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Period Products (Free Provision) Bill

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This paper has been prepared to inform consideration of the Period Products (Free Provision) Bill. To contextualise an examination of the key Bill clauses, the paper first considers research evidence related to the affordability and accessibility of period products. It then provides an overview of existent schemes for the provision of free period products in Northern Ireland and in the rest of the UK. Thereafter, it provides commentary on the Bill's individual clauses. The Paper highlights issues for further consideration throughout.

This information is provided to MLAs in support of their Assembly duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice or as a substitute for it.

Key Points

Background and Context

- Research reveals that some people struggle to meet the expense associated with the purchase of period products. A recent survey of 1,711 pupils in Northern Ireland by the Council for the Curriculum, Examinations and Assessment (CCEA)¹ revealed that over a quarter of pupils (27.5%) have had difficulty accessing period products. 6.5% had difficulty accessing period products because their parents could not afford them, while 11.8% said they themselves could not afford them.
- There have been significant developments in the rest of the UK in relation to schemes to provide free period products in schools and some other public establishments. England, Scotland and Wales each have varying schemes in place to provide sanitary products free of charge in schools and some other public buildings. Notably, Scotland passed legislation in 2020, making it the first nation to ensure that period products are freely available to all who need to use them.
- Prior to this academic year (2021/22), Northern Ireland was the only part of the UK not to provide period products free of charge in schools. However, September 2021 saw the commencement of two pilot projects by the Department of Education (DE) and the Department for the Economy (DfE) to provide for free period products in schools and higher education institutions respectively. As pilots are in the early stages, a full assessment of uptake, outcomes, and cost is yet to be determined.
- Some other initiatives seek to provide free period products at a local level in Northern Ireland. These are largely driven by voluntary and community organisations, however, some local Councils have recently commenced pilots to provide free period products in some public buildings, including leisure centres.

The Period Products (Free Provision) Bill

- The Period Products (Free Provision) Bill was introduced to the Northern Ireland Assembly by the Bill sponsor, Pat Catney MLA, on 11th October 2021. It seeks to secure the provision of free period products throughout Northern Ireland².
- The Bill has three primary objectives which are:
 - a) To place a duty on the Department of Health to ensure that period products are available free of charge on a universal basis in appropriate locations.
 - b) To require Departments to specify by way of regulations public service bodies who have a duty to ensure period products are widely obtainable free of charge in their premises. These regulations must include Health and Social Care Trusts; Regional Health and Social Care Boards and any public service body whose premises is a school, a further education institution or a higher education institution.

¹ Council for the Curriculum, Examinations and Assessment (December 2021) *Period Poverty Survey Findings Report*. Belfast: CCEA. Available at: <https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Poverty%20Survey%20Findings%20Report.pdf>

² <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/non-executive-bill-proposals/period-products/>

- c) To place a number of duties on the Department of Health and other specified public service bodies in respect of their obligations under the Bill and to place a duty on Departments to issue guidance on the exercise of the functions conferred on specified public service bodies.
- The Bill (as introduced) is comprised of 10 clauses and no schedules.
 - Clause 1 places a duty on the Department of Health to ensure that period products are made available free of charge on a universal basis. The Bill gives the Department discretion as regards the precise arrangements made, however, those arrangements must be consistent with the duty to make period products obtainable free of charge by all in Northern Ireland who need to use them.
 - Clause 2(1) places a duty on each department of the Northern Ireland Executive to specify via regulations which public service bodies within its functions must make period products obtainable free of charge in its premises. These regulations must include Health and Social Care Trusts; Regional Health and Social Care Boards and any public service body whose premises is a school, a further education institution or a higher education institution (clause 2(2)). Clause 2 does not define the other bodies in scope; rather, the provisions of the Bill require Departments to designate the public service bodies which are required to provide free period products on their premises.
 - Clause 3 sets out the particular requirements that arrangements by the Department of Health and the specified public service bodies must meet; namely, to ensure reasonably easy access to products, to respect dignity, and to ensure that a reasonable choice of types of product are available.
 - Clause 4 requires departments to issue guidance to the public bodies specified in Clause 2 as soon as is reasonably practicable after the body is specified. The body must be consulted before the guidance is produced.
 - Clause 5 requires each specified public service body to publish a written statement describing how it has had regard to the guidance, and consulted on and developed its arrangements for the provision of free period products, as soon as is reasonably practicable after receiving the guidance from departments under clause 4.
 - Once the arrangements are established, Clause 6 requires the departments to publish the locations where free period products are available.
 - Clause 7 provides key definitions used in the bill, including a definition for period products that allows for the provision of sustainable options. “Needs” at clause 7(c) is defined in terms of menstruation by a person, ensuring the Bill applies to anyone who menstruates, including transgender and non-binary persons as well as women and girls.
 - Clause 8 provides other statutory definitions, using those that are existing as far as possible.
 - Clause 9 provides for varying commencement dates to allow for guidance and consultation to be completed before the legal duties under Clause 1 and 2 commence.
 - Clause 10 provides the short title for the Act, should it become law.

Contents

- Key Points 1
- Introduction 5
- 1 Background and context to the Bill 5
- 2 Current Provision in Northern Ireland 8
- 3 Legislation and Policy across the UK..... 13
- 4 Bill and Clause Commentary 15
- 4.1 Clause 1: Provision of free period products - Department scheme 16
- 4.2 Clause 2: Provision of Free Period Products - Public Service Bodies 18
- 4.3 Clause 3: Arrangements under sections 1 and 2 - particular requirements 20
- 4.4 Clause 4: Guidance 21
- 4.5 Clause 5: Statement on Arrangements 21
- 4.6 Clause 6: Duty to publish information 22
- 4.7 Clause 7: Key Definitions..... 22
- 4.8 Clause 8: Interpretation 23
- 4.9 Clause 9: Commencement 23
- 4.10 Clause 10: Short title 23
- 5 Conclusion 24

Introduction

The Period Products (Free Provision) Bill was introduced to the Northern Ireland Assembly by the Bill sponsor, Pat Catney MLA, on 11th October 2021. The second Stage of the Bill passed on 9th November 2021. The Bill is currently at Committee Stage for further scrutiny and consideration by the Committee for Education.

The Bill seeks to secure the provision of free period products throughout Northern Ireland³. The objectives are defined as follows:

- a) To place a duty on the Department of Health to ensure that period products are available free of charge on a universal basis in appropriate locations.
- b) To require Departments to specify by way of regulations public service bodies who have a duty to ensure period products are widely obtainable free of charge in their premises. These regulations must include Health and Social Care Trusts; Regional Health and Social Care Boards and any public service body whose premises is a school, a further education institution or a higher education institution.
- c) To place a number of duties on the Department of Health and other specified public service bodies in respect of their obligations under the Bill and to place a duty on Departments to issue guidance on the exercise of the functions conferred on specified public service bodies.

This Bill Paper is prepared to support the Committee for Education in its scrutiny of the introduced Bill. To contextualise an examination of the key Bill clauses, the paper first considers research evidence related to the affordability and accessibility of period products. It then provides an overview of existent schemes for the provision of free period products in Northern Ireland and in the rest of the UK. Thereafter, it provides commentary on the Bill's individual clauses. The Paper highlights issues for further consideration throughout.

