

Milk and Healthy Snack Scheme (Scotland) Regulations 2021

Equality Impact Assessment Results

February 2021



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Equality Impact Assessment Results

<p>Title of Policy</p>	<p>The Milk and Healthy Snack Scheme (Scotland) Regulations 2021 (also cited as the Scottish Milk and Healthy Snack Scheme)</p>
<p>Summary of aims and desired outcomes of Policy</p>	<p>The purpose of the policy is to support and encourage healthy drinking and eating from the earliest years to improve the diets and wellbeing of children. It has been designed as a universal Scheme to ensure it reaches the greatest number of preschool children.</p> <p>The Scottish Milk and Healthy Snack Scheme (the Scheme) will be delivered by local authorities who will provide direct and upfront funding for all preschool day care provider and childminders (Settings) which are registered with the Care Inspectorate; where children spend 2 or more hours per day; and where settings have registered with their local authority to be part of the Scheme. Under the new Scheme, funding will be available to provide:</p> <ul style="list-style-type: none"> • 189mls (1/3 pint) of plain fresh cow's milk (whole milk for children over 1 year or to include semi-skimmed milk for children over 2 years), first infant formula (for children under 12 months), or 189mls (1/3 pint) of plain fresh goat or sheep milk (whole milk for children over 1 year or to include semi-skimmed milk for children over 2 years), or unsweetened calcium enriched non-dairy alternatives for those children who cannot consume cow's milk because of medical, ethical or religious reasons. • A healthy snack item (a portion of fresh fruit or vegetables) for children over six months.

	<ul style="list-style-type: none"> • Non-dairy alternative drinks eligible for the Scheme are unsweetened calcium enriched soya drinks for children over 12 months with other unsweetened calcium enriched non-dairy alternative drinks being offered only where necessary. <p>The desired outcomes of this policy are directly linked to contributing to the following National Outcomes:</p> <ul style="list-style-type: none"> • Our children have the best start in life and are ready to succeed. • We live longer, healthier lives. • We have improved the life chances for children, young people and families at risk.
Directorate, Division, Team	Children and Families: Improving Health and Wellbeing: The Scottish Milk and Healthy Snack Team

EXECUTIVE SUMMARY

This is a summary of the full Equalities Impact Assessment conducted in relation to the the Milk and Healthy Snack Scheme (Scotland) Regulations 2021. The Scottish Government is committed to replacing the current UK Nursery Milk Scheme with the Scottish Milk and Healthy Snack Scheme for the purposes of childcare providers in Scotland only.

The public sector equality duty requires the Scottish Government to pay "due regard" to the need to meet its obligations under the Equality Act 2010. The Scottish Government, therefore, undertook an EQIA as part of developing the policy for the Scottish Milk and Healthy Snack Scheme following the devolution of Welfare Foods powers under the Scotland Act 2016.

This policy will impact all pre-school children who are cared for by a registered day care provider or childminder in Scotland for two or more hours a day.

The Scottish Milk and Healthy Snack Scheme (the Scheme) delivered by local authorities to all pre-school children who are enrolled for 2 hours or more per day in a registered pre-school setting, defined as a day care provider or childminder, and where that setting is taking part in the Scheme. Settings must be registered and regulated by the Care Inspectorate in order to be eligible for the Scheme. Funding will only be provided to settings who register for the Scheme. Under the new Scheme, funding will be available for day care providers and childminders to provide:

- 189mls (1/3 pint) of plain fresh cow's milk (whole milk for children over 1 year or to include semi-skimmed milk for children over 2 years), first infant formula (for children under 12 months), or 189mls (1/3 pint) of plain fresh goat or sheep milk (whole milk for children over 1 year or to include semi-skimmed milk for children over 2 years), or unsweetened calcium enriched non-dairy alternatives for those children who cannot consume cow's milk because of medical, ethical or religious reasons.
- A healthy snack item (a portion of fresh fruit or vegetables) for children over six months.
- Non-dairy alternative drinks eligible for the Scheme are unsweetened calcium enriched soya drinks for children over 12 months with other unsweetened calcium enriched non-dairy alternative drinks being offered only where necessary.

