

Period Products (Free Provision) (Scotland) Bill

Policy Memorandum

Introduction

1. As required under Rule 9.3.3A of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Period Products (Free Provision) (Scotland) Bill introduced in the Scottish Parliament on 23 April 2019.
2. The following other accompanying documents are published separately:
 - statements on legislative competence by the Presiding Officer and Monica Lennon MSP, the member who introduced the Bill (SP Bill 45–LC);
 - a Financial Memorandum (SP Bill 45–FM);
 - Explanatory Notes (SP Bill 45–EN).
3. This Policy Memorandum has been prepared by Non-Government Bills Unit on behalf of Monica Lennon MSP, the member who introduced the Bill, to explain the policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Policy objectives of the Bill

4. The aim of the Bill is to ensure that all who menstruate are able to access period products, at no cost, as and when they are required.
5. The Bill will:
 - place a duty on Scottish Ministers to ensure that period products are made available free of charge on a universal basis;

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- require education providers to make period products available free of charge in on-site toilets; and
- enable Scottish Ministers to place a duty on other specified public service bodies to provide free period products.

Background

“Period poverty”

6. Scottish Government statistics illustrate that, since the recession of 2008, relative poverty levels in Scotland have been slowly rising, with figures demonstrating that after housing costs, 19% of Scotland’s population, or 1 million people each year, were living in poverty in 2014-17.¹

7. The effect of this is evidenced in figures from the Trussell Trust which show that food bank use in Scotland is rising at a rapid pace, with 170,625 emergency supply parcels handed out in 2017-18 compared to 14,332 in 2012-13.² Many are finding it difficult to afford basic necessities, including period products. Further Trussell Trust research shows that, in addition to food parcels, there is significant demand from users for other essential items, including period products.³

8. It is recognised that period poverty can have a detrimental effect on the health and wellbeing of women, girls and trans people. Using period products for longer periods of time than is recommended or using unsuitable alternatives can lead to infections and health issues. Additionally, women, girls and trans people may feel they have no choice but to miss out on educational activities, work or recreation due to not having appropriate products.

9. The impacts of period poverty can be exacerbated where there are period-related health issues, such as endometriosis or polycystic ovary syndrome which can mean heavier or irregular periods and, as a result, an increased number of products might be needed each month.

¹ <http://www.gov.scot/Publications/2018/03/3017/4>

² <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/#fy-2012-2013>

³ <https://www.trusselltrust.org/2017/12/06/non-food-provision-in-scotland/>

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10. Where people do not have access to their own income, they may struggle to access period products – for example, if a partner withholds money for products or if a young person is embarrassed to ask a parent or carer or is worried about the impact on the household budget and does not feel that they can ask for them.

Education

11. Being unable to afford or access period products can have a significant impact on young people. Pupils and students are less likely to have access to their own income, and therefore may be unable to afford period products. This is evidenced by Plan International UK research which found that one in seven girls surveyed in the UK had struggled to afford period products whilst one in ten had been unable to afford products.⁴

12. Furthermore, school pupils, and to a lesser extent college and university students, are required to stay on campus for large parts of the day, making it potentially difficult for them to access period products.

13. There remains a stigma associated with menstruation, and people can often feel embarrassed to talk about their periods. Plan International UK found that 48% of girls surveyed in the UK aged between 14 and 21 were embarrassed by their periods⁵ and a 2017 ActionAid survey found that one in five women (20%) under forty years old would feel uncomfortable discussing their periods.⁶ This problem can be worse for those in education who, should they not have access to period products when required, may feel too embarrassed to ask staff or peers for help. Indeed, Plan International UK found that 22% of those surveyed were not comfortable discussing their period with their teacher.

