

Welsh Government Consultation
Revised eligibility criteria for free school meals
Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

- 1.1 We welcome the opportunity to respond to this consultation on the introduction of a net earnings threshold to determine eligibility for free school meals (FSM) in Wales.
- 1.2 The benefits of ensuring every school child has access to a nutritious meal every day during term time are well understood and not disputed. However, an understanding of the consequences of a child not having access to such a meal, or for a family who cannot afford to pay, is not evident in the consultation document.
- 1.3 Although we understand the Welsh Government's concern about additional pressure on budgets, it is disappointing that the starting point of the consultation is to propose exactly the same threshold as that set in England on the basis that to do anything else would be 'unaffordable'. As Lord Tebbit neatly stated in the House of Lords debate on the topic, regarding the discrepancy between the £14,000 threshold in Northern Ireland and the £7,400 threshold in England:

*'Is it not clear that there would be no point in devolved government unless devolved Governments were able to take different policy lines?'*¹

¹ HL Deb 14 March 2018, vol 789, col 1623: <http://bit.ly/2wFlaKS>

A report from the Children's Society suggests that there are still many children in Wales who are living in poverty and not entitled to FSM.¹ This is a missed opportunity to consider a wider range of options including where additional funding may be required.

- 1.4 We would also like to highlight the *Consultation Principles 2018* and, in particular, the second principle thereof, which states that consultations should have a purpose and consultation responses should be taken into account when taking policy forward.² We are concerned that the consultation document does not set out any other options and costings and does not seek answers to any specific questions – this suggests that because other options are unaffordable that a decision has already been made to set the threshold at this level irrespective of the outcome of the consultation.
- 1.5 Specifically, we have the following concerns over the introduction of a net earnings threshold in the way proposed:
- The cliff-edge nature of the threshold effectively traps those earning just under it, given the prospect of the immediate withdrawal of a benefit worth £400 a year per child.³ This effect undermines the Universal Credit (UC) principle that work should always pay.
 - The proposals do not take into account the number of children in a family, so the above effect is multiplied where more children in family stand to lose free school meal entitlement.
 - The threshold is far too low given the relative significance of the benefit to those on low incomes.
 - It is not clear how an annual threshold reconciles with UC as a benefit which is assessed on a monthly basis. It is difficult to see how this can be resolved without introducing administrative complexity. The regulations for England, for example, require the claimant to compare their earnings over up to three different periods with three different thresholds, making it difficult for people to understand their entitlement at any given point.⁴

¹ <https://www.childrenssociety.org.uk/what-we-do/policy-and-lobbying/child-poverty/free-school-meals>

² *Consultation Principles 2018*:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles_1_.pdf

³ <https://www.childrenssociety.org.uk/news-and-blogs/our-blog/missing-out-free-school-meals>

⁴ SI 2018/148, reg 4(b)

- There is a lack of clarity over whether the earnings to be tested against the threshold take account of various deemed income rules for UC purposes, including the minimum income floor,¹ surplus earnings and the carry-forward of self-employed losses.

- 1.6 Accordingly, in order to mitigate the impact of introducing an earnings threshold, **we recommend that all families claiming UC be made eligible for FSM on a permanent basis.**
- 1.7 Finally, we would urge the Welsh Government to make stronger commitments in respect of transparency over its estimates for the number of pupils affected, how the threshold will be reviewed on an ongoing basis, and how it might move to a system of automatic registration to ensure those who are eligible do not lose out.

2 About Us

- 2.1 The 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.

3 General comments

- 3.1 Prior to the introduction of UC, the then Secretary of State made the following statement in the foreword to the 2010 White Paper:

¹ After the first 12 months of trading, if the claimant is in the all-work requirements group, their UC award is calculated based on the 'minimum income floor' if their actual earnings are lower.

'Universal Credit will mean that people will be consistently and transparently better off for each hour they work and every pound they earn'.¹

- 3.2 Given the cliff-edge nature of the threshold, there will inevitably be individuals who will choose to turn down an extra hour of work, or even a small pay rise, for fear of losing FSM for all of their children. This is fundamentally inconsistent with the basic policy design of UC, under which work should always pay. It creates a trap for those in this situation, with knock-on impacts for the children and their employers or businesses. Given that the demographic of Wales is such that a greater proportion of households are on a lower income than England, taking the same policy line is likely to have a disproportionate impact on Welsh schoolchildren.²
- 3.3 In an ideal world, FSM would be universal. This is the only way to ensure all children receive at least one nutritious meal a day and eliminate the stigma which is attached to FSM, as well as the negative consequences which follow from a school child who claims them or even goes without. This is the approach followed in progressive countries such as Sweden, Finland and Estonia.³ However, we recognise that such a radical solution may be unaffordable at this stage without reductions in budgets elsewhere or additional funding for the Welsh Government. Furthermore, we recognise that applying income-based criteria can be an effective way of targeting those households which are most in need of the financial support.
- 3.4 Notwithstanding the above, we consider that the proposed threshold is far too low. In order to both mitigate the impact of the cliff-edge and offer full protection to those who stand to lose eligibility, making the existing provisions permanent, whereby FSM are available to all UC claimants, is the fairest solution. Clearly, where a family is entitled to FSM, all children in that family should be eligible to receive FSM, even if the claim to UC itself is restricted to the first two children in that family.
- 3.5 If the Welsh Government does not consider this to be affordable, it could think more widely about how it might be made so, recognising the non-monetary benefits of FSM. For example, universal infant FSM were made available to all in England in 2014.⁴ This was done,

