Universal Credit claimants will be treated for the purposes of these passported benefits. This is a particular issue for couples who may find themselves outside of free school meal support if their income for Universal Credit purposes is used rather than their actual income.

2 Introduction

- 2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.

- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities
- 2.4 We welcome this opportunity to respond to the consultation document on eligibility for free school meals and uniform grants. Free school meals and uniform grants are extremely important passported benefits for low incomes families and as the consultation points out they make an important contribution to addressing the barriers that young people from lower income backgrounds face.
- 2.5 We have, for many years, been concerned with the complexity for claimants caused by the various qualifying criteria for passported benefits and the impact of their withdrawal on work incentives. This response focuses on how the threshold is defined, calculated and evidenced rather than what particular level the threshold should be set at.
- 2.6 In the Government's response to the Social Security Advisory Committee's 2012 report¹ on passported benefits it was noted that the introduction of Universal Credit presents not only a challenge for Departments with responsibility for passported benefits, but also a unique opportunity to consider more fundamental reform to simplify and streamline some passported benefits in the future. It is disappointing that the opportunity has not been taken to consider other options and address some of the issues relating to a having a single fixed threshold as the cut-off point.

3 Specific comments on the proposals

3.1 *Question 1 – Do you agree with the primary aim?*

- 3.1.1 As mentioned in paragraph 2.4, free school meals and uniform grants are very important to low income families and so we agree with the aim that those most in need should be able to access them following the introduction of Universal Credit. Defining who falls into the group of 'most in need' is far more difficult, and detailed consideration needs to be given to this to ensure that the scheme really does meet this aim.
- 3.1.2 As we noted in the introduction, due to the mismatch between the monthly nature of Universal Credit and the annual threshold proposed for free school meals and uniform grants for recipients of Universal Credit, there is a risk that some of the children most in need will not have access to free school meals. Also, some families with higher incomes could gain access to free school meals which would mean the proposal does not meet the primary aim.

¹ <https://www.gov.uk/government/publications/universal-credit-the-impact-on-passported-benefits>

3.2 ***Question 2 – Do you agree with the objectives?***

- 3.2.1 We are generally supportive of the objectives listed in the consultation document, however we feel that some important objectives are missing.
- 3.2.2 We agree that it is important the new criteria be clear and easily understood by the public. In our response to the SSAC review of passported benefits we identified transparency as one of the three key principles that should drive reform of passported benefits. Some complexity is inevitable, but the burden of dealing with this should fall on those responsible for delivering the benefit, rather than those receiving it. It is also important to ensure that the public should not only understand the passported benefit itself, but also how that passported benefit entitlement is linked to income and the impact that changes will have on the person's overall financial situation.
- 3.2.3 As well as being clear and easily understood, the scheme should be as easy and straightforward as possible to access in order to ensure take-up of eligible claimants is as high as possible. Having this as an additional objective will ensure that proper thought is given to the evidence requirements and burdens placed on claimants as part of the claims process.
- 3.2.4 The second principle we highlighted in our 2011 response to SSAC was that the impact of passported benefits must be included in any calculation or presentation of marginal deduction rates under Universal Credit – both in general terms and to claimants. The loss of passported benefits as income rises should not come as a shock. We therefore think an additional objective should be added to ensure that the work incentives that exist under Universal Credit are preserved and that further work should be done to analyse the impact of an earnings threshold on work incentives under Universal Credit.
- 3.2.5 Introducing a fixed threshold will mean claimants face a cliff edge and also creates unfairness by not recognising the extra costs faced by families responsible for more children. Under the proposed criteria, a family with one child and income of £13950 will get free school meals whereas a family with four children and income of £14050 will not, despite the fact that the more children a family has means they have less income available to pay for costs such as school meals.
- 3.2.6 No matter the mechanism that will be used to calculate the person's net annual income, there will be a sharp cliff edge above which an additional £1 of earnings will result in a total loss of free school meals. This means that working an extra hour, or earning a few pence¹ an hour more, could leave the person considerably financially worse off, thereby negating the principle that work will always pay under Universal Credit. SSAC's report recommended a run-on period after eligibility has ceased to avoid the sudden loss of a passported benefit and this should be considered further along with other alternatives. Otherwise, there is a

¹ Even a small pay rise offered by an employer, or annual increase to the National Minimum or Living Wage could result in a loss of the passported benefits.

real risk that the two reforms will work against each other and harm the most vulnerable claimants by leaving them in a trap of not being able to increase their hours.