14. As a result of these factors, many women, girls and trans people do not achieve full attendance in education. Plan International UK found that 49% of girls surveyed had missed an entire day of school because of their

⁴ <https://plan-uk.org/media-centre/plan-international-uks-research-on-period-poverty-and-stigma>

⁵ <https://plan-uk.org/media-centre/plan-international-uks-research-on-period-poverty-and-stigma>

⁶ <https://www.actionaid.org.uk/blog/news/2017/05/24/1-in-4-uk-women-dont-understand-their-menstrual-cycle>

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period, of which 59% gave an alternative reason for their absence to their school. Press articles have highlighted cases of pupils who have found themselves in this position⁷, and a number of responses to the member's consultation also referred to similar experiences.⁸

15. The Educational Institute for Scotland (EIS) commented in its guidance to schools and colleges on distributing period products that “there are likely to be attendance impacts of better provision of sanitary products – girls are more likely to attend school/college if they know they can manage their periods whilst present.” The EIS also noted that increased attendance levels could have a positive impact on attainment, stating that: “if learners have fewer absences, are not distracted, anxious or uncomfortable when they have their periods ... reducing anxiety and stress about how to access period products should enable students and staff to focus more on learning and teaching.” It was also noted by the EIS that the free provision of period products can “assist an educational establishment to better meet the needs of transgender children or staff who may retain female biological functions whilst presenting as male.”⁹

Current law in Scotland

16. There is currently no legislation in place in Scotland relating to the free provision of period products. Such legislation as exists tends to focus on the disposal of, rather than the provision of, period products.

17. The School Premises (General Requirements and Standards) (Scotland) Regulations 1967 set out requirements for period product facilities in schools, including the requirement to make “suitable provision” for the disposal of sanitary towels in female pupils' toilets where the school has pupils over the age of eight.¹⁰

⁷ <https://www.bbc.co.uk/news/uk-39266056>

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http://www.scottish.parliament.uk/S5MembersBills/Consultation_Summary_FINAL.pdf

⁹ <http://www.eis.org.uk/Content/images/period%20poverty/Distributing.pdf>

¹⁰ School Premises (general Requirements and Standards) (Scotland) Regulations 1967: Section 15(2)

<http://www.legislation.gov.uk/uksi/1967/1199/made>

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18. The Scottish Government recently consulted on secondary legislation to update the 1967 regulations, including to provide that period product disposal bins should be provided in all cubicles used by girls aged eight or over.¹¹

19. Similarly, the Workplace (Health, Safety and Welfare) Regulations 1992 require workplaces to provide “suitable and sufficient” sanitary conveniences.¹²

20. The only legislation in Scotland dealing explicitly with the provision of period products appears to be the Prisons and Young Offenders Institutions (Scotland) Rules 2011, Rule 34(2) of which provides that: “The Governor must provide suitable towels and toiletries as are necessary for the prisoner’s health and hygiene, including: soap and shampoo; shaving materials if required; and in the case of female prisoners, sanitary protection.”¹³

Legislation and other measures elsewhere in the UK

21. As in Scotland, there is no legal provision for the universal supply of free period products elsewhere in the UK, or for free provision in educational establishments.

22. Most of the UK Government’s action in relation to period products deals with the so-called ‘tampon tax’. The Valued Added Tax rate on period products in the UK has been 5% since 2001, the lowest rate possible under EU legislation. The UK Government has stated its intention to apply a zero rate of VAT to period products once EU law is changed to allow it. It is currently administering a ‘tampon tax fund’ in which the money raised by the 5% VAT on period products, is used to provide funding to women’s organisations and charities.¹⁴

¹¹ <http://www.gov.scot/Publications/2017/07/3029> (Paragraph 33)

¹² Workplace (Health, Safety and Welfare) Regulations 1992: Section 20
(1) <http://www.legislation.gov.uk/uksi/1992/3004/contents/made>

¹³ Prisons and Young Offenders Institutions (Scotland) Rules 2011: Rule 34
(2) <http://www.legislation.gov.uk/ssi/2011/331/contents/made>

¹⁴ <https://www.gov.uk/government/news/women-and-girls-set-to-benefit-from-15-million-tampon-tax-fund>

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23. With regard to the provision of free products in educational establishments, in 2012 the Welsh Government issued non-statutory guidance¹⁵ which included a recommendation that:

“Sanitary machines should be placed in all age appropriate girls’ toilets (aged 8 or over) where sanitary towels/tampons can be obtained unobtrusively without having to ask an adult.

Secondary schools: each set of toilets (with two or more toilet cubicles) for girls has a sanitary dispenser.

Primary schools: a minimum of one set of toilets for girls aged eight and over has a sanitary dispenser.”

Current actions and measures

24. The case for free provision of period products in Scotland has received increased attention in recent years with several prominent campaigns, including the member’s, aimed at ending period poverty.

