

LMU OC 28/21 - REQUEST TO DfE FROM THE EDUCATION COMMITTEE

As you will be aware, the Committee for Education is leading the Committee Stage of the Period Products (Free Provision) Bill.

Given the short period available for this, the Committee has agreed to ask for written responses from the main Departments specified and made subject to duties in the Bill.

Clause 1 Provision of free period products: Department scheme

What is the Department for Economy's position on universal provision (by DoH) as described in Clause 1?

RESPONSE:

The Department for the Economy (DfE) agrees in principle that if the Bill were to be passed that universal provision of free period products should be the responsibility of one Department. However, given that the aim of the Bill is to provide free period products for all and thereby address a broader, societal issue of period poverty, the Committee may wish to examine whether such a universal scheme would be better placed as an Executive policy and therefore be undertaken by The Executive Office (TEO), rather than the Department of Health.

As currently drafted, the Bill is not clear on the following issues:

- (i) Who will be responsible for funding the provision of free period products?
- (ii) Will it be a NI Executive (i.e. TEO) budget responsibility?
- (iii) How will this be managed?
- (iv) How will public service bodies, and other bodies listed in the Bill, procure/receive the products?

In relation to the duty to consult, DfE's position is that, should the Bill progress, officials within the lead Department (currently DoH) should liaise with other Departments to ensure all relevant bodies who will be covered by the legislation are given the opportunity to provide comment.

DfE would wish to seek clarity regarding Clause 1(6) and 1(7):

“(6) The Department must publish information about the locations where free period products are obtainable in such ways as it thinks appropriate to bring that information to the attention of persons who need to use period products or may need to use period products in the future.

(7) The Department must do so within one year of establishing the arrangements under subsection (1) and on at least an annual basis thereafter.”

If all locations were to be listed, this would place an unnecessary obligation/burden on the lead Department. For both Higher Education (HE) and Further Education (FE), this would mean that all campuses and locations should be listed and provided to the lead Department, and would require a centralised upkeep of records by the lead Department that would need to be amended each time product locations were to change at a campus. Additionally, the requirement of an annual review places an unnecessary burden on the lead Department.

A more streamlined approach might be for the lead Department to publish high-level information, such as listing the four Higher Education Institutions (HEIs) and the six Further Education Colleges (FECs), and link this to the individual institution websites where users can find more specific information about the scheme and how it operates at that location.

Having sought to make some provision in this area already, the Department may also wish to comment on these factors of the proposal and whether there is anything else in its experience to be taken into account.

RESPONSE:

The delivery model of the Period Poverty Pilot Programme introduced by DfE in the HEIs is based on the following key principles:

- **Protecting students’ dignity**, avoiding anxiety, embarrassment and stigma
- Making a variety of products available, and for different flows, 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**
- Ensuring sanitary products are easily accessible to **meet individual needs**
- Individuals being able to get sufficient products to **meet their needs**

DfE's experience in devising the HE pilot programme is that it is essential that user 'buy-in' is secured. Officials worked closely with Students' Union representatives and staff contacts within the HEIs to ensure a suitable scheme was developed.

While the pilot is still ongoing and not due to be reviewed until March/April 2022, early feedback indicates that the success of such a scheme will be dependent on the following:

- Good choice of product and for various flows;
- Easy accessibility and in multiple locations;
- Marketing of the service;
- Awareness-raising campaigns – reducing the stigma can only be done by talking openly about periods.
- Evidence that the scheme is not being abused.

DfE officials also sit on the UK Cross-Nations Period Poverty Working Group, alongside colleagues from the Department of Education, DoH and the Department for the Communities, which includes government representatives from the four UK jurisdictions. As such, the Department is aware that similar schemes stipulate that eco-friendly products must be made available. If such a scheme is rolled out in NI, consideration should be given as to whether NI should also stipulate that only eco-friendly are covered in order to meet other Executive obligations in relation to single-use plastic and environmental factors.