Funding will be delivered upfront to eligible pre-school settings via Local Authorities in line with each authorities process and systems from 1 August 2021. The current mechanism of a claims and reimbursement model as delivered by the UK Nursery Milk Scheme will cease in Scotland as of the 31 July 2021.

Early Learning and Childcare (ELC) funded provision is available to all 3 and 4 year olds, and eligible 2 year olds. However, the Scheme has a broader scope than this offer. It will benefit all children in regulated childcare, regardless of whether it is ELC funded provision.

BACKGROUND

Currently a UK-wide nursery milk Scheme is administered by the UK Department of Health and Social Care (DHSC) under the terms of an Agency Agreement. Under the terms of the Scheme, all pre-school children who are in a day care or early years setting in Scotland for two or more hours a day are eligible to receive a free daily drink of cow's milk or first infant formula (1/3 pint/189mls).

It is the devolution of welfare foods powers through section 27 of the Scotland Act 2016 which enables the Scottish Ministers to create a Scottish Milk and Healthy Snack Scheme to replace the current UK-wide Nursery Milk Scheme.

The Scottish Government's consultation on [Welfare Foods](#) ran from 5 April to 28 June 2018. It included proposals to replace the UK Nursery Milk Scheme in Scotland with a new Scottish Scheme which would increase the age of eligibility from under 5 years to include 5 year olds; and offer a daily healthy snack item (a portion of fresh fruit or vegetables). It was proposed that this be delivered as part of Early Learning and Childcare funded provision, complementing the free meal offer. Provision to unfunded providers was also considered. 147 responses were received from both individuals and organisations. The majority of respondents were in favour of the proposals and responses to the consultation – where respondents have agreed to publish – have been published along with the [publication report](#) on the consultation findings and messages.

Prior to and after the consultation we held discussions with representatives both internally and externally that have connections with or that support recipients of the current UK Nursery Milk Scheme. This helped us identify key issues and inform development of the new Scheme.

The new Scheme will continue the offer for 189mls (1/3 pint) of whole or semi-skimmed pasteurised cow's milk and first infant formula (under 12 months) to all children who spend two or more hours a day in a day care provider or childminder setting but will also improve the offer to:

- Extend the Scheme to include all pre-school children who are enrolled with a day care provider or childminder
- Include provision of a healthy snack item (a portion of fresh fruit or vegetable).
- Include alternative to cow's milk such as goat milk and sheep milk and unsweetened calcium enriched non-dairy alternative drinks (over 12 Months) for those children who cannot consume cow's milk for medical, ethical or religious reasons.
- Reduce administrative burdens by moving to an 'up front' payment approach rather than the current claims and reimbursement model. This will be delivered via local authorities to all day care and childminder settings registered with the Scheme.
- Aligning with broader Scottish policies such as Best Start Foods and the 1140 hours for universal ELC provision for children aged 3 to 4 and eligible 2's.
- Raising awareness initiatives to embed healthy eating messages and to maximise participation of the new Scheme to ensure day care providers and childminder settings are supported adequately to make this provision available to all eligible children in their care.

The new Scheme aims to support children to establish healthy diets during the formative years of their life and provide additional nutritional options which will account for children cannot consume cow's milk for medical, ethical or religious reasons. Establishing good nutrition and healthy diet habits in infancy is also important as good practices can be taken forward into childhood and throughout adult life. Maintaining a healthy weight is key for both physical health and mental wellbeing. The Scheme can directly influence eating habits in the early years and is, therefore, key to supporting a healthy weight. There is strong and growing evidence of the impact of diet in early years on longer term outcomes including educational attainment.

Who was involved in this EQIA?

We received responses on a draft EQIA we shared with a wide range of stakeholders and organisations from the childcare sector, local government, and the dairy industry

as an opportunity to feedback views and suggestions to ensure we developed a comprehensive impact assessment.

Prior to and after the consultation we held discussions with representatives from the childcare sector, local government, and dairy industry both internally and externally that have connections with or that support recipients of the current UK Nursery Milk Scheme. This helped us identify key issues and inform development of the new Scheme. This also included the engagement outlined below:

Consultation

The Scottish Government's consultation on Welfare Foods – a consultation on meeting the needs of children and families in Scotland, ran from 5 April to 28 June 2018 and received 147 responses from both individuals and organisations. The majority of respondents were in favour of the proposals and responses to the consultation – where respondents have agreed to publish – have been published along with the publication report on the consultation findings and messages.

