

**Scottish Milk and Healthy Snack
Scheme: Statutory Guidance for
Local Authorities and
Participating (Registered) Day
Care Settings**

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Section 1: Introduction to the Scottish Milk and Healthy Snack Scheme

1. Background

1.1 The [Milk and Healthy Snack Scheme \(Scotland\) Regulations 2021](#) as [amended](#) (“the Regulations”)¹ introduce a scheme, known as the Scottish Milk and Healthy Snack Scheme (“the Scheme” or “SMHSS”), in Scotland to replace the UK Nursery Milk Scheme using the powers in section 13 of the Social Security Act 1988². Payments will be made under the new Scheme from 1 August 2021.

1.2 The Scheme will fund a daily portion of plain fresh cow’s milk (or specified alternative) and a healthy snack (fruit or vegetables) for pre-school children spending 2 hours or more in the care of a regulated day care provider and/or childminders that has registered for the Scheme.

1.3 The Scheme aims to ensure that as many pre-school children in day care as possible will receive a daily serving of milk and a healthy snack to support the development of healthy eating habits for later life.

1.4 The aim of this guidance is to support local authorities and participating day care providers to implement the Scheme effectively.

2. Policy

2.1 A high-level summary of the policy is attached at **Annex A**. The new Scheme will support Scottish Ministers intention to improve children’s health and wellbeing, by establishing healthy eating habits, including regular consumption of quality dairy produce or non-dairy alternatives from an early age. It is intended that these habits will be taken forward into adolescence and throughout adult life.

2.2 This is a universal policy which applies to pre-school children, usually aged 5 and below, who are in receipt of 2 or more hours regulated childcare with a day care provider or childminder registered with the Scheme.

2.3 Payments and provision of milk and healthy snack under the SMHSS will begin from 1 August 2021. The UK Nursery Milk Scheme (NMS) will cease to have effect from midnight on 31 July 2021, although transitional arrangements of claims for milk provided up to and including 31 July will remain in place for a 6-month period (see **Section 4**). Under the new Scheme there will not be a requirement for settings to provide proof of purchase i.e. receipts, invoices, contracts although they will be asked to retain these, in case they should be selected for monitoring by their local authority. Please see **Paragraph 12** for more detail on reporting and monitoring.

2.4 The SMHSS will:

¹ Milk and Healthy Snack Scheme (Scotland) Amendment Regulations 2021 were laid in parliament on 13 May 2021

² The functions in respect of Scotland were transferred to the Scottish Government by section 53 of the Scotland Act 1998 when read together with section 32 of the Scotland Act 2016].

- Be delivered by local authorities who have been delegated prescribed Ministerial functions in the Regulations;
- Enable local authorities to provide direct and upfront funding for all pre-school day care providers and childminders which are registered with the Care Inspectorate; where children spend 2 or more hours per day in their care; and where the settings have registered with their local authority to be part of the Scheme;
- Provide funding for:
 - the provision of 189mls (1/3 pint) (or 200mls where supplied in containers of that size only) of plain fresh cow's milk (whole milk for children 1 year and over), 189mls first infant formula for children under 12 months or to include semi-skimmed milk for children 2 years and over; OR
 - where children cannot consume cow's milk for medical, ethical or religious reasons 189mls (1/3 pint) (or 200mls where supplied in containers of that size only) of plain, fresh, goat or sheep milk should be provided; OR
 - for those children who cannot consume cow's milk, goat's milk or sheep milk for medical, ethical or religious reasons, the provision of 189mls (or 200mls where supplied in containers of that size only) a specified non-dairy alternative defined as a unsweetened, liquid, calcium enriched; **and**
 - in addition to milk or a specified alternative, a healthy snack item (a serving of fruit or vegetables) for children over six months old.

Full details of what settings registered for the Scheme must provide is set out at **Paragraph 18** (supplemented by **Annexes B and C**).

2.5 The milk and healthy snack will be provided to the child by the childcare setting. **A setting may not charge parents for the provision funded under the Scheme.** This is discrete from any arrangements that may be in place for additional snack provisions which are not affected by this Scheme.