Clause 2: Provision of free period products: public service bodies

Please give the Department for Economy's response to the Clause 2 duty, in particular regarding the specifying of FE premises.

RESPONSE:

The making of regulations by each responsible Department could be cumbersome and may run the risk of an unsynchronised approach, thereby raising issues in relation to equality of opportunity. A more streamlined approach could be for the lead Department (whether that be DoH or TEO) to make one set of regulations which lists the specified public service bodies, and retain responsibility for ensuring this is accurate and up to date. This will also ensure consistency of approach across all bodies.

In addition, through the Further Education (Northern Ireland) Order 1997 (dependant on funding provision), DfE can likely already ensure that FECs provide products without the need for new legislation.

Does the Department currently provide any free period products to students and staff in the FE sector?

RESPONSE:

The Department currently provides no specific funding to the FE sector to provide free period products. However, the six FECs in Northern Ireland currently all have initiatives and partnerships in place, many of which have been available for a number of years, to help ensure students have access to free sanitary products within their campuses. These products are supplied from a range of sources including the colleges themselves, student unions, Health and Social Care Trusts, charities, and partnerships with local chemists and supermarkets.

In September 2021, DfE introduced a one-year pilot programme in the HE sector which sees period products being made available free of charge to all HE students who require them.

What is the scale and cost of existing or pilot DfE period product provision initiatives?

(Please be as precise as possible in relation to provision, footfall and uptake. If you have any information in respect of the impact on attendance in FE of period poverty, please also provide this in your response.)

RESPONSE:

It is important to note that the Period Poverty Pilot in HE is being used to gather evidence of, and learning about, period poverty within the HEIs, as there was previously no such HE-specific evidence/data available. By working closely with the HEIs and the Students' Unions, the Department will use the evidence and learning gathered to propose a suitable way forward.

DfE HE pilot scheme costs (apportioned on a per capita basis)

HE Institution	Funding (£)
Ulster University	£2,600
Queen's University Belfast	£2,320
Stranmillis University College	£120
St. Mary's University College	£100
Total	£5,140

Early indications show that these figures may need to be adjusted going forward, as uptake and usage of product varies across the HEIs.

Currently, there is little indication of uniformity in relation to the use and uptake of the products. Reported figures to date show varied usage across the HEIs ranging from 12% of the total funded products in one institution, to 98% in another (although that institution had a much lower budget allocation). It is anticipated that greater information and clarity around demand and usage will emerge as the pilot progresses into its latter stages.

In relation to the FE sector, there are currently no available costings associated with existing provisions in FECs as they are provided from a range of sources including the colleges themselves, student unions, Health and Social Care Trusts, charities, and partnerships with local chemists and supermarkets. As such, colleges were not required to provide usage figures or costs.

The Department will, however, soon be introducing a small pilot scheme in the FECs to run alongside and bolster these existing initiatives until the end of the academic year. The Department will provide funding through a payment to each FEC of £2,000 to specifically purchase period products for the remainder of the academic year 2021/22, with the aim to quantify trends and demand for free sanitary products for students in FE. This will allow us to make appropriate recommendations for improvement and provide a robust evidence base for any potential formal future policy that would cover the provision of period products in FE.

How would this new duty compare to existing arrangements?

RESPONSE:

The new duty differs from the HE pilot programme arrangements in that the pilot is not set in legislation. In addition, HEIs are autonomous bodies and, as such, the Department currently does not have the power to place such a duty upon them. Legal advice would need to be sought on whether the inclusion of HEIs within the Bill falls within the *vires* of the Executive.

While the overall aim of the HE pilot is to provide free period products, no stipulation has been made that accessibility is limited to students only. As such, anyone on HEI premises has access to the products. Existing arrangements in the FE sector are provided for FE student footfall only.

Please advise not only the Department's view on the proposed duty, but on the reasonableness of the consultation arrangements and timeframes proposed.

