

November 2023

Dame Andrea Leadsom MP
Parliamentary Under Secretary of State (Minister for Primary
Care and Public Health)
House of Commons
London
SW1A 0AA

Dear Dame Leadsom MP

HEALTHY START SCHEME: FAMILIES WITH NO RECOURSE TO PUBLIC FUNDS

1. We are writing to you in relation to the serious concerns surrounding access to the Government's Healthy Start scheme (the "**Scheme**"). As you know, the Scheme helps young families and those who are pregnant to access healthy food, milk and vitamins.¹ However, unacceptable barriers to accessing the Scheme remain for children from households on low incomes with no recourse to public funds ("**NRPF Households**"). As explained further below, last year the Government promised to hold a consultation on the permanent extension of the Scheme to NRPF Households "*in due course*" (the "**Consultation**"). This consultation has failed to materialise. We are writing to you now to urge that the promised consultation takes place without any further delay.

BARRIERS TO ACCESS FOR NRPF HOUSEHOLDS

Access is currently temporary

2. In June 2021 the Department of Health and Social Care ("**DHSC**") agreed to "*temporarily*" extend the Scheme to British children under four years old whose parent or guardian meets the financial eligibility criteria and is excluded from claiming public funds as a consequence of their immigration status or their lack of immigration status.² However, this extension remains temporary, leaving NRPF Households uncertain as to their future eligibility for the Scheme.

Methods to apply are reduced

3. The application process for NRPF Households is burdensome and non-transparent. The majority of non-NRPF applicants may choose between applying for the Scheme online, by email or by phone. By contrast, NRPF Households have no choice but to apply by email and wait for the DHSC to "*contact them to discuss the application process*."³ This leaves NRPF Households with no control over their application process and removes all transparency and certainty as to when they will be contacted to move matters forward.

¹ NHS Business Services Authority, Healthy Start: Guide for Health Professionals dated 28 November 2022, p. 2, available at <<https://media.nhsbsa.nhs.uk/resources/guide-for-health-professionals>>.

² NHS Business Services Authority, Healthy Start: Guide for Health Professionals dated 28 November 2022, p. 7; NHS, "Healthy Start: How to apply", <<https://www.healthystart.nhs.uk/how-to-apply/>>.

³ NHS Business Services Authority, Healthy Start: Guide for Health Professionals dated 28 November 2022, pp. 4, 7; NHS, "Healthy Start: How to apply".

Evidence of the difficulties

4. The difficulties for NRPF Households seeking to access the Scheme are supported by the statistics. By way of example:

(a) On 19 September 2023, in response to a Parliamentary Question about NRPF Households accessing the Scheme, you as Parliamentary Under-Secretary for the Department of Health and Social Care said that “The Department has sent out over 1,300 application forms to those who have requested them.”⁴

(b) On the same date, your Department had also confirmed that the DHSC had received only “As of 18 August 2023, the Department has received 110 fully completed applications that have demonstrated that the applicant met the eligibility criteria.”⁵

Comparative schemes

5. We note that, following a threatened judicial review challenge⁶ to the decision of the Secretary of State for Education not to provide free school meals during the 2020 summer school holiday, the Department for Education has since permanently extended free school meal eligibility to children in NRPF Households, subject to maximum income thresholds.⁷ As the Food Foundation has explained in its previous correspondence, we consider that the DHSC should similarly permanently expand eligibility for the Scheme to all NRPF Households.⁸
6. While the Scheme is available in England, Wales and Northern Ireland, Scotland operates its own Best Start Foods scheme.⁹ From 13 December 2021, Best Start Foods eligibility was extended to children with British citizenship in NRPF Households.¹⁰
7. We see little reason to distinguish the Scheme from the free school meals and/or Best Start Food schemes described above and therefore urge the DHSC to commence the Consultation urgently so that progress can be made to bring the Scheme into line with its comparators.

THE PROMISED CONSULTATION SHOULD PROCEED WITHOUT FURTHER DELAY

8. The low number of NRPF Household applications and even lower number of successful applications and payments made to NRPF Households are clear indicators that change is needed. While it is our view that the Scheme should be extended permanently to children from NRPF Households without further delay, we recognise that the DHSC considers that the first step towards securing the urgently needed changes would be to conduct the promised Consultation.