Consultation outcomes

Many responses related to the introduction of the Best Start Foods Scheme. Of those that responded on the questions relating to a new milk and health snack Scheme;

- 90% agreed with the proposal to provide free milk to all children in funded ELC provision from 2020, although many pointed out that dairy-free alternatives should be available.
- Majority of respondents agreed with the proposal to provide free milk to children out with funded ELC provision.
- 96% of respondents agreed with the proposal to provide a healthy snack to all children in funded ELC provision from 2020.
- 83% of respondents were in favour of providing a healthy snack to children out with funded ELC provision.

The consultation also indicated a clear desire to include non-dairy alternative drinks as part of the Scheme.

We have considered the findings from the consultation throughout the policy development process and will continue to evaluate any further evidence that becomes available.

Nursery Milk Short Term Working Group

Utilising the experience of local authorities, COSLA, childcare, third sector organisations and health professionals who support day care provider and childminder settings in Scotland, we established a Nursery Milk Short Term Working Group to help inform the development of this policy. The remit of this group was to discuss and make evidence based recommendations on the devolution of the UK NMS in Scotland. Representatives included:

- NHS Health Scotland
- COSLA
- Scotland-Excel
- Scottish Childminding Association
- National Day Nurseries Association
- Early Years Scotland
- ASSIST
- Association of Public Service Excellence (APSE)
- Education Scotland
- Scottish Government - Early Learning and Childcare Quality Unit
- Scottish Government – School Food Provision and Food Education
- Scottish Government - Rural Livestock Policy (Food and Drink)
- Scottish Government - Analytical Services
- Scottish Government - Procurement Portfolio Specialist
- Scottish Government - National Maternal & Infant Nutrition Co-ordinator

Food Standard Scotland

We liaised with Food Standards Scotland (FSS) who are responsible for providing advice to Scottish Government on a range of food related issues including advice on how what we eat will promote good health. We sought advice relating to what alternative drinks can be offered within the Scheme for those children who do not consume cow's milk for medical, ethical or religious reasons.

They advised that goat, sheep and unsweetened calcium enriched non-dairy alternatives for those children who cannot consume cow's milk because of medical, religious or ethical reasons can be offered as part of the Scheme. Whilst non-dairy alternative drinks are not nutritionally equivalent to cow's milk, not providing an alternative for children whose parents/carers choose for them to not consume cow's milk, for whatever reason, would mean that these children are nutritionally disadvantaged through the Scheme.

This helped inform and reinforce nutritional advice and identify the types of additional animal milks and non-dairy alternative drinks that can be included as part of the new Scheme which would have the best health benefits and outcomes for children who do not drink cow's milk. This ensured the policy is based on the most up to date scientific evidence and dietary advice.

The Vegan Society

As representatives of those who eat a vegan diet we held discussions with this group which ensured that the issues and concerns raised were properly considered in the final decision making process for this policy. At the time of our discussion they recognised there were no appropriate non-dairy alternative drinks currently available, however the snack element would still allow vegan children to build a solid foundation in relation to medical religious or ethical reasons. Our continued work with FSS has now identified that unsweetened calcium enriched soya drinks for children over 12 months with other unsweetened calcium enriched non-dairy alternative drinks can now be offered as part of the Scheme.

KEY FINDINGS

The evidence in respect of the Scottish Milk and Healthy Snack Scheme and the potential impact on particular groups are laid out for the following groups:

Age

Key facts:

