

# The Pupil Premium: Issues of uptake and entitlement to Free School Meals.

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## Introduction

*This paper originated as a result of an enquiry following examination of the data in one secondary school. The school has a growing number of bilingual pupils, a substantial number of whom have arrived recently from Eastern Europe. The BME group in the school (nearly all bilingual) had half the number of pupils on FSM compared to the general school population. This is in contrast to the national average of EAL pupils being 1.7 times more likely to receive FSM. (1). This of course has impact on the amount of Pupil Premium available to the school in question (£600 per pupil.) It was decided to explore further.*

Schools are not experts in benefit regulations; however their need to bring in money for the Pupil Premium is a great motivator. This paper aims to give an introduction to some of the issues regarding entitlement and uptake of free school meals so that schools can plan how to support families in the application process and more money can be available in school for their children.

It is known that not all families who are eligible apply; that some families may not know their entitlements; and that some families have no entitlement, even if hard pressed financially. Many schools do not fully understand either who is eligible and who is not or what barriers prevent them from applying.

Understanding these matters is not straightforward. Eligibility for benefits is not an easy topic and trying to both outline them and begin to understand the barriers to application may be fraught with possible dangers of oversimplification and

generalisations. The author hopes to be forgiven if that is the case.

For simplicity the paper has been divided into the following headings:

- Summary of recent research
- Some barriers to application for benefits
- Benefit entitlement and different groups
  - British citizens
  - Other European Economic Area citizens – main group, A8 and A2
  - Third Country Nationals
  - Asylum Seekers and Refugees
  - Individuals with irregular status
- Ways forward.
- Bibliography and useful links

## Summary of recent research

Two studies have been written recently about access and eligibility to free school meals. The first, dating from November 2012, is called *Pupils not Claiming Free School Meals* (1). This study commissioned by the DfE found that 14% of the pupils entitled to FSM were not claiming and therefore were not accessing Pupil Premium. The study found a lot of variations within England with under-registration varying from 0% to 33%.

LAs showing full registration were: Birmingham, Bolton, Darlington, Halton, Hartlepool, Islington, Middlesborough, Newham, Plymouth, Redcar and Cleveland, South Tyneside, Stockton-on-Tees, Stoke-on-Trent, Sunderland, Tower Hamlets and Wigan.

The ten LAs with the highest under-registration rates were: Buckinghamshire

(33%), Richmond upon Thames (33%), Suffolk (32%), Surrey (32%), Bath and North East Somerset (31%), Poole (30%), Milton Keynes (30%), Bracknell Forest (30%) and Bournemouth (29%).

The second report from the Children's Society, Fair and Square (2), published in March 2013, found that 1.2 million children in poverty do not get free school meals. 700,000 of them are not entitled to this key support and the remaining 500,000 are often put off from applying for fear of stigma and bullying. Another key finding was in relation to the needs of children from families in receipt of working tax credits who are ineligible for FSM but are sometimes just as needy as others on benefits.

Both of these reports focussed on families that have received benefits. There are of course other families who might be eligible for benefits but have not applied and others who might have no eligibility to public funds. These differences in status can affect school finances where there are numbers of children in poverty not in receipt of FSM.

In the last few years, there has been some speculation in England that some EEA migrant workers have been attracted to England in order to access benefit and housing. A recent study called Unemployment Benefits and Migration (3) has explored whether this is the case across the EEA. The study found no evidence at all of any *welfare magnet*. Benefits in England are roughly on a par within Europe and are less generous than those available in Denmark, Sweden, Finland and Germany. Even in those countries there was no evidence that this attracted migrants from within the EEA.

### Barriers to application for benefits

The main barrier to application found by the Children's Society in their recent report (2) was the fear of stigma, with families reporting concerns that their children might be bullied for having free school meals.