RESPONSE:

As the work of the pilot programme will be invaluable regarding the need to consult, DfE do not foresee any problems regarding these arrangements for HE. However, the Department would refer to the earlier point that regulations which specify the relevant public service bodies would be more appropriately maintained and managed by one responsible department (i.e. the responsible lead Department), with other Departments inputting to the exercise as necessary.

Information should be available in July 2022 in respect of the FE pilot which will seek to quantify trends and demand for free sanitary products for students in FE, so as to make appropriate recommendations for improvement and provide a robust evidence base for a formal future policy to ensure the continued provision of period products in FE. The pilot will provide useful groundwork to aid implementation within the FE sector.

Please give the Department's view on the reasonableness of the phased basis proposed for the exercise of the regulation-making powers in Clause 2.

RESPONSE:

It would need to be affirmed that introducing free period products across the board on a phased basis does not give rise to equality issues. Additionally, should the Bill progress, then clarification would be required on what is meant by 'a phased approach'.

In addition, the term "provision only for use while on those premises" would appear to be by definition somewhat flawed.

Clause 3: Arrangements under sections 1 and 2: particular requirements

Is it the Department's view that the principles set out in clause 3 – easy access, dignity, choice and publicised arrangements - are relevant, proportionate and comprehensive principles to underpin the implementation of this scheme?

RESPONSE:

The pilot programme DfE has developed with the HE sector uses these principles, along with "reflective of students' views and experiences" and "value for money".

Does the Department have any other comments on clause 3?

RESPONSE:

In relation to "publicising availability", the DfE HE pilot programme has shown that marketing of the scheme, in terms of the availability of the products, is vital to its success. Students' Unions within the HEIs each undertook marketing campaigns using a variety of methods (such as displaying posters, use of social media) in order to raise

awareness of the pilot programme and encourage uptake. Additionally, such awareness raising initiatives help to reduce the stigma surrounding periods.

Committee members may wish to refer to the approach taken in Scotland, whereby an app has been developed to show users all locations for accessing free products.

DfE would be of the opinion that the terms “reasonable choice” and “reasonably easily” in clause 3(1) should be better defined as they would appear to be open to interpretation, particularly with a variety of different public service bodies implementing the scheme.

Clause 3(2) as currently drafted states:

“Arrangements established and maintained under section 2(3) must provide for period products to be obtainable at all times when the specified public service body’s premises are in use, whether or not in use by the public.”

Clarity would be required in relation to FECs and HEIs – does “public” in this regard mean students, or something else? The stipulation “whether or not in use by the public” may be potentially confusing, and would appear to be superfluous in this context.

Clause 4: Guidance

What is the Department’s view if any of the clause 4 provision in relation to guidance?

RESPONSE:

The provision of guidance is an important aspect of any scheme and we agree that each Department should work with and consult the relevant public service bodies to which that guidance pertains in its development. However, DfE believes that should the Bill progress, the overall responsible Department (currently DoH), should provide Departments with a framework for the guidance to ensure consistency across the board.

In developing this framework and guidance, the Department would suggest that the former NI Working Group on Period Poverty, chaired by the former Permanent Secretary of the Department of Finance, might provide some valuable input.

Clause 5: Statement on Arrangements

What is the Department's view if any of this requirement to publish a statement describing the outcome of consultation with stakeholders?

RESPONSE:

DfE would wish to seek further information and clarity in relation to the provisions of clause 5 – what is the purpose of the written statement? Is it the same as requesting each public service body to have a policy in place, and providing for such a policy to be published? If so, clause 5 would benefit from rewording to ensure this is clear.

In addition, while not in any way opposed to consulting with stakeholders, DfE would have some concerns around formalising in legislation the requirement to consult and publish a statement, as the necessity/benefits of this approach have not been articulated. How is the consultation going to take place, for example?

