



## Equalities Impact Assessment for the scheme to provide access to period products in education organisations in England

In the 2019 Spring Statement, the Government announced a scheme to fund access to free period products in secondary schools and colleges across England, for all learners that need them.

Following feedback from teachers and stakeholders, on 16<sup>th</sup> April 2019 the scheme was extended to include primary schools across England.

The Department worked with a range of stakeholders, including schools and colleges (referred to jointly as ‘organisations throughout) to understand what model of scheme would work best. Following this, the Department procured a contract with a national supplier, from whom organisations can order period products and have them delivered as required.

Organisations are best placed to decide how to make these products available to girls and women<sup>1</sup> within their place of study. The Department has published guidance which presents a number of examples, case studies and insights from learners, stakeholders and teachers regarding how to distribute products on-site.

The scheme and the associated guidance were rolled out nationally on 20<sup>th</sup> January 2020.

### The Public Sector Equality Duty

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 (EA) requires the Secretary of State to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the EA;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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<sup>1</sup> Throughout this EIA, a reference to “girls and women” or to “female pupils and students” also includes a reference to pupils and students who menstruate (or may later start menstruating) who may not identify as female but, instead, identify as transgender or non-binary.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of the persons who do not share it; and
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

The relevant protected characteristics are:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

In developing this scheme, we have taken into account the UK's obligations under the UN Convention on the Rights of Persons with Disabilities ("CRPD"); and, in particular, article 7 (children with disabilities).

Further, we have taken into account the UK's obligations under the UN Convention on the Rights of the Child ("UNCRC") and, in particular, article 3 (best interests of the child); article 23 (rights of disabled children) and article 28 (access to education).

## **Equality impacts**

Our overall assessment of the impact of our proposals is that we expect girls and women who menstruate to benefit from the availability of period products in organisations more than those who do not menstruate, including boys and men.

We expect girls and women who may be currently unable to access these products due to affordability or stigma (including where influenced by race, ethnicity and/ or religion) to benefit in particular from the provision of period products in organisations. Given existing cultural sensitivities around internal products such as tampons, a range of products are available for organisations to select from.

Access to free period products has previously been found to reduce concerns about having periods, and reduce the chance of being ‘caught short’<sup>2</sup>, at a time when girls and women menstruating may have irregular cycles<sup>3</sup>.

Although research and evaluation activity concerning period poverty and access to period products<sup>4</sup> identifies that a minority of girls and women were unable to access period products due to affordability<sup>4</sup>, those who are unable to access these products were more likely to be disadvantaged (eligible for Free School Meals)<sup>5</sup>. Those eligible for FSM may therefore benefit more, but not to the detriment of others.

Those with protected characteristics as outlined above and who are currently unable to access period products may be more likely to participate in education, in PE and physical activities with the provision of free period products, advancing equality of opportunity and fostering good relations between those who share a relevant protected characteristic and those who do not.

We do not have evidence to suggest other pupils and students without these protected characteristics will be negatively impacted by the provision of free period products in organisations.

## Methods

Our assessment is based on a consideration of the potential impacts of the policy on those with and without relevant protected characteristics informed by departmental and third-party data concerning the provision of period products in school, period poverty and attitudes to period products and menstruation<sup>6</sup>.

However, there is limited data available to undertake this exercise. For instance, the Department only reported pupil and student perspectives on period products for a limited range of protected characteristics<sup>7</sup>. Additionally, issues concerning period poverty and the use of period products are sensitive, and further work is required to ensure this data is collected and reported in a consistent and accurate manner.

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<sup>2</sup> [Access to sanitary products Aberdeen pilot: evaluation report](#), Scottish Government, (2018).

<sup>3</sup> [Irregular periods](#), NHS (2018a).

<sup>4</sup> [Scottish Government \(2018\); Omnibus survey of pupils and their parents or carers: wave 5](#), Department for Education, (2019). <sup>4</sup> In the 2018 *Omnibus survey of pupils and their parents or carers* (DfE, 2018: p.82), 6% of female school pupils reported they were unable to access period products in the last six months due to cost. In the Scottish Government’s evaluation of the Aberdeen pilot (2018: p.47), 8 pupils out of the 77 surveyed stated that they had been unable to purchase period products. Twenty-eight pupils stated they had never not been able to purchase period products and over half (41 pupils) did not answer the question.

<sup>5</sup> Female pupils eligible for FSM were more likely to report they were unable to access period products due to cost over the last 12 months (14%) compared to those not eligible for FSM (5%) (DfE, 2018: p.83).

<sup>6</sup> Data sources outlined in previous and subsequent footnotes.

<sup>7</sup> See DfE (2018: pp.78-85). In relation to protected characteristics, reporting on availability and affordability of period products is disaggregated by Key Stage and selected Year groups (which could be considered a proxy for age), ethnicity and special educational needs only.

Overall the lack of both departmental and third-party data has constrained our ability to make accurate predictions about the impact of the policy on protected characteristics. Preliminary evidence suggests the policy would be advantageous for all pupils and students who require period products<sup>8</sup> without impacting on those who do not. Further research and evaluation, undertaken as we develop and implement the policy, will be used to inform our understanding of how the policy affects those with and without protected characteristics.

The following paragraphs outline our assessment in relation to each protected characteristic.

## Age

The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of benefits, facilities or services to pupils in schools<sup>9,10</sup>.

The scheme will fund provision for girls in mandatory education, those with a duty to participate due to their age, and women aged 19-25 with an Education, Health and Care (EHC) Plan (since these students are funded via 16-19 funding rules and generally treated the same as the 16-19 age group, reflecting the likelihood that they will take longer to progress through their further education study programme).