2.6 These proposals build on those described in the [Welfare Foods consultation](#) published in 2018. As funding will be delivered via local authorities, Scottish Ministers have been working collaboratively with the Convention of Scottish Local Authorities (COSLA) and partners on the design and delivery of the Scheme.

3. Operation of the Scheme

3.1 Scheme Year: The Scheme will run annually from 1 August to 31 July. This period will be known as the Scheme year. The first Scheme year will run from 1 August 2021 to 31 July 2022.

4. Funding

4.1 Scottish Ministers will provide funding for the Scheme in line with the agreement to be reached with COSLA. This will include funding for the milk and healthy snack costs and a fee to the local authority for the administration of the Scheme.

4.2 Local authorities will make upfront payments from 1 August 2021 to settings that have registered for the Scheme by the deadline set by their local authority.

These payments will be determined by the local authority, which is required by the regulations to make at least one payment per 12 months.

5. Eligibility for the SMHSS

5.1 Day care settings may apply to the local authority to register for the Scheme where they:

- provide pre-school care to children for 2 hours or more per day;
- are registered with the Care Inspectorate.

5.2 The Scheme is available to all regulated settings offering pre-school day care, regardless of whether they are in receipt of Early Learning and Childcare (ELC) funding. The domicile of the child is not of relevance; funding is made on the basis of the provision by settings, regardless of whether the child lives in the local authority with which the setting is registered. Local authorities will have different levels of information available to them on current systems, and may wish to have different registration requirements in place for different settings.

5.3 In order to receive the payments, settings must register to participate in the Scheme with the local authority in which the setting is located. In the case of chains, registration must be where each individual setting is located. The Regulations stipulate that the local authority may ask for any information reasonably required to support this process.

5.4 At a minimum, settings are required to opt-in to the Scheme, even where local authorities may hold all other relevant information. This is because any setting participating in the Scheme will be obliged to adhere to the Regulations, including provision of the benefit and monitoring and reporting obligations. Where a setting is run by the local authority, the local authority may confirm that it is opting in to the Scheme; this should be formally recorded.

5.5 As noted above, the Scheme is to provide funding for pre-school children who spend 2 hours or more in a day care setting which is registered both with the Care Inspectorate and with the local authority for the Scheme.

5.6 Children who attend regulated childcare settings which have not registered with their local authority to be part of the Scheme will not be eligible to receive the benefit offered through the Scheme.

5.7 Children who attend unregulated childcare settings (those not registered by the Care Inspectorate) will not be eligible to receive the benefit offered through the Scheme.

5.8 Children will not receive the benefit offered through the Scheme if they attend a setting for less than 2 hours on an individual day.

5.9 Children will only receive the benefit offered through the Scheme once per calendar day regardless how many additional hours they spend in an individual setting. Where children attend more than one setting in a day, they should still receive the benefit only once per day. Parents and providers will be responsible for

discussing how this should be managed in line with existing arrangements for agreeing division of responsibility for meals. The expectation is that the first setting in which child spends 2 hours will provide unless agreed otherwise

5.10 Children in receipt of childcare but who have commenced school or an equivalent (e.g. home-schooling) will not be eligible.

Section 2: Responsibilities of Local Authorities

6. Overview

6.1 The purpose of this section is to summarise the responsibilities of local authorities, noting that where local authorities also operate settings directly, the local authorities may also wish to read the guidance for settings at **Section 3**.

6.2 The Milk and Healthy Snack Scheme (Scotland) Regulations 2021 delegate a number of responsibilities to local authorities and confer other duties directly on them. They allow local authorities to:

- Determine that a payment period may be shorter than the default period of a year [thereby how often to make payments to settings in their area]
- Establish and operate a registration process for settings in their area
- Collect registration data (**Set out in Annex D**)
- Make direct payments to settings
- Report registrations at least annually to Scottish Ministers
- Collect monitoring data (**Set out in Annex E**)

6.3 Additionally, local authorities are required to have regard to this guidance, to follow any relevant directions and to submit an annual monitoring return to Scottish Ministers.