⁴ UK Parliament, “Healthy Start Scheme”, Question for Department of Health and Social Care, UIN 199522, tabled on 13 September 2023, answered on 19 September 2023, <[Written questions and answers - Written questions, answers and statements - UK Parliament](#)>.

⁵ Ibid.

⁶ “COVID-19/Free School Meals and the Summer Holidays”, Pre-Action Protocol Letter dated 16 June 2020, paras 7-8, 10, <https://www.sustainweb.org/resources/files/responses/FSMLegalLetter_200616.pdf>.

⁷ Department for Education, “Providing free school meals to families with no recourse to public funds (NRPF)”, updated 31 January 2023, <<https://www.gov.uk/government/publications/free-school-meals-guidance-for-schools-and-local-authorities/providing-free-school-meals-to-families-with-no-recourse-to-public-funds-nrpf>>.

⁸ See, for instance, The Food Foundation, “Healthy Start Working Group Policy Positions”, March 2023, p. 2, <https://www.foodfoundation.org.uk/sites/default/files/2023-04/Healthy%20Start%20Working%20Group%20Policy%20Positions_2023.pdf>.

⁹ NHS Business Services Authority, Healthy Start: Guide for Health Professionals dated 28 November 2022, p. 2.

¹⁰ Social Security Scotland, “Best Start Grant and Best Start Foods: high level statistics to 31 March 2023”, p. 15, <<https://www.gov.scot/collections/social-security-scotland-stats-publications/>>.

9. The Consultation has been continually promised but remains outstanding. Indeed, the letter from the Parliamentary Under Secretary of State for Vaccines and Public Health to the Food Foundation and Sustain stated that “[t]he department has committed to consult on Healthy Start and No Recourse to Public Funds (NRPF) and this will be published in due course.”¹¹ This letter, dated 6 September 2022, made it clear that the Government was “committed to the [Scheme]” and “aware of how important it is to pregnant women and families from very low-income households.”¹²
10. Despite this, on 19 December 2022, in response to a further parliamentary question about when the Consultation would take place, you said “[w]e are currently considering options and further information will be available in due course.”¹³
11. Despite it being more than a year since the commitment to conduct the Consultation and nine months since your reference to “considering options”, no further information has been published about the Consultation. The DHSC appears to have made no concrete steps towards holding the urgently needed Consultation. We therefore urgently request that the DHSC provides immediate and clear information as to the proposed format and timing of the Consultation so that it can be held without further delay.

PROGRESSING THE CONSULTATION IS IN LINE WITH UNITED NATION STANDARDS

12. For completeness, we consider that the proposal that the DHSC should proceed urgently with the Consultation is in line with government commitments to United Nations standards and requirements.

The United Nations Committee on the Rights of the Child

13. In June 2023, the United Nations Committee on the Rights of the Child (the “**Committee**”) recommended that the United Kingdom “[s]trengthen measures to address child malnutrition, food insecurity and growing trends in overweight and obesity”, including by:
 - (i) “ensuring all children’s access to nutritious foods and reducing their reliance on food banks, regardless of their or their parents’ migration status”;
 - (ii) “expanding the free school meals programme to all children in disadvantaged situations, including children whose parents receive Universal Credit”;
 - (iii) “addressing the root causes of food insecurity, including poverty”;
 - (iv) “providing nutrition services in schools and communities”; and
 - (v) “promoting healthy lifestyles and physical activity”.¹⁴

¹¹ Letter from Ms Maggie Throup MP, Parliamentary Under Secretary of State for Vaccines and Public Health, to Ms Kath Dalmeny, Chief Executive of Sustain, dated 6 September 2022, <<https://foodfoundation.org.uk/sites/default/files/2023-01/DHSC%20response.pdf>>.

¹² Ibid.

¹³ UK Parliament, “Healthy Start scheme: Migrants”, Question for Department of Health and Social Care, UIN 69490, tabled on 24 October 2022, answered on 19 December 2022, <<https://questions-statements.parliament.uk/written-questions/detail/2022-10-24/69490>>.

¹⁴ UN Committee on the Rights of the Child, “Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland”, CRC/C/GBR/CO/6-7, 22 June 2023, para. 41(e), <<https://digitallibrary.un.org/record/4013807>>.