- 3.2.7 The third principle we highlighted to SSAC was to ensure that passported benefits are delivered in a way that is non-stigmatising for claimants. We think this is a particularly important principle for free school meals and this should be an objective when establishing the new criteria.

3.3 ***Question 3: Do you agree this (£14,000 net earnings threshold) is an appropriate means approximately to maintain the numbers of pupils entitled within the anticipated budget envelope?***

- 3.3.1 It is not possible to say based on the information given in the consultation document whether this is an appropriate means to maintain the numbers of pupils entitled within the anticipated budget envelope, because it appears that the figures only compare those entitled under the current system and those who will be entitled with an annual net income threshold under £14,000 based on income data from the Family Resources Survey. The £14,000 threshold was selected because there is a slight overall positive impact in terms of numbers of eligible pupils with only a small increase in additional cost.
- 3.3.2 In support of moving from a gross income threshold to a net income threshold the consultation document, at 8.7 says, ‘the Universal Credit statement produced by the Department of Work and Pensions will only include details of the net earnings’. This is correct, however it does not mention anywhere that the net earnings shown on a Universal Credit statement are **monthly net earnings**. No indication is given as to how and when this will be converted to an annual amount to determine whether someone has annual net earnings below £14,000. Universal Credit statements provide a snapshot of the claimant’s situation at any given time, not an indicator of the annual income of the household.
- 3.3.3 Under the current system, entitlement to free school meals is assessed once a year based on the income figure used by HMRC on the tax credit award notice. This means that no further adjustment is needed to the income figure calculated by HMRC.
- 3.3.4 We think that there are broadly three different mechanisms that could be used to deal with the mis-match between monthly net income used by DWP for Universal Credit and the annual net earnings threshold. All unfortunately have problems associated with them which will impact on the overall numbers of people who will be entitled going forward, whether those who are in most need will receive the support they need and on the cost of administering the system.

As with the current system, once a year the claimant will apply for free school meals and their annual net income will be ascertained by multiplying the monthly net	The major disadvantage of this mechanism is that anyone who has a fluctuating income, for example a self-employed claimant, someone on a zero hours contract
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<p>income used on their latest universal credit award by 12. This will then be compared to the £14,000 threshold.</p> <p>(A similar, but alternative method, would be to compare the net monthly income from Universal Credit against a monthly threshold (£14,000/12) in that one month)</p>	<p>or any number of seasonal workers may find themselves without free school meal support even though their actual annual income over 12 months is far less than £14,000. This could happen where someone has a bonus in the UC month that is used in the calculation or they work a particularly high number of hours due to seasonal overtime. It is also possible under Universal Credit for, say, four-weekly paid claimants to have two pay days in one monthly assessment period which would inflate their annual income under this method. Similarly someone may become entitled to free school meals whose actual net annual income is far higher than £14,000 because in that one month they had an unpaid period of leave or were receiving statutory sick pay.</p> <p>This would mean that the help is not targeted at those who need it most. It is also not clear what happens if someone loses their job half way through the year and whether they would be able to gain entitlement to free school meals and if so on the basis of what income.</p> <p>It also means that the Education Authority would need to calculate the annual income based on the monthly net income figure calculated by DWP, whereas currently they use the figure on the tax credit award notice without any further adjustment. This adds administrative burden and cost.</p>
<p>Instead of assessing entitlement to free school meals annually, assessment could be done monthly against a monthly threshold (£14,000 divided by 12)</p>	<p>This would mean that claimants would move in and out of entitlement to free school meals each month which could create uncertainty. This could be more reflective of their circumstances (although not in all cases) however it would add a huge administrative burden to both claimants and the Education Authority and</p>

	would greatly increase the cost of the scheme to administer.
Net income for either the previous tax year or previous 12 month period could be used.	<p>This means that the assessment of free school meals would be based on income that may not reflect current circumstances meaning those who need the help most might not receive it.</p> <p>DWP are unlikely to have the required information unless a claim for Universal Credit has been in place for at least 12 months and even then they do not hold data in that format.</p>

3.3.5 In addition, from April 2018, new surplus earnings and loss rules will be introduced into Universal Credit that could add further distortions to income figures used to calculate Universal Credit awards and therefore will have a knock-on effect onto entitlement to free school meals and other passported benefits.