As well as the fear of stigma other barriers to application include:

- A desire for privacy – not wanting anyone to know your business
- Pride – feeling a failure if you cannot support your family independently and not wanting this known by others particularly within your community
- Lack of trust in officialdom which can result in hesitancy in registering with any government agencies.
- A family or community culture that looks after its own and sees itself as self-reliant
- Difficulties with command of the English language, literacy or general understanding which prevent parents from understanding what they are entitled to. In some cases this is severe. Some groups have had very limited access to basic education.
- A lack of understanding of legal rights, sometimes severe.
- Difficulties in accessing the internet
- Difficulties in carrying out activities such as opening bank accounts, which would make the receipt of any benefits problematic.
- Delays in applications and the presentation of supportive documents.

.. or indeed a combination of the above.

Many of the families described above may be described as hard to reach and may often be from minority ethnic groups. An

alternative view might refer to hard to access services.

In engaging with families who are reluctant to apply for free school meals, schools would be advised to examine the barriers to application of different groups as these will inform the strategies used. Success will hinge on good family and community engagement which will shed light on the particular circumstances presenting to families and communities.

### **Benefit entitlement and different groups**

#### ***British Citizens***

Advice from the DFE (4) states that "...in England, children are eligible to receive free school meals (FSM) if their parents are in receipt of any of the following benefits:

- Income Support
- Income-based Job Seekers' Allowance
- Income-related Employment and Support Allowance
- Support under Part VI of the Immigration and Asylum Act 1999
- the Guaranteed element of State Pension Credit
- Child Tax Credit **provided** they are not also entitled to Working Tax Credit and have an annual gross income of no more than £16,190, as assessed by Her Majesty's Revenue and Customs.

The Department for Work and Pensions' Welfare Reform Act plans to bring in a universal credit (UC), to be phased in between 2013 and 2017, to replace many current in-work and out-of-work benefits with a single payment. This will result in the removal of current income thresholds. Universal credit is intended to be a simpler and fairer way of determining entitlement to benefit. It may mean that the current criteria for identifying children's entitlement for free school meals will no longer exist.

The Department for Education aims to ensure that, as universal credit is introduced in 2013, the FSM eligibility criteria are fair, simple and easily integrated into the existing FSM administrative and delivery systems. The Children's Society report (2) also highlighted the difficulties facing families on working tax credit that are not eligible for free school meals despite being hard up. This was raised in the House of Commons as a concern in April 2013(5). Some British citizens will not be eligible for the benefits listed above because they have been living abroad. Applicants have to prove that they are "present and ordinarily resident in the UK". This is referred to as *habitual residence*. This is not the same as *ordinary residence*. The UK needs to be proved to be the centre of the person's interest. This concept will be explored in greater detail in the next section about other EEA nationals.

Benefit entitlements are extremely complex. A useful guide is published by Child Poverty Action and is called *The Welfare Benefits and Tax Credit Handbook*. It is updated annually. (6) Schools wishing to know which of their pupils are entitled to free school meals can type in their unique pupil number on the Key to Success website Ever6FSM/LAC (7). This will also apply to other children from the EEA.

#### ***Other European Economic Area citizens***

Information from the Citizen's Advice Bureau (8) goes on to say "EEA nationals have the right not to be treated worse than a British citizen." EEA nationals have different rights in the UK dependent on when their country of origin joined the EEA.

Those joining the EEA, which include the UK, **before 2004** are:

- Austria
- Belgium
- Cyprus (the southern part)
- Denmark

- Finland
- France (including French Guiana, Guadeloupe, Martinique and Reunion)
- Germany
- Greece
- Iceland
- Italy
- Liechtenstein
- Luxembourg
- Malta
- Netherlands
- Norway
- Portugal
- Republic of Ireland (Eire)
- Spain
- Sweden

Nationals from these countries have the same rights across the EEA. In order to claim benefits EEA citizens in the UK will have to demonstrate compliance with the Habitual Residence Test. This is in two parts:

#### **Demonstrating the right to reside**

- This is not as simple as just being a member of the EEA. Applicants need to show that they are either:
  - Employed
  - Self employed
  - A student
  - Self-sufficient financially
  - A member of a family of the above
  - A permanent resident (over 5 years residence in UK)

Sometimes proving these things can be problematic.