All references in this Paper to “the Bill” are to the Bill as introduced.

1 Background and context to the Bill

1.1 Affordability and Accessibility of Period Products

If the Bill is enacted as proposed, a duty will be placed on the Department of Health to make period products obtainable free of charge within Northern Ireland by all persons who need to use them.

This section of the paper considers this proposed requirement with reference to research evidence that reflects the affordability and accessibility of period products for all.

The past decade has seen growing awareness of menstrual-related challenges⁴ including the issue of period poverty, which is defined as a lack of access to sanitary products due to

³ <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/non-executive-bill-proposals/period-products/>

⁴ Global Menstrual Health and Hygiene Collective. *The Global Menstrual Health and Hygiene Collective statement on the occasion of the 64th session of Commission on the Status of Women*. Global Menstrual Health and Hygiene Collective, 2020.

financial constraints⁵. Despite this growing awareness, evidence suggests that barriers remain in ensuring affordable and easy access to period products for all. In its publication *'Break the Barriers: Girls' Experiences of Menstruation in the UK'*⁶, Plan International UK referred to the predominant issues which limit access to period products and contribute to period poverty:

- the cost of sanitary products;
- a lack of education about periods; and,
- shame, stigma and taboo.

Plan International UK is clear that this 'toxic trio' of issues must be addressed if menstruators are to be able to manage their periods safely, healthily and effectively⁷.

There is a range of evidence, nationally and locally, which highlights the impact of affordability on access to period products, particularly amongst young people. For instance, in a UK-wide⁸, representative sample survey of 1,000 respondents aged between 14 and 21, Plan International UK found that one in ten respondents (10%) have been unable to afford sanitary wear and one in seven (15%) have struggled to afford sanitary wear. A follow up survey in May 2021 found that this figure had increased to 36% during lockdown, suggestive of the impact of the pandemic on the affordability and accessibility of period products⁹.

Recently, the Council for the Curriculum, Examinations and Assessment (CCEA) conducted a series of online surveys to understand the frequency and extent of period poverty among students in Northern Ireland¹⁰. CCEA's survey of 1,711 pupils in June 2021 revealed that over a quarter of pupils (27.5%) who have a period have had difficulty accessing period products. Of these respondents:

- 83.2% of pupils did not have the period products that they needed with them in school;
- 27.2% reported that they did not have the period products that they needed at home;
- 6.5% cited their parent/guardian not being able to afford such products as their reason for a lack of access, whilst 11.8% stated that they themselves could not afford period products¹¹.

In addition, CCEA's survey of 79 Further Education (FE) college students revealed that over half (60.8%, N=45) of survey respondents had difficulty accessing period products. Similar to

⁵ Royal College of Nursing *Period Poverty*. [online] Available at: <https://www.rcn.org.uk/clinical-topics/womens-health/promoting-menstrual-wellbeing/period-poverty>

⁶ Plan International UK (2018) *Break the Barriers: Girls' Experiences of Menstruation in the UK* Plan International UK: Middlesbrough.

⁷ Plan International UK (2018) *Fighting period poverty's 'toxic trio'*. [online] Available at: <https://plan-uk.org/blogs/fighting-period-povertys-toxic-trio>

⁸ Plan International UK (2017) *1 in 10 girls have been unable to afford sanitary wear, survey finds* [online] Available at: <https://plan-uk.org/media-centre/1-in-10-girls-have-been-unable-to-afford-sanitary-wear-survey-finds>

⁹ Plan International UK (2021) *Over one million girls in the UK struggled to afford or access period products during the pandemic*. [online] Available at: <https://plan-uk.org/media-centre/over-one-million-girls-in-the-uk-struggled-to-afford-or-access-period-products-during-the-pandemic>

¹⁰ Council for the Curriculum, Examinations and Assessment (December 2021) *Period Poverty Survey Findings Report*. Belfast: CCEA. Available at: <https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Poverty%20Survey%20Findings%20Report.pdf>

¹¹ *Ibid*, page 12

the responses from school pupils, the most popular reason given by FE students (84.4%, N=38) for not being able to access period products was that they did not have the products needed with them in college¹². The CCEA report further reflected that teachers and FE Staff who responded to the survey have witnessed evidence of period poverty¹³.

Furthermore, 45% of respondents to an eight week consultation by the Bill Sponsor reported that they struggled to afford sanitary products, 69% have been forced to use unsuitable alternatives and 42% have missed work or school because of their period¹⁴.

1.2 Impacts of Period Poverty on Education, Health and Emotional Wellbeing

There is a growing body of evidence that menstruation is experienced negatively, that it contributes to absenteeism from school and the workplace, can lead to feelings of embarrassment or shame¹⁵, and is a source of psychosocial stress¹⁶.

Period stigma has also been highlighted as a key issue, particularly for young girls. Most recently, the CCEA survey¹⁷ revealed over half of pupils (53%) and FE students (54.1%) who reported feeling embarrassed when buying period products.

Further evidence suggests that some may feel that they have no choice but to miss school whilst menstruating. Survey data from CCEA¹⁸ reveals that 8.1% of pupils with periods missed school because they did not have access to sufficient period products. Over half of these pupils reported that they missed school 'once or twice' because they did not have sufficient access to products, whilst 11 (9.7%) respondents have missed school 'many times' because they did not have sufficient period products. Just over a third of FE college students who responded to the CCEA survey (37.8%, N=28) have missed college because they did not have sufficient period products¹⁹.

Furthermore, over half of pupils (56.7%) who menstruate have had to ask a friend or teacher for period products while in school. Promisingly, 44.2% of pupils surveyed by CCEA indicated that their schools provide some period products at present, with 48.9% having to use these at some point²⁰. Over half of teacher respondents (55.3%) reported that their schools already provide free period products. Nonetheless, the CCEA report concluded that there is an inconsistency in approach across schools which leaves some pupils/students at a disadvantage because of the school/college they attend²¹. Notably, the vast majority of respondents were supportive of a pilot scheme to introduce free period products to schools

¹² Ibid, page 22

¹³ Ibid, page 42

¹⁴ Social Democratic and Labour Party *98% of people back SDLP legislation to end period poverty*. [online] Available at https://www.sdlp.ie/98_of_people_back_sdlp_legislation_to_end_period_poverty

¹⁵ <https://www.medicalnewstoday.com/articles/period-poverty#how-it-affects-people>

¹⁶ Tull, K. (2019). *Period poverty impact on the economic empowerment of women*. K4D Helpdesk Report 536. Brighton, UK: Institute of Development Studies; University of Leeds Nuffield Centre for International Health and Development 23 January 2019

¹⁷ Council for the Curriculum, Examinations and Assessment (December 2021) *Period Poverty Survey Findings Report*. Belfast: CCEA. Available at: <https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Poverty%20Survey%20Findings%20Report.pdf>

¹⁸ Ibid, page 13

¹⁹ Ibid, page 23

²⁰ Ibid, page 15

²¹ Ibid, page 42

and colleges. This included 98.2% of pupils; 98.7% of FE students; 98.8% of teachers and 90.5% of FE staff who responded to CCEA's baseline surveys in June 2021.