3.3.6 Before finalising the figure, or indeed deciding to move forward with an annual net income threshold at all, detailed consideration must be given to which mechanism will be used and further evaluation carried out to:

- Understand whether the chosen mechanism affects the estimated numbers of pupils entitled to free school meals and the uniform grant
- Whether there are any equality impact issues of the chosen mechanism – for example disabled claimants are more likely to have fluctuating income because of their health conditions and so could be disadvantaged
- Understand the additional costs that will be faced in potentially converting the monthly figure into an annual figure or in changing from a yearly assessment to a monthly assessment for free school meals

Changing from a gross income threshold to a net income threshold

3.3.7 As pointed out in the consultation document at 8.7(ii) – pupils from families currently entitled to tax credits that have a gross annual income below £16,190 but net annual earnings higher than the proposed net earnings threshold of £14,000 may no longer qualify for free school meals after they migrate (or indeed move earlier due to a change of circumstances) to Universal Credit. This will be a huge loss to those families and therefore consideration should be given to transitional protection for these families who are migrated across from tax credits in view of the commitment that families would not be worse off if

they are migrated to universal credit by HMRC/DWP (as opposed to moving due to a change of circumstances).

- 3.3.8 Pinning the income threshold to a net income figure means that changes to income tax allowances, such as the personal allowance, will have consequences for those qualifying for free schools meals under these criteria and should be borne in mind when considering whether and when the threshold should be reviewed. Also in the context of reviewing the threshold, as noted at 3.2.6 above, having a fixed threshold could mean that even an extra few pence an hour pay – perhaps from an increase in the National Minimum or Living Wage – will result in a loss of passported benefits. Consideration should therefore be given to annual uprating of the threshold in line with earnings inflation.

Definition issues

- 3.3.9 Under the Universal Credit Regulations 2013¹, the calculation of Universal Credit is done by reference to the claimant's 'earned income' and 'unearned income'. Earned income is indeed calculated on a net basis – after deducting tax, national insurance and pension contributions and a 63% taper is then applied to it. However if income is classed as unearned income, the amount received is taken into account in full with no taper applied.
- 3.3.10 Some income, for example Carers Allowance, is classed as unearned income but as it is paid gross, the gross amount is included as income for Universal Credit even though tax may be paid on the income via self-assessment or by deduction from another source of income.
- 3.3.11 The consultation document introduces an earnings threshold. It is not clear whether this threshold is only looking at income which is 'earned income' under the Universal Credit regulations or whether it is looking at both earned and unearned income or indeed something else entirely.
- 3.3.12 This is an important distinction in terms of who may be entitled to free school meals. For example a family who are currently claiming tax credits with income of £18,000 (made up of £15,000 gross earnings (£13,481 net) from work and £3,000 Carer's Allowance) are currently not entitled to free school meals because their income for tax credit purposes is £18,000 which is above the current free school meal threshold (Northern Ireland) of £16,190. However, under the proposed criteria, if only 'net earned income' is taken into account and unearned income disregarded, they would be entitled because their net earnings are £13,481 which is less than the proposed £14,000 threshold.
- 3.3.13 If both 'earned income' and 'unearned income' are counted towards the £14,000 threshold, consideration needs to be given to how deductions of tax will be dealt with against

¹ <http://www.legislation.gov.uk/ukxi/2013/376/contents/made> Regulations 51-64

unearned income where it is not deducted at source. Otherwise, people with certain types of income (such as taxable benefits) will continue to be assessed on gross income.

- 3.3.14 We noted above that further work should be done to understand the impact on numbers of pupils claiming free school meals once the mechanism for converting monthly income into an annual figure was decided. Similar work needs to be carried out to look at whether the choice of definition of net income would have any impact on numbers of people who may be entitled to free school meals.
- 3.3.15 Self-employed Universal Credit claimants may be affected by the minimum income floor. After the first 12 months of trading, if they are in the all-work requirements group, their Universal Credit will be calculated using either their actual income or if that is lower than their minimum income floor (MIF) amount, the MIF figure will be used in place of their actual income.
- 3.3.16 The MIF is very harsh for self-employed claimants who have fluctuating income and expenditure patterns and it does not take account of pension contributions (whereas employed Universal Credit claimants have their award calculated after the deduction of all pension contributions).
- 3.3.17 There is no detail in the consultation document about whether it will be the self-employed Universal Credit claimant's actual income that will be assessed against the new earnings threshold of £14,000 or whether it will be the MIF amount. This is likely to be very important for couples. For example a couple where one is employed earning £1,050 a month and the other is self-employed and making a loss of £100 a month could be treated as having earnings of over £2,000 a month for Universal Credit purposes instead of the £1,050 they actually have because of the application of the MIF.
- 3.3.18 No families who are currently getting free school meals and uniform grants should lose their entitlement due to changes to the threshold or the mechanism used to determine their income against the threshold. We recommend that thought is given to transitional protection to ensure help is not removed from those who need it most.

LITRG
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