The undertaking of a full consultation, preparation of a written statement and ongoing updating will mean every public sector body will incur a cost, both financial and staff resource. As regards FECs and HEIs, they run many student support programmes already, and follow best practice in continuous improvement, publishing ongoing student support guidance and resources, the need and rationale for formalising this in legislation needs to be made clear. This approach would set period dignity measures apart from other student support measures, but to what end? Additionally, how would this requirement be enforced on an ongoing basis?

Clause 6: Duty to Publish Information

What is the Department's view if any of the proposed duty to publish a list of locations at which free period products are available?

RESPONSE:

As regards FECs and HEIs, it would not be practicable for the Department to establish and maintain a list of where products are available within the 33 FEC campuses on an ongoing basis, while conversely updating on a yearly basis as suggested would not allow for amendments throughout the year. Clause 6 would be best achieved at a local FEC or HEI level by updating student resources/websites rather than at Departmental level.

DfE would suggest that it is sufficient, for the purposes of the Scheme, if a list were to be a requirement, for one central list to be published, managed and maintained by the lead Department (i.e. currently DoH), rather than each Department updating its own.

Committee members may wish to refer to the approach taken in Scotland, whereby an app has been developed to show users all locations for accessing free products.

Clause 7: Key Definitions

Does the Department have a view as to whether the Clause provides a comprehensive list of key definitions of terminology used throughout this Act; or for instance wish to suggest other definitions to be added?

RESPONSE:

DfE is content with the key definitions as included in clause 7.

Clause 8: Interpretation

Similarly, does the Department have a view as to the terminology described in clause 8?

RESPONSE:

For clarity and consistency, DfE would suggest that the terminology used in relation to FE colleges is amended. All references to “further education institution” throughout the Bill should be changed to “institution of further education”. In Clause 8, the current interpretation of “further education institution” should be removed, and the following inserted:

““institution of further education” has the same meaning as Article 2(2) of the Further Education (Northern Ireland) Order 1997;”

The Department is content with the definition of a higher education institution.

In relation to the definition of “student”, the Department does not understand the rationale for including the words “as the case may be”.

In addition, clarity would need to be sought in relation to whether those attending non-statutory DfE funded Training Organisations (TOs) should also be provided for under the scheme. HEIs and FECs are both covered within the definition of a student; however, there will also be students attending TOs, possibly in conjunction with attending a FEC – how should these students access any scheme that may be implemented? Does this raise an issue of inequality, whereby students at HEIs, FECs and schools can avail of free period products while at their educational setting, but their counterparts at TOs cannot?

Clause 9: Commencement

Please give the Department’s view as to whether two years is sufficient to allow DfE stakeholders to prepare for this new law; and how this correlates with any experience to date of introducing such a scheme.

RESPONSE:

From experience with the HE pilot programme, and the fact that the six FECs all have current initiatives in place to provide free period products, DfE would agree that, insofar as HEIs and FECs are concerned, two years is sufficient to allow preparation for the implementation of the legislation. This, however, will be subject to clarity on the issues raised below. However, at this stage the Department is only in a position to comment on HEIs and FECs, and cannot comment on the impact across the full range and scope of Departmental stakeholders and public bodies.

Finally, please give the Department’s view as to whether there is anything further that needs to be provided on the face of the Bill to give effect to these measures. This input will help inform the Committee’s report and may even give

rise to a Committee amendment to add to the comprehensiveness of the Bill's proposals.

RESPONSE:

The Bill as currently drafted does not provide clarity on the following:

- (i) Who will be responsible for funding the provision of free period products?
- (ii) Will it be a NI Executive (i.e. TEO) budget responsibility?
- (iii) How will this be managed?
- (iv) How will public service bodies, and other bodies listed in the Bill, procure/receive the products?

The Bill has many requirements for consultation, publication and preparation of written statements at DoH / Departmental level, and at specified public service body level. This will result in numerous resources to comply with the provisions of the clauses. The Bill would greatly benefit from being streamlined as it currently reads as being over-administered.

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