Limited access to menstrual health products can force some to create alternative²² or makeshift solutions that are uncomfortable and unsafe²³. In addition to the negative physical impacts arising from period poverty, studies have shown that a lack of appropriate period products can result in upset, distress and discomfort²⁴. Further research suggests that a lack of access to period products can negatively impact on mental health²⁵.

2 Current Provision in Northern Ireland

The Bill, as introduced, require Departments to specify, by way of regulations, which of the public service bodies within its functions must make period products obtainable free of charge in its premises. This must include Health and Social Care Trusts; Regional Health and Social Care Boards and any public service body whose premises is a school, a further education institution or a higher education institution.

There have been significant developments in the rest of the UK in relation to schemes to provide free period products and promote period dignity in schools and other educational establishments²⁶. Prior to this academic year (2021/22), Northern Ireland was the only part of the UK not to provide period products free of charge in schools. However, September 2021 saw the commencement of two pilot projects by the Department of Education (DE) and the Department for the Economy (DfE) to provide for free period products in schools and higher education institutions (HEIs) respectively.

In light of the requirements of the Bill to provide for free period products in educational settings, including schools and HEIs, the following paragraphs provide further detail on both pilots, including an overview of the establishment of the pilot schemes; budgetary allocation to schools and HEIs; and expected uptake/demand for the schemes.

2.1 Period Dignity Pilot Scheme in Schools

In September 2021, the Department of Education NI launched a three-year pilot programme to make period products freely available to pupils in primary, secondary, special schools and EOTAS settings²⁷. The pilot is funded by the NI Executive and is being delivered in

²² Council for the Curriculum, Examinations and Assessment (December 2021) *Period Poverty Survey Findings Report*. Belfast: CCEA. Available at: <https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Poverty%20Survey%20Findings%20Report.pdf>

²³ Plan International UK (2018) *Menstrual Health Day: Global period poverty and stigma getting worse under lockdown* [online] Available at: <https://plan-uk.org/media-centre/plan-international-uks-research-on-period-poverty-and-stigma>

²⁴ Hennegan, J., Winkler, I.T., Bobel, C., Keiser, D., Hampton, J., Larsson, G., Chandra-Mouli, V., Plesons, M., & Mahon, T. (2021) Menstrual health: a definition for policy, practice, and research, *Sexual and Reproductive Health Matters*, 29:1, DOI: [10.1080/26410397.2021.1911618](https://doi.org/10.1080/26410397.2021.1911618)

²⁵ Cardoso, L.F., Scolese, A.M., Hamidaddin, A. *et al.* Period poverty and mental health implications among college-aged women in the United States. *BMC Women's Health* **21**, 14 (2021). <https://doi.org/10.1186/s12905-020-01149-5>

²⁶ Council for the Curriculum, Examinations and Assessment (September 2021) *Period Dignity Policy and Guidance for Schools*. Belfast: CCEA. Available at: https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Dignity%20Policy%20and%20Guidance%20for%20Schools_2.pdf

²⁷ Department of Education *McIlveen launches scheme to promote period dignity in schools* [online] Available at: <https://www.education-ni.gov.uk/news/mcilveen-launches-scheme-promote-period-dignity-schools>

partnership with the Education Authority (EA), CCEA, and schools. It is expected to cost £2.6 million over the course of the three years²⁸.

The pilot scheme aims to promote period dignity and tackle period poverty, helping learners who menstruate to reach their potential, by promoting confident attendance at school, primarily through the provision of free period products²⁹. The scheme further aims to provide educational support within the school setting and will be supported with curriculum materials and a bespoke online Teacher Professional Learning Programme. CCEA is leading on the curriculum materials and online Learning Programme for Teachers in collaboration with DE, EA and a wider educational steering group³⁰. The EA is responsible for the procurement system that enables all schools to purchase period products.

The budget for free period products has been allocated between schools, based on the total number of learners enrolled in the school of menstruating age. For primary schools, this is calculated at 12.5% of Year 6 and Year 7 enrolments. A weighting has also been applied based on the percentage of pupils entitled to free school meals³¹. To date, schools have been allocated an initial budget to purchase period products under the scheme to the end of March 2022³². Levels will be kept under review to determine the level of underspend or overspend³³.

Expected uptake for the scheme has been based on similar schemes elsewhere, including in England and Scotland. As such, it has been estimated that there will be a 15% uptake in the first year, and that this will increase each year as the scheme becomes established. Initial funding for the pilot reflects this 15% uptake level. It is anticipated that, subject to availability, budgets will increase to reflect a 20% uptake level in year 2 and 30% in year 3, as the scheme becomes established³⁴.

Uptake has been defined as the percentage of pupils using the scheme for all their needs throughout the academic year, including taking products home. Whilst provision does not include school holidays, schools have been advised that they may wish to consider providing for pupils for whom this is essential, if their budget allows³⁵. Nonetheless, it is not the policy intention to make blanket provision of period products for all pupils³⁶. Rather, the scheme aims to ensure products are available to menstruating learners when they need them. In practice, it is assumed that pupils would vary in their use of the scheme. It is noted that some pupils may wish to avail of it to meet their needs throughout the academic year, both in

²⁸ Ibid

²⁹ Department of Education *Pilot scheme to address period dignity in schools* [online] Available at: <https://www.education-ni.gov.uk/articles/pilot-scheme-address-period-dignity-schools>

³⁰ Council for the Curriculum, Examinations and Assessment *Period Dignity* [online] Available at: <https://ccea.org.uk/learning-resources/period-dignity>

³¹ Council for the Curriculum, Examinations and Assessment (September 2021) *Period Dignity Policy and Guidance for Schools*. Belfast: CCEA. Available at: https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Dignity%20Policy%20and%20Guidance%20for%20Schools_2.pdf

³² Department of Education *Pilot scheme to address period dignity in schools* [online] Available at: <https://www.education-ni.gov.uk/articles/pilot-scheme-address-period-dignity-schools>

³³ Council for the Curriculum, Examinations and Assessment (September 2021) *Period Dignity Policy and Guidance for Schools*. Belfast: CCEA. Available at: https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Dignity%20Policy%20and%20Guidance%20for%20Schools_2.pdf

³⁴ Ibid, page 6

³⁵ Ibid, page 6

³⁶ Ibid, page 6

school and by taking products home. For others, it is suggested that they may only access the scheme because they have started their period in school unexpectedly or have forgotten to bring period products with them³⁷.

Information provided by DE³⁸ on request by the Assembly Research and Information Service (RaISe) revealed that 31% (322) schools have ordered period products since the pilot scheme launched on 22 September 2021. DE noted that this figure does not provide a robust estimation of demand as the scheme is in its very early stages. Figures related to the numbers of pupils accessing the scheme have not been collected to date.

A follow up suite of surveys will be issued by CCEA to schools in January 2022 to review how the pilot has developed in the first term³⁹.