25. The Scottish Government carried out a six-month trial from September 2017 to February 2018 offering free products to women on low incomes in Aberdeen. Following an evaluation of the Aberdeen pilot scheme,¹⁶ the Scottish Government announced on 30 May 2018 that it would extend the pilot scheme across the rest of Scotland.

26. The charity FareShare, which administered the original pilot scheme, was awarded over £500,000¹⁷ of Scottish Government funding to purchase and distribute period products to those who need them. In addition to their Aberdeen centre, FareShare will use their centres in Dundee, Glasgow and Edinburgh to distribute products to people on low incomes and will also work with partners organisations such as Community Food Initiatives North

¹⁵ School toilets: Good practice guidance for schools in Wales, January 2012, available at:

<https://beta.gov.wales/sites/default/files/publications/2018-03/school-toilets-good-practice-guidance-for-schools-in-wales.pdf>

¹⁶ The Scottish government “Access to sanitary products Aberdeen pilot: evaluation report” 2018, available at:

<https://www.gov.scot/publications/2018/05/2049>

¹⁷ <https://news.gov.scot/news/providing-free-sanitary-products-1>

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East (CFINE), Move On, Transform and the Cyrenians to support distribution in local communities.

27. It is understood that products are distributed through food banks under the FareShare network to people who ask for them; there is no requirement to register specifically for the products and the only information that is collected is a tally of the number of people who are given them, which is fed back to FareShare.

28. It is understood that individuals must be referred to foodbanks to make use of them so there is a registration process of sorts, just not specifically for period products.

29. On 24 August 2018 the Scottish Government confirmed it would provide access to free period products in schools, colleges and universities from August 2018,¹⁸ and in January 2019 the Scottish Government announced a further £4 million of funding to local authorities to expand the provision of free period products in local communities.¹⁹

30. Prior to this commitment from the Scottish Government, some education providers had already taken the decision to provide period products for free. For example, South Lanarkshire College in East Kilbride already provided free period products on its campus to students and staff via the student union and dispensers in toilets.²⁰ In addition, some local authorities, including North Lanarkshire²¹ and North Ayrshire Councils,²² had already made commitments to provide free period products in their schools.

31. Extending beyond education establishments, Network Rail, for example, recently confirmed that it would make period products available

¹⁸ <https://beta.gov.scot/news/students-to-get-free-access-to-sanitary-products/>

¹⁹ <https://news.gov.scot/news/expanding-access-to-free-sanitary-products>

²⁰ https://www.south-lanarkshire-college.ac.uk/wp-content/uploads/Student-Newsletter-February-2017_FINAL.pdf

²¹ <https://www.northlanarkshire.gov.uk/index.aspx?articleid=33802>

²²

http://www.ardrossanherald.com/news/15494059.End_period_poverty_in_schools/

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for free in toilets at its Edinburgh Waverley and Glasgow Central stations.²³ The Scottish Parliament has also made products available for free to all building users following action from Monica Lennon MSP and the Parliament's Women's Network.²⁴

32. The success of the grassroots campaign "On the Ball" has seen the introduction of free period products in many football grounds across Scotland and around the world. In February 2019 the Buchanan Galleries shopping centre in Glasgow also announced its intention to provide free period products in its public toilets.²⁵ The movement in Scotland around access to period products has started a national conversation about menstruation that has already had a far-reaching impact.

Detail of the Bill

Universal period products scheme

33. The Bill sets out the key requirements for a universal period products scheme, while leaving much of the detail of the scheme for the Scottish Government to provide in regulations.

"Opting in" and eligibility

34. The universal scheme will operate on an 'opt-in' basis and will allow anyone to request and access period products, free of charge, throughout Scotland, regardless of age, gender, income etc. By operating on such a basis the Bill will also ensure that those with no fixed address or homeless people will also have access to the period products they need. There will be no means-testing or referral system in place. Giving access to all will mean that women, girls and trans people are not financially penalised for menstruating. It will help to tackle period poverty whilst minimising any perceived stigma which may be associated with being given free products.