- In 2018/19, 22.4% of 4-5 year olds in Scotland were recorded as either overweight or obese.
- In 2018, 15% of children aged 2-15 met the five-a-day recommendation for consumption of fruit and vegetables. Boys and girls were equally likely to meet the recommendations, with 15% of girls and 16% of boys having done so.
- Mean consumption (of fruit and vegetable) in 2018 was 2.8 portions for both boys and girls. Mean consumption for all children aged 2-15 has been between 2.6 portions and 2.9 portions a day for all years since 2008.
- The proportion of children consuming no fruit and vegetables has remained fairly constant since 2008.
- In 2018, 10% of children aged 2-15 (11% of boys and 9% of girls) consumed no fruit or vegetables on a typical day.
- In 2017, 12% of children aged 2-15 from the most deprived areas had the recommended 5 portions of fruit and vegetables the previous day, compared to 21% in the least deprived areas.
- In 2017/2018, 58% of girls and 53% of boys ages 2-15 consumed skimmed or semi-skimmed milk.
- Between the ages of 1 and 2 years, children should be given whole milk and dairy products because they may not get the calories or essential vitamins they need from lower fat alternatives.
- After the age of 2, children can gradually move to semi-skimmed milk as a drink, as long as they're eating a varied and balanced diet and growing well.
- Children between the ages of 1 and 3 need to have around 350mg of calcium a day. About 300ml of milk (just over half a pint) would provide this.
- In 2017/2018, 16% of children aged 2-15 consumed non-diet soft drinks daily, down from 35% in 2015/2016 and 38-39% in the years 2008/2009 to 2013/2014.
- Evidence review carried out by Food Standards Scotland identified other options for children who do not drink animal milk. This was carried out due to the desire in the Welfare Foods Consultation to have an alternative drink to cow's milk.

Disability

We acknowledge that food allergy/intolerances are not a disability but more of a long term health condition and is reflected as such but positioned under the disability heading of this EQIA

Key facts:

- Most food allergies affect younger children under the age of three. It's estimated around 1 in every 14 children of this age has at least one food allergy.
- In children, the foods that most commonly cause an allergic reaction are milk, eggs, peanuts, tree nuts, fish and shellfish
- Cows' milk allergy (CMA), also called cows' milk protein allergy, is one of the most common childhood allergies. It is estimated to affect around 7% of babies under 1, though most children grow out of it by the age of 5.
- Although the number of registrations for funded ELC for children assessed or declared disabled has gone down slightly between 2017 and 2018 (from 1130 to 1050), the percentage of children declared as disabled has remained broadly stable; it was 1.2% for 2017 and 1.1% for 2018.

Sex

Key facts:

- There is currently no information currently available on the sex of children accessing ELC. The high general uptake of 3 and 4 year old places suggests that take up is likely to be high for both girls and boys.
- In 2018, 15% of children aged 2-15 met the five-a-day recommendation for consumption of fruit and vegetables. Boys and girls were equally likely to meet the recommendations, with 15% of girls and 16% of boys having done so.
- Mean consumption (of fruit and vegetable) in 2018 was 2.8 portions for both boys and girls. Mean consumption for all children aged 2-15 has been between 2.6 portions and 2.9 portions a day for all years since 2008.
- The proportion of children consuming no fruit and vegetables has remained fairly constant since 2008. In 2018, 10% of children aged 2-15 (11% of boys and 9% of girls) consumed no fruit or vegetables on a typical day.
- In 2017/2018, 58% of girls and 53% of boys ages 2-15 drank skimmed or semi-skimmed milk.

Pregnancy and Maternity

Pregnancy and maternity is not deemed to be directly correlated to this policy.

Gender reassignment

Gender reassignment is not deemed to be directly correlated to this policy.

Sexual orientation

Sexual orientation is not deemed to be directly correlated to this policy.

Race

Key facts:

- No information is currently collected on race of children accessing funded ELC.
- In the UK, lactose intolerance is more common in people of Asian or African-Caribbean descent.
- There was a significant association between fruit and vegetable consumption and ethnic group. White British respondents were the least likely to eat 5-a day (21%). Conversely, White Other (40%, 4.6 mean portions), Pakistani (48%, 4.8 mean portions), Chinese (49%, 5.2 mean portions), Asian Other (51%, 5.0 mean portions) and Other ethnic groups (46%, 5.0 mean portions) were all significantly higher than the national average (22%, 3.2 mean portions) in terms of their consumption of 5 or more portions per day.