2.2 Pilot scheme to provide period products in Higher Education Institutions

On 12 May 2021, the Minister for the Economy announced a one-year pilot scheme to tackle the issue of period poverty in NI's Higher Education Institutions (HEIs)⁴⁰. The DfE pilot project began in September and involves period products being provided free of charge during the academic year for students attending Ulster University, Queen's University Belfast, Stranmillis University College and St Mary's University College. RaISe requested information from the Department in relation to how the scheme had been developed, operationalised, and the level of demand and usage in the first three months of the pilot.

In developing the pilot, the DfE worked with university stakeholders, particularly Students' Union groups who provided background information to the DfE on their own provision schemes to date. This information was used to derive costings for the pilot scheme across all HEIs based on their overall enrolment figures. The total funding allocated across all institutions was £5,140. DfE officials confirmed that the funding for the pilot scheme is available for the purchase of period products only.

With regards operationalisation of the scheme, officials reported that whilst the Department has not been prescriptive regarding how the HEIs should distribute the products under the Period Poverty Pilot Programme, each HEI must demonstrate the following through their Delivery Model⁴¹:

- A variety of products are to be made available, and for different flows, giving students choice about the products they want to use;
- Sanitary products are to be easily accessible to meet individual needs;
- Individuals are able to get sufficient products to meet their needs; and
- Gender equality, ensuring anyone who menstruates can access products and that language used in awareness-raising is gender neutral.

³⁷ Ibid, page 6

³⁸ Email correspondence dated 21st December 2021.

³⁹ Council for the Curriculum, Examinations and Assessment *Period Dignity* [online] Available at: <https://ccea.org.uk/learning-resources/period-dignity>

⁴⁰ Department for the Economy *Minister announces period poverty pilot project for NI's higher education institutions. schools* [online] Available at <https://www.northernireland.gov.uk/news/minister-announces-period-poverty-pilot-project-nis-higher-education-institutions>

⁴¹ Email correspondence dated 7th December 2021.

Consequently, DfE officials reported that the HEIs are ensuring that a variety of products is stocked, most commonly in baskets and readily available in various bathrooms, including (but not limited to) Student Halls of Residence, Students' Union areas, Main Buildings and Changing Rooms. Female and gender-neutral bathrooms are included.

With regards demand/usage of the scheme, officials noted that, three months into the pilot, 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 61% in another. It is anticipated that greater information and clarity around demand and usage will emerge as the pilot progresses into its latter stages.

It was further noted by officials that the pilot 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. Officials reflected that, 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.

RaISe asked the Department about proposals to implement a similar pilot in Further Education (FE) Colleges, cognisant that, if the Bill is enacted as proposed, there will be a requirement for free period products to be made available in FE colleges.

Officials stated that the six FE colleges in Northern Ireland continue to have initiatives and partnerships in place to help ensure students have access to free sanitary products within their campuses. It was noted that many of these initiatives and partnerships have been available for a number of years. It was further noted that products are supplied from a range of sources including by the colleges directly, by Student Unions, Health and Social Care Trusts, charities, local partnerships with local chemists and supermarkets and in some instances staff donations.

Officials further stated that the Department's FE Division has established a college working group to consider how best to implement a similar pilot in FE to that being undertaken in Higher Education, without unnecessarily disrupting the existing initiatives and partnerships. Officials reported that, once agreed, this pilot's main aim will be to quantify trends and demand for free sanitary products for students in FE. This, in turn, will be used 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.

2.3 Initiatives by local Councils in NI

In some Council areas, schemes have been established to provide free period products in some public buildings or schools. Most of these initiatives have commenced recently and are being delivered on a pilot basis. Given the Bill's objective to ensure that period products are freely available on the premises of public service bodies, the following paragraphs reflect on how this provision has been enacted in the current schemes.

2.3.1 Derry City and Strabane District Council

In March 2019, Derry City and Strabane District Council began piloting a scheme⁴² to make free sanitary products available in a number of venues.

The scheme involves the provision of free period products via dispensers in high traffic areas within leisure centres.

2.3.2 Armagh City, Banbridge and Craigavon Borough Council

In April 2021, Armagh City, Banbridge and Craigavon Borough Council announced a scheme⁴³ to provide free sanitary products in leisure centres across the Borough. Information requested by RalSe revealed that sanitary products are available in the three larger leisure centres in the Borough, with a selection of free sanitary products, including pads and tampons, provided at dispensers located at each of these venues. The approximate annual cost for dispensers and products in one leisure centre was reported as £1,500⁴⁴.

Information provided by officials revealed that the Council has not yet received feedback from users with regards the effectiveness of the scheme. It was further noted that a full assessment of impact has been challenging due to Covid-19 restrictions. However, it was reported that there has been positive interest from other Councils.

Officials stated that any decision to introduce the scheme to other Council facilities, including smaller recreation centres and community centres, would be dependent on a review of the existing scheme, to be reported on next year.

2.3.3 Newry, Mourne and Down District Council

In October 2021, Newry, Mourne and Down District Council announced the launch of the Pink Present Programme; an initiative to provide free period products to post-primary schools in the area⁴⁵. This is a partnership initiative between Newry, Mourne and Down District Council Women's Working Group, the District Electoral Area (DEA) Forums, and The Larder, a foodbank in Newry. The initiative is supported by the Public Health Agency and was launched on 14 October in four schools, with the expectation that it would be rolled out to other schools in the area following the launch. It is not clear how this scheme might operate alongside the wider school pilot scheme led by the Department of Education.

2.4 Further NI initiatives

Whilst there is no Northern Ireland-wide provision for period products, there are some initiatives which aim to deliver free period products to residents in local communities.

For instance, the Homeless Period Belfast was established in 2016 to raise awareness of period poverty locally. This volunteer-led, not-for-profit group works to provide period

⁴² Derry City and Strabane District Council *Period Poverty Programme* [online] Available at: <https://www.derrystrabane.com/periodpoverty>

⁴³ Armagh City, Banbridge & Craigavon Borough Council (2021) *Council offers free sanitary products in bid to end period poverty* [online] Available at: <https://www.armaghbanbridgecraigavon.gov.uk/council-offers-free-sanitary-products-in-bid-to-end-period-poverty/>

⁴⁴ Email correspondence dated 6th December 2021.

⁴⁵ Newry, Mourne and Down Council (2021) *Council Launches the Pink Present Programme in Secondary Schools* [online] Available at: <https://www.newrymournedown.org/council-launches-the-pink-present-programme-in-secondary-schools>

products to those in need and actively campaigns for free period products for all girls and women across the region⁴⁶.

A further initiative, seeking to combat period poverty in higher education institutions in NI, is the NI Period Poverty Action Group. This group originated at Ulster University Student Union and works with representatives from the Queen's University Belfast Student Union and the National Union of Students and Union of Students in Ireland (NUS - USI) to encourage young people to fight the taboos about menstruation⁴⁷. Most recently, it has been involved in the DfE pilot initiative to provide free period products in NI's higher education institutions⁴⁸.

