



Department  
for Education

# **Eligibility for the free early years entitlement for two-year-olds under Universal Credit: Equality analysis**

**December 2017**

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## The public sector equality duty

1. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular 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 persons who do not share it
    - 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
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - i. tackle prejudice
    - ii. promote understanding
2. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:
  - age
  - disability
  - gender reassignment
  - pregnancy and maternity
  - race (including ethnicity)
  - religion or belief
  - sex
  - sexual orientation

## Proposals in the ‘Eligibility for the free early years entitlement for two-year-olds under Universal Credit’ consultation

3. This equalities analysis accompanies the ‘Eligibility for the free early years entitlement for two-year-olds under Universal Credit’ consultation and assesses its impact against the Equality Act 2010 duties.
4. The ‘Eligibility for the free early years entitlement for two-year-olds under Universal Credit’ consultation invites views on the proposed approach to setting eligibility for the free early education entitlement under Universal Credit. The proposed approach would see an increase in the size of the eligible cohort once Universal Credit is fully rolled out, compared to now.
5. The current eligibility criteria for the free early education entitlement for two-year-olds mean that families both in and out of work are eligible for a free place if they receive certain benefits, or if they receive tax credits and their income falls below a certain level. The introduction of Universal Credit – which will replace the legacy benefit system – means we need to set similar eligibility criteria for families in receipt of Universal Credit, to ensure that the early years offer continues to be targeted at those children who can most benefit from it.
6. The consultation seeks views on the level at which to set a net earned income threshold under Universal Credit. This is consistent with the wider approach to determining eligibility to passported benefits under Universal Credit.
7. The consultation document explains:
  - The general principles we have taken into account in considering changes to the eligibility criteria for the free early education entitlement for two-year-olds in light of the introduction of Universal Credit. Our intention is that these entitlements reach less advantaged households in a way that is consistent, fair and simple.
  - Our plans for communicating these changes to parents, early years providers and local authorities, and the steps we will take to support their implementation.
8. We do not intend to change the current eligibility criteria for children whose parents receive support provided under Part 6 of the Immigration and Asylum Act 1999 or the guarantee element of State Pension Credit. These are not to be replaced by Universal Credit. We also have no plans to amend the non-economic criteria.
9. The free early education entitlement for two-year-olds applies to England only.

## Consideration of the protected characteristics identified in the Equality Act 2010

10. This document provides an assessment, pursuant to the public sector equality duty, of the potential effect of the proposals set out in the 'Eligibility for the free early years entitlement for two-year-olds under Universal Credit' consultation.
11. In 2012 the Government consulted on widening the eligibility criteria for the two-year-old offer and at that time proposed introducing an income threshold under Universal Credit to determine eligibility for the two-year-old entitlement. In response to that consultation the Government committed to confirm the benefits and earnings criteria for families on Universal Credit at a later date. In 2013, as a temporary measure to ensure that no family lost their entitlement to a two-year-old place as a result of moving from legacy benefits to Universal Credit in the early stages of rollout (for example, those in pilot areas), all families in receipt of Universal Credit were entitled to a free place pending the introduction of an income threshold. Now that the national rollout of Universal Credit is accelerating, we are bringing forward as planned proposals to replace this temporary measure with clear eligibility criteria under Universal Credit.
12. It is proposed to introduce a net earnings threshold of £15,400 a year before benefits are taken into account (equivalent to between £24,000 and £32,000 in total household income per year) for families to benefit from the two-year-old entitlement. We estimate that under our proposals around 8,000 more children would take up the entitlement by the time Universal Credit is fully rolled out, compared to the number receiving the entitlement at present.
13. This document assesses the impact of these proposals on the eight protected characteristics identified in the Equality Act 2010. The assessment is based on a comparison between these proposals and what would be the position in the absence of Universal Credit (based on legacy benefits).
14. From this initial assessment, the Department for Education would expect children from certain ethnic groups to benefit more than others from an increase in the size of the two-year-old entitlement cohort (outlined in more detail below). We do not have evidence to suggest there will be a negative impact on individuals who share the other protected characteristics.

### Age

15. Our proposed net earnings threshold of £15,400 will result in more two-year-olds benefitting from high quality early education. Findings from the Department for Education's key longitudinal study, the Study of Early Education and Development (SEED), shows that early education between two and three years of age can have a

positive impact on a child's development. <sup>1</sup> All three- and four-year olds are already entitled to the universal offer of 15 hours per week (570 hours per year) of free early education.

## Sex

16. The Department for Education does not consider there to be any negative impact on the protected characteristic of sex. Under the new criteria, we would expect the number of children (both male and female) who are eligible to increase. As we propose to ensure that children who are in receipt of the two-year-old offer at the point of introducing the threshold do not lose their entitlement to an early years place, there should be no negative impact on this protected characteristic.

## Gender reassignment, pregnancy and sexual orientation

17. The Department for Education does not believe there to be any negative impact from these proposals on these protected characteristics.

## Religion

18. Our proposal on the two-year-old entitlement threshold will be applied to all children and early years providers consistently, including faith schools. Data shows that certain religious groups (e.g Muslim, Hindu and Sikh) are more likely to experience poverty.<sup>2</sup> However, our proposed eligible cohort is considerably larger than those in poverty. This suggests that children from low-income families from those religious groups will continue to benefit from the offer because their families' earnings will still fall below our proposed income threshold.

## Race (including ethnicity)

19. DWP Households Below Average Income (HBAI) statistics show that adults in families where the head is Bangladeshi, Pakistani, Black/African/Caribbean/Black British or from other ethnic groups (except White and Mixed) are more likely to be in both the bottom 20% and the bottom 40% of households for net equivalised disposable household income.<sup>3</sup> We would expect children from these ethnic groups to

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627098/SEED\\_ECEC\\_impact\\_at\\_age\\_3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/627098/SEED_ECEC_impact_at_age_3.pdf)

<sup>2</sup> <http://csi.nuff.ox.ac.uk/wp-content/uploads/2015/03/religion-and-poverty-working-paper.pdf>

<sup>3</sup> <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201516>

be more likely to be eligible for the two-year-old entitlement than those from other ethnic groups if we implement our proposal.

## **Disability**

20. Children are eligible for a free two-year-old place if they are entitled to Disability Living Allowance or have a current statement of special education needs or an education, health and care plan. These eligibility criteria are not affected by these proposals. For this reason the Department for Education does not consider there to be any impact on the protected characteristic of disability.

## Next steps

21. The Department for Education would welcome further views and evidence on the equality impact of the proposals, which will inform decision-making arising from this consultation.
22. The Department for Education will review this equalities impact assessment in the light of responses received to the consultation and publish any updates to it through the consultation process. The Department for Education will continue to review the impact of the proposals in line with the Public Sector Equality Duty throughout the consultation process.





Department  
for Education

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