35. The fairly broad terms of the Bill allow for flexibility in the operation of the scheme, meaning that, whilst the Scottish Government may choose

²³ <https://stv.tv/news/west-central/1405072-free-sanitary-products-to-be-offered-in-train-stations/>

²⁴ <https://www.parliament.scot/newsandmediacentre/108581.aspx>

²⁵ <https://www.eveningtimes.co.uk/news/17409796.buchanan-galleries-to-offer-free-sanitary-products/>

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initially to implement one type of scheme, it can be adapted in future if necessary.

36. One model which the Scottish Government might consider would be the “C-Card” scheme.²⁶ The scheme is a confidential service for the distribution of free condoms. It operates in various areas across Scotland and is funded and administered by Health Boards. Those signing up for a C-Card are only required to provide minimal personal details such as their name and date of birth before they are issued with a card which allows them to obtain free condoms.

37. Cardholders can collect condoms from designated locations such as youth clubs, medical centres, colleges and universities within their local area. The scheme allows individuals to choose the type of condom that best suit their needs. As schemes are operated by different Health Boards across Scotland there are slight variations in how they operate; however, the general principle of the scheme is consistent across the country.

38. This C-Card scheme is suggested by the member as a possible example of a model that could be adapted for the provision of period products. Using a similar scheme for this purpose would mean that anyone who requires period products would be able to obtain them for free at designated locations such as community centres, youth clubs, pharmacies, medical centres or clinics. This model could allow women, girls and trans people to choose the period product which best suits their needs and could operate on a confidential basis.

39. The Bill specifies that, if Ministers decide that certain information is required to opt in to the scheme, this should be minimal, such as the person’s name and the first part of their postcode.

40. Furthermore, this model would allow some evaluation to be carried out regarding the quantity of products being accessed, which could be useful data when considering anti-poverty policies in future.

²⁶ <http://www.ccard.org.uk/about-us/>

Accessibility

41. Ease of access is at the heart of the member's policy, with the varying requirements of different individuals in mind. For example, in rural or remote areas, there may be limited locations where products could be made available, or transport facilities may be restricted. Even in urban areas, some women, girls and trans people may not be able to collect products easily if they have mobility issues or caring responsibilities.

42. The Bill provides that postal delivery should be made available, as an alternative to collection in person. It also enables people to be charged for the cost of postage, but only where their circumstances are such that it would be reasonable for them to collect products in person. As a result, anyone who cannot reasonably collect in person (for example, because they live a long way from any collection point) cannot be charged for postage.

43. Similarly, proxy applications and collection by one person on behalf of another should be accepted on behalf of, for example, vulnerable people or those with mobility issues, or in any other circumstances as specified by Scottish Ministers.

44. The Bill enables the Scottish Government to decide on the method of distribution under the universal period products scheme. This should allow consideration to be given to how particular groups, for example trans people, access products, and ensure that any model implemented will allow them to do so safely.

Quantity and types of product

45. The Bill does not prescribe a specific number of products which a person may collect on each occasion, nor does it prescribe the frequency with which collections may be made, but it does allow the Scottish Government to prevent people obtaining more products than they reasonably need. This should allow the varying needs of different women, girls and trans people to be taken into account whilst giving Ministers the power to prevent abuse of the system.

46. Every woman, girl and trans person has different period product requirements, and those requirements can vary greatly on a month-to-month basis. Some, particularly those with health conditions such as

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polycystic ovary syndrome, have irregular menstruation cycles meaning that periods can start unexpectedly and can vary greatly in length. Others, including those with conditions such as endometriosis can experience particularly heavy periods meaning they require more period products than those who have lighter periods.

47. In addition, the type of period products which women, girls and trans people wish to use, either through choice or necessity, many vary greatly. For example, those with heavier periods are likely to want to use period products designed to deal with a heavier flow. Others may prefer environmentally-friendly products such as reusable “menstrual cups”.²⁷

48. The Bill attempts to accommodate these varying needs by including a broad description of period products which allows for the universal provision of a variety of products – this should include both sanitary towels and tampons and allow for the provision of reusable products and for any products which are developed in future.

49. If the C-Card model is followed, each individual will be able to choose the period product which best suits their needs so, for example, those with heavy periods could choose extra-absorbent products rather than only having access to one standardised type.