Further schemes to combat period poverty have been recently established under the Children and Young People's Strategic Partnership (CYPSP). In July 2021, it was announced that the Western Area Outcomes Group had committed £15,400 of its 2020/21 funding to help those who are faced with period poverty⁴⁹. The funding was shared across the six locality planning groups (LPG) in the Western area. This enabled a lead organisation in each locality to purchase products to distribute through the LPG members, including a local Sure Start and Family Support Hub, to anyone in need. Feedback suggested the benefits of the scheme, with uptake in areas such as Strabane reported as '*being very high*'.

In September 2021, it was announced⁵⁰ that Belfast South Community Resources (BSCR), has launched a new period poverty initiative in the South Belfast area. The project aims to overcome the 'toxic trio': the cost of sanitary products; a lack of education about periods; and the shame, stigma and taboo surrounding menstruation. The project seeks to achieve this aim by creating awareness on social media platforms, providing in-school workshops to promote good menstrual knowledge, and by donating a number of sanitary and hygiene products to schools, churches and community organisations, where those facing period poverty can access products.

Furthermore, the Red Box Project was set up in Ards and North Down in 2018 to tackle period poverty. This project operates like a foodbank for sanitary wear, whereby, the community can donate sanitary products at local collection points and these items are distributed to local schools.⁵¹

3 Legislation and Policy across the UK

England, Scotland and Wales each have varying schemes in place to provide sanitary products free of charge in schools and some other public buildings. Prior to the commencement of the DE pilot this academic year (2021/22), Northern Ireland was the only

⁴⁶ Homeless Period [online] Available at: <https://www.unison-ni.org.uk/sites/default/files/Homeless%20Period%20Belfast%20presenation.pdf>

⁴⁷ NI Period Poverty Action Group rallying to provide free sanitary products in higher education - Belfast Live

⁴⁸ Ulster University Students' Union UUSU Period Poverty Update [online] Available at: <https://www.uusu.org/news/article/6013/UUSU-Period-Poverty-Update/>

⁴⁹ Children and Young People's Strategic Partnership (2021) *Western Area Outcomes Group Funds LPGs to Take Steps to Help Increase Access to Period Products*. [online] Available at: <http://www.cypsp.hscni.net/tag/lderry-lpg/>

⁵⁰ Children and Young People's Strategic Partnership (2021) *BSCR Period Poverty Initiative* [online] Available at <http://www.cypsp.hscni.net/bscr-period-poverty-initiative/>

⁵¹ Engage Newsletter - Aug 2019.pdf (ardsandnorthdown.gov.uk)

place in the United Kingdom where such products were not provided free of charge in schools.

This section provides a brief overview of the schemes to provide free period products in the rest of the UK. It concludes with an overview of the current situation in Scotland, where notably, legislation was passed in 2020 to secure the free provision of period products to all in Scotland who need to use them.

3.1 England

In January 2019, NHS England committed to providing free sanitary products to women and girls in hospitals⁵². This was followed by the Department for Education's launch of the Period Products Scheme in January 2020. The scheme provides free period products to learners who need them in their place of study⁵³ and extends to all state maintained schools and 16 to 19 education organisations in England. It does not include higher education or apprenticeships⁵⁴.

Girls, non-binary and transgender learners are all eligible for the scheme. In terms of budgetary allocations, an annual spend cap is in place based on 35% of the number of learners in the organisation whose legal gender is female and who, based on age, are likely to have started their periods. Guidance notes that the 35% assumed take-up rate mirrors that used in the scheme to provide learners in Scotland with access to free period products. In 2020, 76% of secondary schools, 79% of post 16 organisations and 41% of primary schools had ordered products through the scheme⁵⁵.

Local authorities across England have started to offer free sanitary products for staff and users. Funding is provided to local authorities to help tackle period poverty in areas where levels of deprivation are highest.⁵⁶

3.2 Wales

Since April 2019, the Welsh Government has made funds available to address period poverty and dignity. In 2019, the Welsh Government committed £3.36 million to improve period dignity and combat poverty; from this, £2.3 million was awarded to local authorities to provide primary and secondary schools with free sanitary products⁵⁷. For 2020 - 21, the funding to provide free period products to every school and college in Wales was increased to £3.1 million. In addition, each local authority was allocated part of a £220,000 fund to help combat period poverty in the community in areas such as libraries and hubs.⁵⁸

⁵² Royal College of Nursing *Period Poverty*. [online] Available at: <https://www.rcn.org.uk/clinical-topics/womens-health/promoting-menstrual-wellbeing/period-poverty>

⁵³ Department for Education (2021) *Guidance Period product scheme for schools and colleges in England* [online] Available at: <https://www.gov.uk/government/publications/period-products-in-schools-and-colleges/period-product-scheme-for-schools-and-colleges-in-england>

⁵⁴ Ibid

⁵⁵ <https://educationhub.blog.gov.uk/2021/11/26/how-can-students-access-free-period-products-in-school-or-college/>

⁵⁶ Royal College of Nursing *Period Poverty*. [online] Available at: <https://www.rcn.org.uk/clinical-topics/womens-health/promoting-menstrual-wellbeing/period-poverty>

⁵⁷ Welsh Government (2019) *Period dignity: Thousands to benefit from multi-million pound funding for schools* [online] Available at: <https://gov.wales/period-dignity-thousands-benefit-multi-million-pound-funding-schools>

⁵⁸ Welsh Government (2020) *It's just ensuring a girl's period isn't a barrier to her succeeding in life.* [online] Available at: <https://gov.wales/its-just-ensuring-girls-period-isnt-barrier-her-succeeding-life>

More recently, the Welsh Government commenced a consultation on a Period Dignity Strategy Action Plan which is aimed at ending the stigma and shame associated with periods via a series of actions for delivery by 2026⁵⁹. In essence, the action plan:

- sets out a vision for period dignity and the eradication of period poverty;
- considers what period dignity means across a person's life time;
- looks at periods and health, the environment, the workplace, and sport and culture.

3.3 Scotland

The Period Products (Free Provision) (Scotland) Act 2021⁶⁰ received Royal Assent on 12th January 2021. The Act builds on existing voluntary provision in education and community settings funded by the Scottish Government since 2018/19 to ensure that everyone in Scotland who menstruates can have reasonably convenient access to period products, free of charge, as and when they are required. This includes visitors to Scotland for the duration of their stay⁶¹.

The Act secures the provision of free period products in three ways:

1. By placing a duty on Local Authorities to make period products obtainable free of charge for anyone who needs to use them.
2. By placing a duty on education providers to make period products obtainable free of charge on their premises for pupils and students during term time.
3. By enabling Scottish Ministers to specify public service bodies who have to make period products obtainable free of charge to people on their premises.

Whilst the aforementioned responsible bodies have flexibility around how they meet those duties, they must meet three overarching principles, namely ease of access, dignity and choice. Responsible bodies must have regard to guidance issued by Scottish Ministers, consult product users, and publish statements on the exercise of their functions⁶².

Different provisions of the Act can be commenced at different times. Therefore, whilst some provisions have come into force, such as those that relate to the production and dissemination of guidance for responsible bodies, the main duties to provide period products free of charge are yet to be commenced.

4 Bill and Clause Commentary

This section provides commentary on the substantive clauses of the Period Products (Free Provision) Bill.

