POLICY NOTE

THE PERIOD PRODUCTS IN SCHOOLS (SCOTLAND) REGULATIONS 2020

SSI 2020/183

The above instrument was made in exercise of the powers conferred by sections 2 and 74(1) of the Education (Scotland) Act 1980. The instrument is subject to negative procedure.

Purpose of the Instrument
To place a requirement on education authorities and managers of grant-aided schools to provide period products to pupils who need to use them.

Policy Objectives

Since August 2018, the Scottish Government has committed to make funding available on an annual basis to education authorities in Scotland to provide access to free period products in primary, secondary and special schools and hostels under their management to support equality, dignity and rights for those who menstruate, and to ensure that lack of access to products does not impact on an individual's ability to fully participate in education at all levels.

Practical delivery of this commitment has been devolved to education authorities and one grant-aided school in line with a set of Guiding Principles that were developed by a Working Group. These principles are attached at Annex A. The Regulations will extend this provision to pupils at all grant-aided schools, and delivery will be underpinned by the same Guiding Principles.

These Regulations embed this approach in legislation by placing a duty on education authorities and managers of grant-aided schools to make period products available to pupils who need to use them. The duty placed on education authorities applies in relation to pupils who are in attendance at primary, secondary and special schools and in hostels managed by education authorities (regulation 3). The duty placed on managers of grant-aided schools, which is imposed as a condition of grant, applies in relation to pupils who attend those schools (regulation 4). The expectation is that formalising the duty through legislation will not change the delivery on the ground by education authorities which should remain in line with the Guiding Principles and which will also be relevant to delivery by grant-aided schools. The Regulations allow flexibility to determine the types of products that are provided, in line with current delivery.

To enable the continued provision of free period products to pupils, the Scottish Government has agreed to transfer baseline funding to education authorities, subject to the usual Scottish budget process. Funding for grant-aided schools will be disbursed by annual grants.

Consultation

In developing the current voluntary policy, the Scottish Government established a Working Group that included representation from the Convention of Scottish Local Authorities (COSLA). COSLA in turn agreed the Guiding Principles with education authorities.

In addition there has been significant consultation on the Period Products (Free Provision) (Scotland) Bill which included mandating education authorities to provide period products for free in schools. COSLA are in support of the Bill.

Although the consensus from earlier consultation is that "locking-in" existing good practice in law is favoured by stakeholders, we have sought the views of COSLA and grant-aided schools on the policy behind the Regulations before they were finalised and laid.

Impact Assessments
A Business and Regulatory Impact Assessment, a Children's Rights and Wellbeing Impact Assessment, an Equality Impact Assessment, and a Strategic Environmental Assessment pre-screening notification have been completed on the voluntary policy. These assessments remain valid for the Regulations and can be found at:

Business and Regulatory Impact Assessment - https://www.gov.scot/publications/access-free-sanitary-products-programme-government-commitment-business-regulatory-impact/
Children's Rights and Wellbeing Impact Assessment - https://www.gov.scot/publications/access-free-sanitary-products-those-school-college-university-child-rights/
Equality Impact Assessment - https://www.gov.scot/publications/access-free-sanitary-products-equality-impact-assessment/
Strategic Environmental Assessment - https://www.gov.scot/publications/access-free-sanitary-products-strategic-environmental-assessment-pre-screening-notification/

It is not considered that the policy will be discriminatory on the basis of age, disability, race, religion or belief, sex, sexual orientation or gender reassignment. There is no negative impact on children's rights and wellbeing and we do not consider there to be any impacts on privacy or the environment.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached at the URL above. The impact of this policy on business is the potential for a small decrease in trade for retailers and a potential increase in trade for sanitary product manufacturers and providers of washroom services.

The cost to the Scottish Government to date has been £2.086 million per annum. The Scottish Government has agreed to transfer baseline funding to education authorities subject to the usual Scottish budget process. Funding for grant-aided schools will be disbursed by annual grants.

Scottish Government
Directorate for Housing and Social Justice

16 June 2020

ANNEX A

Access to Free Period Products in Schools - Guiding Principles

The delivery model should be based on:

- **Protecting students' dignity**, avoiding anxiety, embarrassment and stigma
- Making a range of products and different qualities available, giving students **choice** about the products they want to use;
- A response that is **reflective of students' views and experiences**;
- An efficient and dignified approach which demonstrates **value for money**;
- An **offer** for all eligible students throughout the year regardless of whether it is term time or holidays
- Ensuring period products are easily accessible to **meet individual needs**;
- Individuals being able to get sufficient products to **meet their needs**;
- **Gender equality**, ensuring anyone who menstruates can access products, including transgender men/non-binary individuals, and that language is gender neutral.
- **Awareness raising and education** to both promote the 'offer' and change cultural norms