Duty on schools, colleges and universities

50. The Bill will ensure that those in education have access to period products by placing a duty on relevant education providers to provide them for free in toilets. As a result, free period products will be available in every school, college and university in Scotland.²⁸ This will apply to both primary

²⁷ <https://www.webmd.com/women/guide/menstrual-cup#1>

²⁸“Schools” are defined in the Education (Scotland) Act 1980, section 135: <https://www.legislation.gov.uk/ukpga/1980/44/section/135>. “Colleges” and “Universities” are defined by the Universities (Scotland) Act 1966, section 16: <https://www.legislation.gov.uk/ukpga/1966/13/section/16> and the Further and Higher Education (Scotland) Act 1992, sections 1, 44 and 46: <https://www.legislation.gov.uk/ukpga/1992/37/contents>. In practice, this means that all colleges and universities listed in schedule 2 of the Further and Higher Education (Scotland) Act 2005: <https://www.legislation.gov.uk/asp/2005/6/schedule/2> and private colleges

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and secondary schools, both local authority-run and independent, in addition to all colleges and universities.

51. As with the period products scheme, the aim of this provision is to ensure that all those who need to access period products can do so free of charge. The Bill seeks to provide for those who may not be able to take advantage of a universal system. This applies to school pupils and college and university students who have to spend long periods of time each day in either a school or campus building, meaning they cannot easily access products from other sources.

Minimum requirements

52. The Bill requires that products should be made available, for free, in each female, gender-neutral, and accessible toilet, in each building that is regularly used by pupils or students. (This would include, for example, sports facilities, halls of residence, student unions, etc.). The aim is to ensure that products are accessible to all pupils and students who need them without imposing disproportionate obligations on educational establishments.

Buildings to which requirements apply

53. While the focus is on buildings routinely used by students, it is expected that the Bill will also bring benefits to other people who live or work in educational establishments. Most buildings regularly used by pupils or students will also be frequented by staff and others, who will therefore also have access to free products. It would be up to schools, colleges and universities whether to provide free period products in toilets in buildings frequented only by staff and visitors.

are covered by the Bill. Note that Scotland's Rural College (SRUC) is counted both as a university and a college, and that the list of colleges includes institutions that also form part of the University of the Highlands and Islands.

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Specification of provision

54. The Bill does not specify in which manner the products should be provided, other than that they should be available in toilets.

55. The Bill requires that education providers do all they reasonably can to ensure that period products are “always there when those toilets are in use by the pupils or students” in order to ensure that they are readily available to those who need them, as and when they need them. Education providers are also obliged to provide a choice of different types of period products within this provision. There is no obligation on education providers to provide free period products in toilets when buildings are not being used by pupils or students – e.g. in a hall of residence that is used for accommodating conference delegates during a university vacation. Products would however still need to be provided in areas accessed by students outwith term time such as in university libraries which are regularly used by graduate students for example during university vacations.

Future application to other public service bodies

56. The Bill gives Scottish Ministers a power to require other public service bodies to provide free period products in their premises. This would be achieved through secondary legislation. Public service bodies are defined for the purposes of the Bill as those constituted by or under an enactment, and having functions that consist of or include providing public services or otherwise serving the public interest.

57. The purpose of this power is to allow the Scottish Government to adapt to future circumstances, should it determine that people using other public services should have access to free period products on the premises. In including this duty, the member acknowledges that many such organisations already provide period products for free in their buildings.

58. The type of public service bodies which the duty may be extended to is not specified in the Bill. It is therefore for the Scottish Government to determine whether they wish to use the power to extend the duty and which bodies they may wish to extend it to.

59. One example would be to extend the duty to all NHS Health Boards, requiring them to provide free period products in hospitals. Patients in hospital can often find themselves there unexpectedly, meaning they may not have appropriate period products with them. In addition, being required

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to stay in hospital could make it difficult for patients to obtain period products in other ways (e.g. from shops).

60. Although many health boards have already taken steps to provide period products to patients in hospitals, availability is inconsistent and the means of requesting the products can be unclear to patients.²⁹ Placing the duty on a statutory basis should ensure that anyone who is in hospital and requires these essential items can access them more easily.

61. Should the Scottish Government choose to extend the duties to other public service bodies, it would be required to undertake a consultation with relevant parties, and take views expressed into account, before bringing forward relevant legislation.