There are evidential parallels between the Bill, as introduced, and the Period Products (Free Provision) (Scotland) Act 2021; specifically, in terms of the general policy intent; the nature of

⁵⁹ Welsh Government (2021) *Open Consultation – Period Dignity Strategic Action Plan* [online] Available at: <https://gov.wales/period-dignity-strategic-action-plan-html>

⁶⁰ Legislation.gov.uk *Period Products (Free Provision) (Scotland) Act 2021* [online] Available at: <https://www.legislation.gov.uk/asp/2021/1/introduction>

⁶¹ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

⁶² Legislation.gov.uk *Period Products (Free Provision) (Scotland) Act 2021, Explanatory Notes*. [online] Available at: https://www.legislation.gov.uk/asp/2021/1/pdfs/aspen_20210001_en.pdf

duties conferred on responsible bodies, the underpinning principles; and the procedures to be followed in the operationalisation of the Bill. This includes the requirements on responsible bodies to consult on and publish a statement of arrangements.

In light of these similarities, where relevant, this section refers to the delivery of the Scottish Act and associated guidance when making commentary on the individual Bill clauses.

4.1 Clause 1: Provision of free period products - Department scheme

Clause 1 places a duty on the Department of Health to ensure that period products are made available free of charge on a universal basis. The Bill gives the Department discretion as regards the precise arrangements made, however, those arrangements must be consistent with the duty to make period products obtainable free of charge by all in Northern Ireland who need to use them⁶³.

The Bill Sponsor has noted⁶⁴ that the flexibility provided for in the Bill in terms of the operationalisation of the scheme is consistent with, and based on learning from, the passage of the Scottish Act which was much more prescriptive as initially introduced⁶⁵. Whilst the precise arrangements for implementing the scheme are to be defined by the Department of Health, these must be compliant with the particular requirements of the Bill as set out at clause 3. As such, products must be accessible with reasonable ease, in a way that respects dignity, and there must be a reasonable choice of different types of products available.

It is proposed that a card scheme to obtain free period products, similar to the C Card scheme which facilitates the distribution of free condoms, is one method by which the provision of free period products could be enabled⁶⁶. Plan International UK has previously called for the introduction of a 'P-card' scheme based on the current 'C-card' scheme, in order to provide free sanitary products to young people, and training and advice, to tackle the lack of education and stigma that still exists around periods⁶⁷.

However, as previously noted, ease of access to products is a central tenet of the Bill. Therefore, a card scheme is just one suggested means of distribution and is not prescribed in the Bill. Furthermore, the Bill allows for free period products to be obtained on behalf of the person who needs the products (clause 1(3)(a)). This might involve, for instance, a parent obtaining products for a child or a carer obtaining products for the person that they care for⁶⁸.

The Department may also include delivery options in its arrangements for ensuring that period products are obtainable free of charge, and may require the person to whom the products are delivered to pay costs associated with packing and delivery, except where the person could not be reasonably expected to obtain the products in any other way (clause 1(3)(b)). The Bill does not specify what might be constituted as not being able to reasonably

⁶³ Explanatory and Financial Memorandum to the Bill

⁶⁴ Committee for Education OFFICIAL REPORT (Hansard) Period Products (Free Provision) Bill: Mr Pat Catney MLA, 1 December 2021

⁶⁵ The Scottish Parliament Information Centre (2020) SPICe Spotlight *Period Products (Free Provision) (Scotland) Bill – the story so far* [online] Available at: <https://spice-spotlight.scot/2020/11/19/period-products-free-provision-scotland-bill-the-story-so-far/>

⁶⁶ Explanatory and Financial Memorandum to the Bill

⁶⁷ Plan International UK (2017) *Five things you can do to end period poverty* [online] Available at: <https://plan-uk.org/blogs/five-things-you-can-do-to-end-period-poverty>

⁶⁸ Explanatory and Financial Memorandum to the Bill

obtain products in any other way. However, the Explanatory and Financial Memorandum provides the example of where a person who needs to obtain free period products has a disability and resides at some distance from the locations where the Department has made products available⁶⁹.

At the Second Stage debate, the proposal to deliver period products to those with a disability was welcomed⁷⁰. However, queries were raised as to how this would be practically implemented. Other queries were raised with regards the provision of products to individuals without a permanent residence, and the suggestion made that shelters and other providers of emergency accommodation might have a role in the distribution of products⁷¹.

Such considerations are consistent with broader reflection in the literature with regards the particular requirements of individuals who face specific barriers in accessing period products. Further detail is presented below.

Consideration of the needs of particular groups:

Research⁷² suggests that the groups that face particular barriers in accessing period products include homeless people, those with disabilities, and menstruators who may be non-binary or transgender. The Global Menstrual Collective further notes that it is these groups whose menstrual needs are often least addressed⁷³. Asylum seekers and refugees have also been identified as particularly vulnerable; in one study, more than 1 in 10 refugees reported difficulty in obtaining period products throughout the entire time that they were destitute and 75% of 78 interviewees reported that they were forced to overuse a product, improvise, or beg for products⁷⁴.

Plan International UK⁷⁵ suggests that specific consideration should be given to groups who face additional barriers when ensuring access to menstrual products and provision of menstrual management education. In Scotland, the Government also advises local authorities that they should particularly consider those individuals or groups facing additional barriers in trying to access free period products. In addition to the aforementioned groups, this includes Roma and Traveller communities; victims of domestic abuse; individuals with caring responsibilities; individuals living in remote locations; and other groups for whom cultural barriers exist. The Scottish Government advises local authorities to consult specifically with organisations who represent these groups locally to establish potential additional or alternative arrangements that might need to be put in place to facilitate access to period products⁷⁶.

⁶⁹ Ibid

⁷⁰ NI Assembly OFFICIAL REPORT (Hansard) Period Products (Free Provision) Bill: Second Stage, Tuesday 9 November 2021 Volume 144, No 6

⁷¹ Ibid

⁷² Plan International UK (2018) *Break the Barriers: Girls' Experiences of Menstruation in the UK* Plan International UK: Middlesborough.

⁷³ <https://www.globalmenstrualcollective.org/the-opportunity/>

⁷⁴ <https://charitable.travel/traveller/aug-sep21/period-poverty-in-numbers/>

⁷⁵ Plan International UK (2018) *Break the Barriers: Girls' Experiences of Menstruation in the UK* Plan International UK: Middlesborough.

⁷⁶ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

Going forward, further consideration might be given to the needs of groups who may face particular barriers in accessing period products and how these might be identified and met by the Department of Health if enacting a universal scheme of free period product provision.

4.1.1 Requirements to consult, prepare and publish arrangements for the provision of period products

Clause 1(4) requires the Department to consult on its proposed arrangements, including on where products should be obtainable, which types of product should be obtainable and the ways in which free products should be obtainable.

Clause 1(5) requires the Department to publish a written statement describing the consultation and the arrangements to be established and maintained to ensure free provision of period products. Additionally, the Department must publish, annually, information about where the free period products are obtainable (clause 1(6) and (7)), and to do so in such a way as 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.