#### **Demonstrating that the UK is the habitual residence of the person concerned**

- There is no exact guidance around this. Applicants need to show that they have *settled intentions*, that they have been living in the UK for a period of time and that it is their main place of residence

Countries that joined the EEA in 2004 are called **A8 countries**. They are:

- The Czech Republic
- Estonia
- Hungary
- Latvia
- Lithuania
- Poland
- Slovakia
- Slovenia

Until 1 May 2011, the UK maintained the Workers Registration Scheme. This required A8 workers to register employment for the first 12 months. Any changes in employment also needed to be registered. After 12 months, workers were no longer subject to the WRS and could exercise Treaty rights and claim benefits exactly as if they were any other EU national (e.g. French or German). It is important to note that A8 nationals have always been able to take up self-employment without being registered.

From May 2011 the rights of nationals from A8 countries have been aligned with other EEA nationals (9). They are subject to the Habitual Residence Test as detailed above.

This posed difficulties for some groups such as the Roma from the Czech Republic, Poland and Slovakia who have historically had limited access to education and therefore difficulty in accessing work.

Countries that joined the EEA in 2007 are called **A2 countries**. They are:

- Bulgaria
- Romania

Migrant workers from these countries need to be registered under the Worker Authorisation Scheme. Until 1 January 2014, most Bulgarian and Romanian nationals will need to have prior authorisation from the UKBA in order to work in the UK. Some will be exempt from this requirement, however. It is important to note that there is no restriction on A2 nationals engaging in self-employed work. This restriction will

be lifted in 2014. The UK Border Agency can give more details.

### ***Third Country Nationals (non EEA countries)***

This is another large group of people whose situations vary. They will include:

- People on work permits who may stay in the UK for an agreed period of time. They will have no recourse to the public purse and so will not be eligible for benefits and therefore their children will not be entitled to FSM
- Overseas Students - again here for an agreed period of time. No recourse to public funds, no eligibility for benefits, no FSM
- Asylum seekers including unaccompanied minors -will be eligible for support under Part VI of the Immigration and Asylum Act 1999

Advice from the Citizens Advice Bureau (8) says that usually people who come to the UK to work cannot get public funds; 'public funds' meaning most welfare benefits and local authority housing. Third Country Nationals will be able to send their children to school but would be ineligible for other benefits.

*No recourse to public funding* is the term stamped in people's passports. If schools have concerns about a family in these circumstances they should contact Social Services or the NRPF network – link (10)

### ***Asylum Seekers, Unaccompanied Minors and Refugees***

Those seeking Asylum are eligible for public support under Part VI of the Immigration and Asylum Act 1999. The children will therefore be eligible for free school meals and thus the Pupil Premium. Adults are supported financially but are not able to work. Unaccompanied minors who are by themselves under the age of 18 and are usually put into foster care. Asylum seekers can apply for refugee

status. If this is given they are given leave to remain usually for 5 years. At this point they can take up employment and / or apply for benefits. After 5 years they can apply for indefinite leave to remain. For a fuller picture read the link to the Asylum briefing document from the Refugee Council. (11) This includes information about those who are refused refugee status. Those with refugee status have either been given leave to remain or indefinite leave to remain. They will be entitled to benefits and therefore to FSM.

### ***Individuals with Irregular Status***

These will include:

- People who have been in the country on short term visas to study or for work purposes whose visas have run out
- People who have entered the country illegally
- People who have been trafficked or smuggled into the country
- Children of any of the above, some of whom have been born in the UK. It is estimated that there are 120,000 children who are undocumented at present, half of whom have been born in the UK.

(12)

None of the above groups have entitlement to the public purse. Advice can be sought from Social Services or the NRPF, no recourse to public funds. (10)

### ***Ways forward***

There are a very large number of children in English schools who are living in poverty but are not in receipt of free school meals and therefore not eligible for the Pupil Premium. Some of them are entitled to free school meals but are not claiming and others have no entitlement to the benefits system.

Schools can:

- Continue to use the Key to Success website to find FSM eligibility for individual pupils (7)
- Use standardised letters to contact parents of eligible children not accessing FSM (13)
- Devise strategies to address the fear of stigma and bullying which the Children's Society has highlighted as a major barrier to uptake
- Ensure that families from EEA countries who are entitled know that their rights and apply by
  - Providing links with the Citizens Advice Bureau
  - Making translated material available
- Engage effectively with families who are reluctant/ feeling unable to claim, establish what barriers present and move forward in partnership.