6.4 While local authorities will have flexibility on how the registration, delivery and monitoring of the scheme works on a local level, there are a number of principles which are fixed at a Scotland “national” level. These include:

- Settings must register (this is done by the provision of the necessary information) to participate in the Scheme. This is essential for the calculation of payments;
- It is not possible to opt-in to part of the Scheme. Settings registering for the Scheme must offer both milk and a healthy snack to children with the exception of those under the age of 6 months who would not receive solid food. (Parents may decide to decline all or part of the offer and in this situation, settings are asked to document this).

7. Registration

7.1 The Scheme will allow local authorities to establish registration mechanisms to suit local needs.

7.2 Local areas will be responsible for putting in place and promoting their own registration arrangements and providing details of these to Scottish Ministers.

7.3 The information that is required for registration is set out in the Regulations, and is detailed at **Annex D**.

7.4 A suggested registration template and further information for settings have been developed (**Annex F**). Local authorities may adapt this to their local needs and may wish to implement different procedures for funded, partner or other providers. Local authorities will wish to ensure, however, that the information sought will meet the legal requirements of the Regulations, allow them to complete their initial return to Scottish Ministers by 15 July 2021, and will provide the information they require to calculate initial payments.

7.5 The Regulations allowed local authorities to begin registering settings on to the Scheme from the 21 March 2021. Settings will require to register through a suitable and effective process that aligns with each local authority's approach.

7.6 Local authorities will determine their own timescales and may wish to advise settings in their areas of an appropriate date before the 1 August 2021 for initial registrations to be completed. Settings that have met the initial registration date will receive their first payment on or by 1 August 2021.

7.7 Scottish Ministers are keen to see as many children as possible benefit from the Scheme from 1 August 2021 and would encourage settings to register as soon as possible to enable this.

7.8 If a setting expresses an interest in registering for the Scheme, local authorities may wish to pre-emptively register the setting for the Scheme and set an agreed deadline for full registration to be completed.

8. Registration post July 2021 (In- year registration)

8.1 As noted above, local authorities may set registration deadlines for the first payment under the Scheme on 1 August 2021. The regulations provide flexibility for additional registrations to continue to be made thereafter.

8.2 It is envisaged that settings that have missed the deadline for registration in time for the 1 August payment, as well as new settings will wish to register in-year to join the Scheme as soon as possible. This is in line with policy intention for children to receive milk and snack as soon as possible and to avoid any disadvantage as result of the new Scheme.

8.3 The Regulations do not prescribe how local authorities will manage in-year registration; authorities are asked however, to put in place measures that will avoid lengthy waiting periods for settings to join the Scheme. It is suggested that for the first six months of this first Scheme year, authorities might wish to admit settings to the Scheme monthly to facilitate access to the Scheme; thereafter they may wish to set at least four payment points across the Scheme year, which would provide flexibility without creating undue administrative burden.

8.4 Where a childcare provider registers for the Scheme after 1 August and within the Scheme year, payment in respect of that period **must** be made within 4 weeks of the date of registration. Payment should normally be back-dated no further than the date of registration; however in Scheme year 1, in order to avoid any interruption to the supply of milk, authorities will wish to consider whether it is appropriate for payment to be backdated to a date earlier in Scheme year 1 where it is clear that the benefit has been provided.

9. Maintenance of registration (withdrawing from the Scheme)

9.1 Once a setting has registered for the Scheme, it is expected that this registration will remain valid unless and until the setting confirms in writing or electronically to the local authority that it wishes to withdraw from the Scheme.

9.2 Local authorities will be directed to provide an annual monitoring return Scottish Minister; in order to complete this and to determine annual payments, authorities will request information from registered settings, usually annually.

10. Payments by local authorities to settings

10.1 Local authorities are responsible for determining and making payments to settings, having regard to guidance provided by Scottish Ministers. These payments will be based upon the anticipated benefit (the number of servings of milk and healthy snack) that settings expect to provide. Benefit refers to the milk or non-dairy alternative and healthy snack item provided.

10.2 The Regulations require authorities to make payments not less than once within the 12 month payment period that runs from 1 August (the Scheme year). Local authorities have flexibility to set their own schedule of payments.