Clause 1(8) states that the needs of a person who lives in Northern Ireland are to be regarded as all arising while in Northern Ireland. Therefore, for a person who lives in Northern Ireland, products are obtainable for use in Northern Ireland and elsewhere, including, for example if the person is going on holiday⁷⁷. The Bill also allows for visitors to Northern Ireland to obtain free period products for the duration of their stay. This clause is consistent with provision in Scotland. There may be merit in noting that guidance developed by the Scottish government advises responsible bodies that, when ensuring the provision of products to meet a person's needs, that no proof of residence should be required to access free products. The guidance further notes that individuals can take their full requirement of products (which will vary depending on the individual), either in bulk or regular supply, depending on the local arrangements that are in place. Further consideration might be given to how a similar service might be practically implemented in Northern Ireland.

4.2 Clause 2: Provision of Free Period Products - Public Service Bodies

In essence, it is proposed that clause 2 aims to supply products that a person might require at a specific place and time, and is therefore distinct from clause 1 which provides period products to fulfil all of a person's needs⁷⁸.

Clause 2(1) places a duty on each department of the Northern Ireland Executive to specify via regulations which public service bodies within its functions must make period products obtainable free of charge in its premises. These regulations must include Health and Social Care Trusts; Regional Health and Social Care Boards and any public service body whose premises is a school, a further education institution or a higher education institution (clause 2(2)). Clause 2 does not define the other bodies in scope; rather, the provisions of the Bill require Departments to designate the public service bodies

⁷⁷ Explanatory and Financial Memorandum to the Bill

⁷⁸ NI Assembly OFFICIAL REPORT (Hansard) Period Products (Free Provision) Bill: Second Stage, Tuesday 9 November 2021 Volume 144, No 6

which are required to provide free period products on their premises. Obligations may be imposed on bodies individually or as a class (clause 2(8)), however, proposed bodies must be consulted by departments before a requirement to provide free period products is imposed (Clause 2(7)).

Public service bodies are defined at clause 8 as ‘a statutory body (i.e. a body constituted by or under an enactment) that either provides services to the public or otherwise serves the public interest’, and includes a school, further education institution or higher education institution. The definition of public service bodies is consistent with that used in the Period Products (Free Provision) (Scotland) Act 2021. It is worth noting that that no public service bodies had been specified at the time that the Scottish Government issued guidance with regards the exercise of duties under the Scottish Act (in September 2021)⁷⁹.

Some of the considerations at the Second Stage debate were with regard the specific bodies in Northern Ireland that might fall under the scope of public service body as defined at Clause 8. Further consideration might be given to the type and range of other bodies that may be defined as public service bodies as per the definition proposed by the Bill.

4.2.1 Specific arrangements

The duty to provide free period products is to be discharged by specified public service bodies via arrangements to be established in line with subsequent provisions (clause 2(3)). This allows for the products to be provided by the public body itself or through arrangements made with a third party, for example a washroom services contractor⁸⁰. Free period products are to be provided in such locations within its premises as are specified in those arrangements (clause 2(4)). If the body has multiple sites, it must make provision at each site (clause 2(5)). Subsection 6 requires public service bodies to make sufficient products available to meet the needs of persons while they are on the premises, but not for use elsewhere (clause 2(6)).

Further consideration might be given to the application of these arrangements, including in educational settings. Clause 2(5) of the Bill appears to place a duty on education providers to provide products in every building normally used by pupils and students. This is also the case in the Scottish precedent. However, whilst guidance by the Scottish government suggests that education providers can choose to make products available in more than one location in buildings, it makes clear period products are only required to be in one location within each building on a premises⁸¹. Consideration might be given as to whether a similar requirement might be placed on education providers in Northern Ireland.

Furthermore, as clause 2 requires education providers to make free period products available to learners attending their premises in person, consideration might be given as to whether specific arrangements would be put in place at clause 1 for children and young people who are home-schooled or accessing education remotely.

⁷⁹ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

⁸⁰ Explanatory and Financial Memorandum to the Bill

⁸¹ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

4.2.2 Proposed regulations

Regulations under clause 2 are subject to the affirmative procedure, meaning that the regulations only become law if approved by resolution of the Assembly (clause 2(12)). Clause 2(10) allows regulations to make different provisions of the Bill to take effect on different days. For instance, an earlier date may be set for when a body becomes subject to the requirements of clauses 4 and 5, and a later date for when it becomes subject to the requirements of clause 2⁸². That would ensure the body has to have regard to guidance, carry out consultation and then publish a statement of its plans before it has to begin making period products obtainable free of charge on its premises, as is consistent with the procedure for implementing the Scottish Act.

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

Clause 3 sets out the particular requirements that arrangements by the Department of Health and the specified public service bodies must meet; namely, to ensure reasonably easy access to products, to respect dignity, and to ensure that a reasonable choice of types of product are available. It also requires the Department of Health and specified public service bodies to publicise the availability of products, including how, where and when products may be obtained, and to do so in such a way that respects a person's dignity. The arrangements established and maintained by specific public service bodies must ensure that period products are obtainable at all times when the specified public service body's premises are in use, whether or not in use by the public (clause 3(2)). It is proposed that this would allow access to products by staff as well as the public⁸³.

The same requirements have been placed on responsible bodies in Scotland when exercising their duties under the Period Products (Free Provision) (Scotland) Act 2021. Guidance⁸⁴ by the Scottish Government provides further examples of ways in which bodies might be expected to fulfil the requirements of clause 3. For instance:

- When ensuring that products are available with reasonable ease, responsible bodies in Scotland have been advised that there should be no forms to complete or other information required before people can access products, unless this information is necessary to respond to local asks around design or to allow postal delivery.
- The guidance regarding respect for dignity reflects that products should be freely accessible from places where individuals are comfortable to obtain products without having to ask for them, or justify why they need them or justify the amount that is needed.
- In terms of reasonable choice, the Scottish guidance notes that the full range of products does not have to be available in all locations or through all delivery methods. In addition, all responsible bodies are advised to consider the most appropriate way to make reusable period products freely available for those who may wish to use them.

Consideration might be given to how the requirements might be practically fulfilled by the Department of Health and public service bodies in Northern Ireland.

⁸² Explanatory and Financial Memorandum to the Bill

⁸³ Committee for Education OFFICIAL REPORT (Hansard) Period Products (Free Provision) Bill: Mr Pat Catney MLA, 1 December 2021

⁸⁴ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

4.4 Clause 4: Guidance

Clause 4 requires departments to issue guidance to support public service bodies in exercising their duties under clauses 2 and 5, as soon as is reasonably practicable after the body is specified. Guidance may be issued by a single department or jointly by departments (clause 4(6)). Subsection 4 makes clear that, when putting in place the arrangements by which they will exercise their functions, the specified public service bodies must have regard to the guidance as it is in force at the time and as it relates to them.

Before any guidance is first issued, the departments must consult the specified public service bodies to whom the guidance relates. The department may also consult with any other person or body they think is appropriate (clause 4(5)). The guidance is to be maintained, so the department can issue revised guidance from time to time, for example to share emerging good practice between responsible bodies and take account of new approaches⁸⁵.