Promotion of the scheme

62. The universal system can only function successfully if people are aware of its existence and of how they can access products. The member is of the view that the scheme's availability should be promoted through, for example, websites to disseminate such information. These could include a mapping function, allowing users to quickly and easily find out where they can obtain products. However, the best method of achieving this goal may change in time, for example, as new technologies are developed. Whilst it will be for the Scottish Government to determine how best to publicise the scheme, the Bill requires the Government to ensure reasonable information is made available on where products can be obtained. The Bill also requires that councils, bodies, persons and education providers who are, or may be, obliged to offer the free provision of period products take such action as they think fit to inform those who seek, or may seek, to obtain free period products.

Consultation

63. The member carried out a consultation exercise on a draft proposal,³⁰ lodged on 11 August 2017, which ran from 12 August to 8 December 2017.

²⁹ <https://www.bbc.co.uk/news/uk-scotland-43483752>

³⁰ Monica Lennon MSP (12 August 2017) Sanitary Products (Free Provision) (Scotland) Bill Consultation Document. Available at: http://www.scottish.parliament.uk/S5MembersBills/FINAL_Ending_Period_Poverty_consultation_document.pdf

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There were 1,753 responses³¹ to the consultation and a summary of those responses³² was published along with the final proposal.

64. An overwhelming majority of respondents (1,677, 96%) were supportive of the proposal. There was strong support for arguments made in the consultation paper, including that: providing free period products will ease the financial burden on those on low incomes or in receipt of benefits and help to tackle ‘period poverty’; that menstruation is a natural bodily function and those who menstruate should therefore not be penalised by having to purchase period products; and that providing period products free of charge in schools, colleges and universities will reduce instances of women, girls and trans people having to miss out on their education due to not being able to afford, or not having access to, appropriate period products.

65. A small minority of respondents (47, 3%) were opposed to the Bill, citing reasons including that funds would be put to better use elsewhere; the proposal would have little impact; and that the provision of free products would be subject to abuse with women, girls and trans people taking products they do not need.

66. A number of responses made reference to the perception of stigma associated with menstruation and the use of period products. It was noted that some may feel embarrassed to discuss these issues and that steps should be taken to ensure that the Bill did not lead to further stigmatisation which could occur if, for example, the provision of free products became associated with low income.

Alternative Approaches

Universal provision

67. As identified, there are already several schemes in place which provide for the free provision of period products in workplaces, educational establishments and in buildings used by the public. In addition, the Scottish

³¹ Consultation responses available here:

<http://periodpovertyscotland.weebly.com/consultation-responses.html>

³² Monica Lennon MSP (7 March 2018) Sanitary Products (Free Provision) (Scotland) Bill Consultation Summary Available at:

http://www.scottish.parliament.uk/S5MembersBills/Consultation_Summary_FINAL.pdf

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Government has extended a trial which provides free period products to people on low income. While such actions should be welcomed, they do not fulfil the member's aim of guaranteeing that period products are available free to anyone who requires them. The member therefore considers it necessary to bring forward legislation in order to ensure universal access to products over the long term.

Schools, colleges and universities

68. As noted above, the Scottish Government committed to providing period products free of charge in schools, colleges and universities from August 2018. As this gives effect to part of the member's proposal, it could be argued that no legislative action is required in this regard. However, the member considers it important that the provision of free products in schools, colleges and universities is put on legislative footing in order to ensure full commitment from those the duty is placed upon and to give the proposal long-term effect. Whilst the current Government's commitment to free provision seems clear, future administrations may take a different view and decide to bring such a scheme to an end if it does not have statutory underpinning.

69. The member has set out certain requirements in the Bill which educational authorities must adhere to. Free period products should be made available in every female, gender-neutral, and accessible toilet in buildings regularly accessed by pupils and students. Responses to the consultation highlighted the embarrassment many feel in discussing menstruation and period products and may therefore prevent them from accessing products. It was for this reason that the Bill specifies that products should be made available in appropriate toilets so those that need them can access products discreetly rather than needing to ask for them in a central location such as a reception area. Schools, colleges and universities were chosen as the route for this distribution over other places accessible to pupils and students such as public libraries, youth clubs etc, as it was felt that this would be the simplest and when most convenient way for pupils and students to access the period products they need.

70. The member considers it important that products are made available free of charge to every individual who menstruates and that legislation is required to ensure this is given effect.

Effects on equal opportunities, human rights, island communities, local government, sustainable development etc.