¹ *Universal Credit: Welfare that works* (November 2010):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/48897/universal-credit-full-document.pdf

² <https://gov.wales/statistics-and-research/regional-gross-disposable-household-income/?lang=en>

³ <http://www.skolmatsverige.se/in-english>

⁴ <https://www.gov.uk/guidance/universal-infant-free-school-meals-guide-for-schools-and-local-authorities>

in part, because the social and administrative benefits of such a scheme, not all of which can be quantified in monetary terms, were considered to outweigh the cost.¹

- 3.6 It is disappointing that there is no detail about how the Welsh Government proposes to apply an annual threshold to an individual in receipt of UC who might have fluctuating income either side of an equivalent monthly threshold. This is particularly so given that we, and other organisations, made similar points in response to the consultation for England and so there was an opportunity to anticipate these concerns and address them in the consultation document.
- 3.7 Whether or not this is resolved in a way which matches the regulations as laid out for England, whereby average earnings of up to three months are considered, the related administrative complexity is clear. An individual could still move in and out of entitlement for FSM a number of times during the year. We recommend that provisions are included such that entitlement is protected for at least a term or academic year, not least to provide for stability in household budgets.
- 3.8 We would also like the Welsh Government to provide clarity on how the definition of earnings to be tested against the threshold compares with the definition of earnings for UC purposes. In particular, the regulations for England² do not make it explicit whether or not an individual which is subject to the minimum income floor has their deemed or actual earnings considered, though this was later clarified by the Parliamentary Under-Secretary for Children and Families, Nadhim Zahawi.³ Furthermore, the answers to related written questions on surplus earnings and self-employed losses were ambiguous.⁴ We urge the Welsh regulations to be clear on these points.
- 3.9 In the interest of transparency, we would have liked to see the background to the estimate of 3,000 more pupils becoming eligible for FSM after the proposals are fully rolled out. The consultation documents for England on this issue claimed that 50,000 more pupils would be eligible, but analysis by the Institute for Fiscal Studies makes it clear that this is a net figure, behind which 160,000 children who qualify under the existing system will become *ineligible*.⁵

¹ *The School Food Plan*, Chapter 11

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/251020/The_School_Food_Plan.pdf

² SI 2018/148, reg 4(a)

³ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-06-13/153172/>

⁴ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-06-13/153173/>, <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-06-13/153174/>

⁵ <https://www.ifs.org.uk/publications/12894>

If we were to extrapolate this to the estimate for Wales, it suggests that nearly 10,000 Welsh pupils could become ineligible under the reforms. We understand this is in addition to the c. 55,000 pupils reported to be living in poverty in Wales who are already ineligible for FSM.¹

- 3.10 The consultation document acknowledges that it is very difficult to accurately predict the impact of any given earnings threshold on the size of the FSM cohort. In light of this, while we appreciate there is some benefit to having stability in the eligibility criteria once they are introduced, we do not consider the commitment to 'keep the £7,400 threshold under review' to be sufficiently measurable. There is no commitment to a specific point at which the threshold will be reviewed. We suggest this is done on an annual basis in line with the tax year, with the review being conducted under transparent principles, such as the proportion of all pupils eligible for FSM.
- 3.11 Currently, it would appear that the intention is to freeze the threshold in cash terms, with the consequence that an earner might be incentivised to actually turn down even a pay rise just in line with inflation. This would leave a family worse off in real terms. At the very least, the Welsh Government should commit to raising the threshold in line with inflation.
- 3.12 In order to maximise the proportion of those eligible for FSM actually claiming them, we would like to see the Welsh Government offer a commitment to automatic registration. This would involve schools comparing all pupils against the Eligibility Checking System by default, rather than requiring parents and carers to make a request.
- 3.13 Indeed, a more innovative solution might involve each child paying for their school meals by a charge card, on which the State would automatically load credit. This would go a long way to alleviating the issues around stigma (because each child would pay in the same way) as well as introduce the opportunity for a tapered benefit (thereby mitigating the cliff-edge effect).

LITRG

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¹ <https://www.childrenssociety.org.uk/what-we-do/policy-and-lobbying/child-poverty/free-school-meals>