Schools cannot change the law about:

- Working tax credits and non-entitlement to FSM.
- Issues to do with habitual residence.
- Non-entitlements to benefit for some EEA nationals and all Third Country Nationals.
- Support for the children of individuals with irregular status.

Schools can raise any concerns about these groups with their professional associations or the relevant lobby groups.

Professional associations and child poverty lobbies may also wish to question whether the Pupil Premium is effective on its own in supporting the needs of children in poverty in schools or whether other measures need to be put in place.

## References

1. Pupils not claiming free school meals November 2012, Martinez and Evans  
[https://www.education.gov.uk/publications/0002/5610/Asylum\\_Briefing\\_2013.pdf](https://www.education.gov.uk/publications/0002/5610/Asylum_Briefing_2013.pdf)

<http://www.education.gov.uk/publications/RSG/AllRsgPublications/Page4/DFE-RR235>

2. Fair and Square. Free school meals for all children living in poverty. Children's Society 2013  
[http://www.childrenssociety.org.uk/sites/default/files/tcs/fair\\_and\\_square\\_campaign\\_report.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/fair_and_square_campaign_report.pdf)
3. <http://www.guardian.co.uk/uk/2013/mar/28/immigrants-eu-benefits-welfare-magnet> The full report is cited in the newspaper article.
4. DFE Free school meals eligibility criteria. December 2012.  
<http://www.education.gov.uk/schools/pupilsupport/pastoralcare/a00202841/fsmcriteria>
5. Report on parliamentary questions April 2013  
<http://www.theyworkforyou.com/whall/?id=2013-04-16b.25.0>
6. The Benefits and Tax Credits handbook 2012-13. Child Poverty Action.
7. <https://www.keytosuccess.education.gov.uk/schools/>
8. From Citizens Advice website  
[http://www.adviceguide.org.uk/england/benefits\\_e/faq\\_index\\_benefits/faq\\_benefits\\_entitlement\\_if\\_coming\\_from\\_abroad.htm](http://www.adviceguide.org.uk/england/benefits_e/faq_index_benefits/faq_benefits_entitlement_if_coming_from_abroad.htm)
9. <http://www.airecentre.org/data/files/resources/12/FAQs-rights-of-A8s-after-1-May-2011.pdf> Information about benefit entitlements for A8 nationals after May 2011
10. For people with 'No Recourse to Public Funds' stamped in their Visa or Passport then the NRPF Network is another place where advice can be sought, and this page also has links to other advices lines:  
<http://www.nrpfnetwork.org.uk/enquiries/Pages/default.aspx>
11. Information about the asylum process.  
[http://www.refugeecouncil.org.uk/assets/0002/5610/Asylum\\_Briefing\\_2013.pdf](http://www.refugeecouncil.org.uk/assets/0002/5610/Asylum_Briefing_2013.pdf)

12. Sigona, Nando and Hughes,  
Vanessa No way out no way in.  
Irregular migrant children and their  
families in the UK.  
COMPAS.University of  
Oxford.2012
13. A model letter is available at  
<http://www.education.gov.uk/b00200056/increasing-registrations-for-free-school-meals-and-the-pupil-premium>

#### **Other useful links**

The Chartered Institute of Housing has set up the very useful Housing Rights info website: <http://www.housing-rights.info/index.php> This covers more than just housing rights and includes other benefits – you can search by immigration status type.

The Migrant Children's Project based at the Children's Legal Centre has lots of useful information and an advice line, further info here:

[http://www.childrenslegalcentre.com/index.php?page=migrant\\_children](http://www.childrenslegalcentre.com/index.php?page=migrant_children)

Turn2us is a useful charity which people could approach for information on their entitlements:

[http://www.turn2us.org.uk/information\\_resources/benefits/migrants/habitual\\_residence\\_test\\_hrt.aspx](http://www.turn2us.org.uk/information_resources/benefits/migrants/habitual_residence_test_hrt.aspx)

For help with Equalities issues in general

<http://www.insted.co.uk/>