Equal opportunities

71. It is recognised that the proposal could have an impact across several protected characteristics - for the purposes of this document a number of the main issues associated with the Bill have been highlighted below.

Gender

72. Managing menstruation safely requires the use of appropriate period products which cannot normally be accessed without cost. It can be argued that menstruation and the subsequent financial implication in managing periods is an inequality associated with gender, which can result in women, girls, and trans people being unable to work, attend school, college or university, or to carry out their everyday activities.

73. This Bill will allow all those who need period products free access to them, thus helping to reduce this inequality. The Bill could also increase the safety of menstruating trans people by decreasing instances where they might experience discrimination or misunderstanding when trying to access period products.

74. It is usually women and girls who are affected by domestic abuse or coercive control (which can include control of their available funds or restrictions on their ability to go places independently). Whether they are a partner or child living in this environment, the provisions of this Bill should make it easier for them to get access to period products.

Race, religion and belief

75. Some may wish to use non-invasive period products for religious or cultural reasons. The Bill provides that a range of period products should be made available, both as part of the universal scheme and the provision in schools, colleges and universities.

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Age

76. Period poverty is particularly likely to affect young people who often do not have their own income, or have only a limited income. The measures proposed in this Bill allow them to access free period products both via the universal scheme and (if they are pupils or students) at toilets within their school, college or university. For pupils and students with low incomes, in particular, this will have a positive impact by ensuring that they are not disadvantaged by missing out on educational opportunities as a result of being unable to access the necessary period products, helping them to achieve their full potential. The free provision in colleges and universities will also be of benefit to older students who may be menopausal and may require products unexpectedly. Whilst the aim of the Bill is to provide products to pupils and students, staff at these institutions are likely also to benefit from this provision.

Disability

77. People with disabilities are more likely to be living in poverty and therefore more likely to be affected by period poverty. This Bill will positively impact upon those living with a disability who menstruate, as they will, along with all of those who menstruate, be able to access free period products

Human rights

78. The Bill aims to facilitate access to products that meet a basic need of anyone who menstruates. The member considers that the way it does so is fully compatible with the European Convention on Human Rights. The imposition of additional obligations on certain specified bodies and persons may represent a minor restriction of their Article 1, Protocol 1 rights, but this is considered to be justified by the wider public interest. Furthermore, section 8 of the Bill enables Scottish Ministers to make payments, as they think appropriate, to anyone obliged by or under the Bill to make period products free of charge.

Island communities

79. The Bill should have no significant impacts specific to island communities. These communities, however, are often small and remote, making it more likely that people will have difficulty collecting free products easily. Women, girls and trans people within these communities should however be able to benefit from the requirement that any universal scheme

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includes the option to have products delivered, free of charge, in such circumstances.

Local government

80. The Bill is expected to have financial and administrative impacts on local authorities by placing a duty on education authorities to provide free period products in their schools. It is likely that local authorities will be responsible for introducing and administering the duty in addition to ensuring that it is adhered to.

81. In addition, should the Scottish Government decide to model the universal system on the ‘C-card’ scheme or similar, this may involve it using local authorities as its principal “delivery partner”, for example by expecting people to register with their local authority and then collect products from local authority premises. On the other hand, the Scottish Government could use other models – relying, for example, mostly on other partners such as pharmacies and charities – in which case the universal scheme may have only minimal implications for local authorities.

Sustainable development

82. There are various principles in the UK Shared Framework for Sustainable Development adopted by the Scottish Government in 2005 which are of relevance to the Bill, primarily; ensuring a strong, healthy and just society, living within environmental limits, achieving a sustainable economy, promoting good governance, and using sound science responsibly. The Bill also supports a range of United Nations Sustainable Development Goals (SDG)³³ including: no poverty, zero hunger, good health and wellbeing, gender equality, and reduced inequalities.

Ensuring a strong, healthy and just society

Human needs and wellbeing

83. Currently many on low incomes struggle to afford period products. This has led to some using unsuitable alternatives such as socks, facecloths, and toilet paper, amongst other things. Others have opted to use disposable period products for far longer than is recommended. Using such substitutes or using products for too long can create health risks such as the potential for infection, or in extreme cases, Toxic Shock Syndrome

³³ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

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(TSS). (TSS is a very rare but potentially life-threatening condition which can, in some cases, be caused by the inappropriate use of period products, such as using a product for much longer than is recommended by the manufacturer. As those suffering from period poverty are likely to need to use products for longer than is recommended for financial reasons, they are more at risk of this condition.)