Religion or Belief

- The number of vegans in Great Britain quadrupled between 2014 and 2019. In 2019 there were 600,000 vegans, or 1.16% of the population; 276,000 (0.46%) in 2016; and 150,000 (0.25%) in 2014.
- Data from the 2011 census shows that the five most common religious affiliations are Christian (59.3%), Muslim (4.8%), Hindu (1.5%), Sikh (0.8%) and Jewish (0.5%).
- The predominant religion in the UK is Christianity. Generally there are no dietary restrictions. Individuals may choose to forgo alcohol and may choose whether or not to eat meat. During Lent Christians may stop eating certain foods.
- Muslims eat halal (lawful) foods, which include fruit, vegetables and eggs. Any meat and meat products they consume must be from a halal slaughtered animal. Milk and dairy foods are halal, cheese may be halal depending on ingredients.
- The majority of Hindus are lacto-vegetarian (avoiding meat and eggs), although some may eat lamb, chicken or fish. Some Hindus do not eat ghee, milk, onions, eggs, coconut, garlic, domestic fowl or salted pork.
- Some Sikhs are vegetarian.
- Jewish food must be suitable and pure. Kosher does not restrict foods from any particular food group.

Marriage and Civil Partnership

The Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details.

RECOMMENDATION AND CONCLUSION

The Scottish Milk and Healthy Snack Scheme will likely have a positive impact on a wide range of children with protected characteristics. This policy will provide an opportunity to enhance a child or young person's wellbeing by learning about good nutrition, a healthy diet and positive eating habits which will encourage good practice so it can be taken forward into different times in their lives. Similarly, a balanced diet and good feeding habits are essential for the healthy growth and development of children during the early years of life. While this Scheme is universal, a key driver of

this policy is around prevention and early intervention, and we would expect to see positive impacts for some of the most vulnerable children in Scotland attending registered day care and childminder settings in Scotland.

Increasing the eligibility age of the new Scheme to include all preschool children will enable a larger number of children to benefit from this Scheme. Increasing the available animal milks (goat and sheep) and including unsweetened calcium enriched non-dairy alternative drinks and the offer of a healthy snack item (a portion of fresh fruit or vegetables) within the Scheme will provide a greater choice to those children who do not drink cow's milk for medical, ethical or religious reasons. While non-dairy alternative drinks are not nutritionally equivalent to animal milks, they nonetheless provide more nutritional advantage than no alternative.

As a result of this EQIA we have not identified any specific negative impacts based on the equalities assessment.

We did receive one piece of feedback highlighting that should the Scheme not be administered or funded properly, this could have a negative impact on the provision of milk and healthy snack to children. However, these comments did not pick up any specific equalities issues, and the issues raised around administration and delivery are reflected in the Business and Regulatory Impact Assessment.

We also received feedback querying the impact of the Scheme for provision of milk for children under 5 in schools. Again, these did not raise any specific equalities issues, so have been picked up in the Business and Regulatory Impact Assessment.

We have engaged with relevant stakeholders throughout this policy making process and will continue to do so to make sure the policy is well informed and that any equality issues that may arise will be dealt with in a timely and appropriate manner. The EQIA has been at the forefront when developing this policy and has allowed us to identify and engage with key groups to help make a meaningful impact on helping to improve the outcomes for children.

There are no new areas identified in this EQIA at this point which have not already been considered in delivering this policy. As the EQIA has not identified any new policy areas to address, the cost implications are not expected to differ from what was previously envisaged.

MONITORING AND REVIEW

We intend to use existing platforms to evaluate the performance of the Scheme. We will include questions within the current Care Inspectorate Annual Returns which all care settings in Scotland are required to submit at the end of each year. This will help us identify any underlying issues that may need to be addressed, as well as assessing the uptake of the new Scheme. Local Authorities will carry out an effective monitoring procedure and report back to Scottish Ministers accordingly. Engagement with stakeholders has made clear the importance of ensuring that settings in receipt of funding for this Scheme must fulfil the obligations of delivering a milk and healthy snack.

AUTHORISATION

I confirm that the impact of the Scottish Milk and Healthy Snack Scheme has been sufficiently assessed against the needs of the equality duty:

Mairi Macpherson Deputy Director Health and Wellbeing Division	Date this version authorised: 19 February 2021
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