Departments are not required to consult in the production of revised guidance. The issuing of guidance to a responsible body for the first time triggers the requirements on that body to consult and then prepare a statement (clause 5(1)(a)).⁸⁶

The Explanatory and Financial Memorandum notes that the guidance could provide more detail on what constitutes a reasonable choice of types of products and what constitutes a dignified approach⁸⁷. As noted in the preceding section, the Scottish Government has issued guidance⁸⁸ which provides more detail on these matters, as well as the overarching principles which all responsible bodies in Scotland should follow in discharging their duties under all sections of the Act. This guidance also provides specific direction for local authorities and educational providers with regards the exercise of the functions conferred on them by particular sections of the Act.

4.5 Clause 5: Statement on Arrangements

Clause 5 requires each specified public service body to publish a written statement describing how it has had regard to the guidance, and consulted on and developed its arrangements for the provision of free period products. Responsible bodies must publish their first statement as soon as is reasonably practicable after receiving the guidance from departments under clause 4, and can publish subsequent statements at any time in the future.

Before drafting the statement, the body must consult those likely to access period products in its premises on the ways in which free period products should be obtainable, where they should be obtainable and what types of products should be obtainable. Clause 5(7) reflects that school pupils and students and FE/HE institutions are to be included within the consultation, and that individuals who may need to obtain period products in the future should be consulted. This requirement is proposed to ensure that younger pupils in a school will have a say in how the products they will need to access in the future are made

⁸⁵ Explanatory and Financial Memorandum to the Bill

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

obtainable⁸⁹. Again, a similar requirement to consult with future product users is placed on responsible bodies in the Scottish Act. Associated guidance by the Scottish Government reflects that the consultation with pupils and students should be in relation to both the wider arrangements for providing period products out-with school and the arrangements for the provision of products within schools. It also suggests the benefit in consultation and delivery design in schools being linked to menstrual health education and tackling stigma⁹⁰.

The format of the statement or where it should be published are not mandated in the Bill. Rather, the public service body has flexibility to include any other information in the statement that it thinks appropriate (clause 5(5)) and to publish the statement in such ways as it thinks appropriate (clause 5(6)). In light of earlier reference in this paper to the needs of particular groups in accessing period products (section 4.1), consideration might be given to the flexibility granted to public service bodies in preparing and publishing statements, whilst ensuring that the accessibility of statements is maintained for all product users.

4.6 Clause 6: Duty to publish information

Once the arrangements are established, Clause 6 requires each department to publish the locations where free period products are available. Clause 6(2) requires each department to publish this information within one year of making regulations under clause 2, and on at least an annual basis thereafter. Clause 6 (3) allows departments to publish information jointly with another department. Responsible bodies have the flexibility to choose how to make this information available.

Consideration might be given to whether the requirements of the Bill ensure timely and accessible dissemination of information to all potential users, including those identified in the literature, and referred to at section 4.1, as facing additional barriers in accessing products.

4.7 Clause 7: Key Definitions

Clause 7 provides definitions for three key terms used throughout the Bill, namely “period products”, types of period products, and references to a person’s needs.

The definition of “products” refers to tampons, sanitary towels and reusable products. With regards the latter, it is worth noting that CCEA’s recent school survey found that almost a quarter (24.4%) of pupils believe that eco factors are important when choosing period products⁹¹. Furthermore, evidence suggests that reusable menstrual products have substantially lower environmental impacts than commonly available single use options⁹². Amongst the sustainable development goals is responsible consumption and production, one of the targets of which is that by 2030, there will be a substantial reduction in waste generation through prevention, reduction, recycling and reuse⁹³.

⁸⁹ Explanatory and Financial Memorandum to the Bill

⁹⁰ Scottish Government (2021) *Period Products (Free Provision) (Scotland) Act 2021: guidance – September 2021* [online] Available at: <https://www.gov.scot/publications/period-products-free-provision-scotland-act-2021-guidance-responsible-bodies-september-2021/documents/>

⁹¹ Council for the Curriculum, Examinations and Assessment (December 2021) *Period Poverty Survey Findings Report*. Belfast: CCEA. Available at: <https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Period%20Poverty%20Survey%20Findings%20Report.pdf>

⁹² United Nations Environment Programme (2021). Single-use menstrual products and their alternatives: Recommendations from Life Cycle Assessments.

⁹³ <https://www.globalgoals.org/12-responsible-consumption-and-production>

“Needs” at clause 7(c) is defined in terms of menstruation by a person, ensuring that the Bill applies to anyone who menstruates, including transgender and non-binary persons as well as women and girls. As noted at section 4.1, the literature suggests that transgender and non-binary people are amongst the groups that face particular barriers when accessing period products⁹⁴.

4.8 Clause 8: Interpretation

Clause 8 provides definitions for other terms used in the Bill, using existing statutory definitions so far as possible.

Notably, ‘department’ is as defined in the Departments Act (Northern Ireland) 2016. As such, The Executive Office, The Department of Agriculture, Environment and Rural Affairs, The Department for Communities, The Department for the Economy, The Department of Education, The Department of Finance, The Department of Health, The Department for Infrastructure, and The Department of Justice are all required to specify via regulations the public service bodies within its functions that must make period products obtainable free of charge in its premises.

“School”, “higher education institution”, “further education institution”, and “pupil” use existing Northern Ireland statutory definitions or refer to existing Northern Ireland statutory provisions. Definitions encompass all primary and secondary schools, whether grant-aided or independent, as well as every publicly funded college and university in Northern Ireland. The definition of “student” follows the Scottish precedent but refers to the defined terms “higher education institution” or “further education institution”.

4.9 Clause 9: Commencement

Clause 9 is a commencement clause. It provides that clauses 7, 8, 9 and 10 come into force the day after Royal Assent and that the Executive Office can then appoint, by regulations, commencement dates for the remaining provisions, as long as those dates are within two years of Royal Assent. Different provisions can be commenced at different times. It is proposed that this would allow for the provisions in relation to departments issuing guidance, and specified public service bodies carrying out consultation and then publishing a statement on the exercise of their functions, to take effect prior to the main duties on those bodies to make period products obtainable free of charge⁹⁵. The same approach and timeline for commencement is provided for by the Scottish Act.

4.10 Clause 10: Short title

Clause 10 provides for the title of the Act, should it become law; Period Products (Free Provision) Act (Northern Ireland) 2021.

⁹⁴ Plan International UK (2018) *Break the Barriers: Girls’ Experiences of Menstruation in the UK* Plan International UK: Middlesborough.

⁹⁵ Explanatory and Financial Memorandum to the Bill

5 Conclusion

This paper has drawn on a range of sources which reflect that some people face barriers accessing period products when they need them, largely because they cannot meet the cost. The paper also reflects on initiatives to provide free period products in other parts of the UK, as well as existent pilot schemes to provide free period products in Northern Ireland. As pilots are in the early stages, a full assessment of uptake, outcomes, and cost is yet to be determined.

The Period Products (Free Provision) Bill aims to ensure that all those who menstruate can access sanitary products during menstruation, at no cost, as and when they are required. This paper has identified aspects of the Bill that could be given further consideration, including the groups who face specific issues in accessing period products and how their needs might be considered through a universal scheme of free period product provision.