84. Not having access to appropriate period products can lead to anxiety and embarrassment. It can also lead to social isolation as some may not feel able to leave their home without the necessary period products. It is hoped that the Bill will increase the wellbeing of those on a low income and ultimately improve their lives.

Equity

85. It is hoped that the Bill will result in women, girls and menstruating trans people being able to reach their full potential in education by removing the barriers to their full participation.

86. The provision of these products has the potential to improve the lives of future generations by allowing them to fully participate in education, as well as reducing risks to health and dignity.

Social Capital

87. The Bill will help to improve the links between people in the community by enabling those who menstruate to participate in community activities which they previously may not have been able to take part in due to the lack of access to appropriate period products.

88. It is hoped that the Bill will encourage discussion and help to end the stigma around menstruation. The member's consultation and responses to it refer to this issue, noting that embarrassment during menstruation often results in many girls' lack of involvement in school during their periods, adding to the attainment gap.

Living within environmental limits – use of materials or energy

89. Disposable period products pose some environmental risks as they contain plastic and other synthetic materials that have a negative impact on the environment. As only a small proportion of the population are expected to make use of the scheme however, and the fact that most of these

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already currently pay for products, it is not anticipated that the Bill will lead to a significant number of additional disposable products being used.

90. Several respondents to the member's consultation suggested that the use of more environmentally-friendly reusable period products, such as menstrual cups or washable pads, could be promoted under the scheme which could help to off-set any potential negative environmental impacts.

91. In February 2019, the First Minister announced a campaign to promote the use of reusable period products as part of the Scottish Government's existing efforts to tackle the problem of single-use plastics.³⁴

92. These products, though initially more expensive to purchase, would result in savings over time, in addition to the environmental benefits. It is intended that a range of products (including reusable options) will be made available under the provisions of the Bill and that users will be free to access the products best suited to them.

Achieving a sustainable economy

Livelihoods

93. The Bill should have a positive impact for those on low incomes. By providing them with the period products they need they will be less likely to take time off sick because of a lack of suitable period products. This will be of particular benefit to those on zero-hour contracts who do not get paid if they do not work. In addition to the benefits to those making use of the scheme, a reduction in staff absence rates should also increase productivity and ultimately benefit the wider economy.

Society

94. By reducing the inequality caused by period poverty, the Bill should result in women, girls and trans people on low incomes no longer being faced with a choice between buying period products or food for their families. This Bill could also result in many families having a little extra money due to no longer needing to purchase period products. This money could then be spent on other things such as food or other daily necessities locally, potentially boosting the local economy.

³⁴ <https://news.gov.scot/news/reducing-single-use-plastic>

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Promoting good governance – participation in decision making

95. It is hoped that one of the consequences of the Bill will be to reduce the stigma around menstruation in general. By helping to remove this stigma, and by providing free period products to those who cannot afford to purchase them themselves, women, girls and trans people may feel more empowered and as a result more likely to take an active role within their communities and to make their voices heard.

Using sound science responsibly – improving knowledge and understanding

96. It is anticipated that the Bill will lead to a wider awareness of the issue of ‘period poverty’ and the social stigma attached to it as well as to menstruation in general. Several respondents to the consultation called for an education campaign to help more people understand the issue and why the Bill is necessary. The Bill provides that an awareness raising campaign should be undertaken by the Scottish Government if the Bill is enacted.

Commencement

Universal system

97. In relation to the universal system, the duty on Scottish Ministers to establish such a system should come into force the day after Royal Assent, so that Ministers have authority to begin work on developing such a system immediately, with the scheme becoming operational no later than one year after Royal Assent.

Duties on schools, colleges and universities

98. In terms of commencing the duty on schools, colleges and universities (to provide free products in toilets), the relevant provisions should come into force on 1 August in the year following Royal Assent. The rationale for selecting this date is that the school year normally starts in mid-August (for state schools, later for independent schools), and college and university years usually start in September. The commencement date should therefore fall during a holiday or recess period, when it may be easier to make changes to school facilities (including fitting dispensers in toilets if necessary).

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Policy Memorandum

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