## Sex

As the express purpose of the provision of period products is to benefit girls and women who menstruate, we do not consider this to be detrimental to those who do not menstruate, or to boys and men. The language changes in the updated guidance may also have a positive impact on advancing equality of opportunity for girls and women who do not have the protected characteristic of gender reassignment.

## Gender reassignment, pregnancy and sexual orientation

The Department does not consider there to be any negative impact on these protected characteristics in respect of the provision of free period products. The funding provided is based on the number of female students and pupils as provided in census data, however there may be a small number of individuals who menstruate but identify as male or as non-binary.

Data on the number of individuals who menstruate but identify as male or non-binary currently is not collected.

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<sup>8</sup> Scottish Government (2018).

<sup>9</sup> Schedule 18 of the Equalities Act 2010. See also the Department for Education, 'Equality Act 2010: advice for schools', June 2014.

<sup>10</sup> [Census topic research: December 2017](#), Office for National Statistics, (2017).

The guidance makes clear that any learners who menstruate, no matter how their gender is recorded on the census, should be offered support through the scheme should they need it.

The guidance also encourages organisations to provide products in a way that does not prejudice against assumed gender. The final decision about how to distribute products is the organisations, and will be based on knowledge of their pupils or students.

In this way, we expect the scheme to be beneficial for those individuals who menstruate but who identify as transgender or as non-binary in the same ways as set out in paragraph 23 above.

The language changes to the guidance could have a negative impact on the “fostering good relations” element of PSED in respect of individuals who menstruate but identify as male or non-binary. However, this needs to be balanced against the positive impact the changes may have overall, and any negative impact has been mitigated by making clear that the scheme applies to all those who menstruate (see ‘Sex’ above).

## Religion

Government funded period products are available to all state-maintained schools and 16-19 education organisations in England. This includes state-maintained primary and secondary schools, including academies and free schools, state-maintained middle/all through schools, general hospital schools, special schools, academies and free schools, alternative provision organisations, including pupil referral units and all university technical colleges and studio schools.

The term ‘16-19 organisations’ in this instance includes schools, academies, further education (FE) colleges, sixth-form colleges, training providers, specialist independent providers and local authorities.

Data<sup>11</sup> shows that certain religious groups (e.g. Muslim, Hindu and Sikh) have a greater likelihood of experiencing poverty and are therefore more likely to benefit from free period products.

In addition, a scoping study in the UK has illustrated that conservative attitudes among some groups that practice a variety of religions (e.g. Christianity, Hinduism, Islam, Judaism) can make it difficult for these girls and women to access period products, wider information on their use and menstruation<sup>12</sup>. Therefore, the provision of free period products may be more beneficial for this group.

Making period products available in all state schools, alongside the introduction of compulsory [‘Relationships Education, Relationships and Sex Education and Health](#)

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<sup>11</sup> [Review of the relationship between religion and poverty](#), Nuffield College, Oxford, (2015).

<sup>12</sup> [Break the barriers: girls’ experiences of menstruation in the UK](#), Plan International, (2018: pp.39-40).

[Education](#)<sup>13</sup> from September 2020. These subjects will support girls and women to make an informed choice about their menstrual wellbeing, and all pupils will be taught the facts about the menstrual cycle.

## Race (including ethnicity)

Certain ethnic groups are slightly more likely than white British households to have low weekly incomes. For instance, 35% of Black households and 33% of Mixed households have a weekly income of less than £400.<sup>14</sup>

Additionally, the highest rates of persistent low income are found among people living in Asian and Black households.<sup>15</sup> Girls and women from these households may be more likely to access and benefit from the scheme, meaning that they are protected throughout their period and can focus on their education.

Religious and cultural beliefs concerning menstruation and the use of period products<sup>16</sup> can restrict access to certain types of period products, as parents or carers may object to their use, and therefore girls and women may be unfamiliar with their use.

The guidance provided to organisations outlines the types of products available, and points to consider when selecting products. As above, the final decision about how to distribute products has been left to each individual organisation, based on knowledge of their pupils or students, including any consideration of cultural and religious sensitivities.

## Disability

Several medical conditions are linked with both irregular and heavier periods<sup>17</sup> meaning that girls and women may more frequently miss out on education or feel anxious or worried about attending<sup>16</sup>. The availability of free period products may therefore benefit these girls and women more than, but not at a detriment to, their peers.

## Next steps

The Department for Education will continue to keep under review the impact of funding access to period products in organisations in line with the public sector equality duty.

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<sup>13</sup> [Relationships Education, Relationships and Sex Education, and Health Education in England: Government consultation response](#), Department for Education, (2019).

<sup>14</sup> [Ethnicity facts and figures: Work, pay and benefits, Household income](#), Department for Work and Pensions, (2019).

<sup>15</sup> [Ethnicity facts and figures: Work, pay and benefits, Persistent low income](#), Department for Work and Pensions, (2018).<sup>16</sup>

E.g. [Vaginal douching and racial/ethnic disparities in phthalates exposures among reproductive-aged women](#), Branch et al., *Environmental Health* 14(57), (2015); Plan International (2018); [Menstrual Hygiene Learning Brief](#), Plan International, (n.d.).

<sup>17</sup> NHS (2018a); [Heavy periods](#), NHS, (2018b).

<sup>16</sup> Scottish Government (2018).

We will ensure that future policy and delivery in relation to this is developed and implemented in a way that ensures that, as far as possible, any negative impact on those with protected characteristics is mitigated and any potential positive impact is maximised.

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