14. The Committee also “urges” the United Kingdom “to eliminate discrimination against children in disadvantaged situations, including children belonging to ethnic minority groups, asylum-seeking, refugee and migrant children”.¹⁵
15. The DHSC’s failure to conduct the Consultation and consider the permanent expansion of the Scheme to NRPF Households amounts to a failure to comply with the Committee’s recommendations.

The Government’s commitment pursuant to the United Nations Convention on the Rights of the Child (UNCRC)

16. In a written statement to Parliament on 6 December 2010, the Minister of State for Children and Families made “a clear commitment that the Government will give due consideration to the UNCRC articles when making new policy and legislation.”¹⁶
17. The Government’s commitment to give due consideration to the UNCRC has been consistently affirmed in subsequent public statements.¹⁷ For example, in a statement made in the House of Lords on 20 November 2018, the Parliamentary Under-Secretary of State for Children and Families said that the United Kingdom “is a proud and long-standing signatory” of the UNCRC and that “this Government remains fully committed to the promotion and safeguarding of children’s rights.”¹⁸ The statement also “reaffirm[ed] the value that this Government places on the UNCRC and our ongoing commitment to give due consideration to the UNCRC when making policy and legislation.”¹⁹
18. Having signed and ratified the UNCRC, the United Kingdom “shall undertake all appropriate legislative, administrative, and other measures” to implement the rights recognized in the Convention.²⁰ In particular, the United Kingdom shall “take appropriate measures” to assist parents in implementing the child’s right to an adequate standard of living and, in case of need, shall “provide material assistance and support programmes” with regard to nutrition.²¹ The United Kingdom shall also “pursue full implementation” of the child’s right to enjoy “the highest attainable standard of health”²² and shall “take appropriate measures” to combat malnutrition, including “through the provision of adequate nutritious foods”.²³
19. Given the temporary nature of the eligibility of NRPF Households for the Scheme, and the low number of NRPF Households who actually receive payments, it is clear that the DHSC has failed to take appropriate measures and to provide the material assistance and

15 Ibid, para. 20(a).

16 Minister of State for Children and Families, 6 December 2010, <<https://hansard.parliament.uk/commons/2010-12-06/debates/1012063000011/ChildrenSCommissionerReview>>.

17 The Memorandum submitted by the Department of Education to the Joint Committee on Human Rights on 1 February 2011, <<https://publications.parliament.uk/pa/it201012/itselect/itrights/154/15410.htm>>, stated that the “Government is a proud signatory of the UNCRC and is committed to its implementation”. In a statement made in the House of Lords on 17 October 2016, <<https://questions-statements.parliament.uk/written-statements/detail/2016-10-17/HCWS194>>, the Minister of State for Vulnerable Children and Families said that the United Kingdom “is a proud signatory” of the UNCRC and the Minister “want[s] to reinforce this commitment.” The Cabinet Office Guide to Making Legislation, <<https://www.gov.uk/government/publications/guide-to-making-legislation/guide-to-making-legislation-html>>, says that “[t]he Government has made a commitment to give due consideration to the articles of the [UNCRC] when making new policy and legislation” and that explanatory notes for new legislation should include “a summary of the anticipated effects of legislation on children and on the compatibility of draft legislation with the UNCRC.”

18 Parliamentary Under Secretary of State for the School System, 20 November 2018, <<https://questions-statements.parliament.uk/written-statements/detail/2018-11-20/HCWS1093>>.

19 Ibid.

20 UNCRC, Article 4.

21 UNCRC, Article 27(1) and (3).

22 UNCRC, Article 24(1) and (2).

23 UNCRC, Article 24(2)(c).

adequate nutrition that children from the poorest households rightly deserve and that the UNCRC supports.

20. Leaving access to the Scheme on a temporary basis for NRPF Households clearly does not give proper consideration to the United Kingdom's commitments under the UNCRC.

NEXT STEPS

21. We look forward to hearing from you in relation to the timing of the Consultation and your proposals as to urgent next steps and would be happy to discuss the issue further, should that prove necessary.

Yours faithfully

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J B Lever, Reader in sustainable and Resilient Communities, University of Huddersfield

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