10.3 Local authorities will receive their allocations from Scottish Ministers, calculated in line with the agreement with COSLA, and will determine payments to settings in line with the provisions of the Milk and Healthy Snack (Scotland) Regulations.

10.4 It is anticipated that Local Authorities will set a rate of payment per serving of milk and healthy snack (one serving = one 189 or 200 ml portion of cow's milk or specified alternative or 189 ml first infant formula for children under 12 months and one healthy snack where children are aged 6 months or over).

10.5 Scottish Ministers **recommend** that the rate of payment per serving should be set at the **Local Serving Rate** confirmed to the Local Authority by Scottish Ministers. This is the rate at which Scottish Ministers will calculate end-year reconciliation payments.

10.6 Where a local authority wishes to set a rate in excess of the Local Serving Rate, they may do so in line with the provisions of the regulations, but the excess cost will only be met by Scottish Ministers where this has been agreed by exception on the basis of evidence and in advance of introduction of this rate. Local authorities

wishing to discuss additional costs should contact smhss@gov.scot in the first instance.

10.7 Local authorities have agreed to use the Local Serving Rate for Scheme year 1, without prejudice to future decisions.

10.8 The determination of SMHSS payments to registered day care settings should be calculated by multiplying Provision (the anticipated (and at reconciliation, actual) number of servings) for the payment period x by Rate of payment per serving (Local Serving Rate except where local authorities determine otherwise).

10.9 In communicating payments to settings, local authorities are asked to set out clearly, the rate for milk/ or specified alternative, the rate for healthy snack, the number of servings on which the calculation has been based (based on registration data), the period that it is to cover and the total payment.

10.10 Where settings are operated directly by the local authority, the local authority will be responsible for the management of funding due to this setting, in line with its existing processes for assuring provision for the setting. The local authority is therefore not required to make a discrete payment to a named setting that it operates directly although this remains a possibility where this is helpful for local practice.

10.11 Settings must inform the local authority if circumstances change significantly and it is recommended this should be done within a month of the change occurring. An example of a significant change is a change in enrolment levels +/- 10% of the stated enrolment at registration. If there is doubt about whether a change would be deemed as "significant", local authority advice should be sought. Where the changes would result in a need for additional funding, the local authority will advise on options for adjusting the payments.

10.12 Settings must also inform the local authority as soon as reasonably practicable if due to a change of circumstances (such as closure) they are no longer entitled to a payment of the scheme.

10.13 If a funded provider does not provide the benefit, local authorities may take reasonable action, working in conjunction with the Care Inspectorate with which providers participating in the Scheme must be registered.

11. Payments by Scottish Ministers to local authorities

11.1 Scottish Ministers will provide funding for the Scheme to local authorities, in line with the agreement reached with COSLA. Local authorities will be notified of their allocation and schedule of payments.

11.2 One reconciliation will be carried out for each Scheme year to ensure that local authorities have been reimbursed for total volume of servings paid out at the Local Serving Rate.

12. Monitoring and Reporting

12.1 As with any public spending, Scottish Ministers have a responsibility to develop and maintain records of expenditure which may be required by Audit Scotland, and also be available for any public interest.

12.2 The purpose of monitoring and reporting is three-fold:

- To enable assessment of the reach and impact of the Scheme and inform any necessary amendments;
- To ensure collection of the information required to enable end of year financial reconciliations to take place, notably in the first year of the Scheme;
- To ensure appropriate assurance of the Scheme and manage financial risks.

12.3 It is therefore envisaged that information sought will be information required to enable Scottish Ministers to fulfil these purposes.

12.4 As set out in the Regulations, local authorities are required to submit to Scottish Ministers an annual monitoring return. A standardised monitoring template will be provided. Exceptionally, authorities may also be asked to submit an interim monitoring return in year 1 (August 2021-July 2022) to enable initial learning from the Scheme to be captured.

12.5 The information derived from the returns will be used to enable the Government to assess the reach of the Scheme and to inform the calculation of reconciliation payments to local authorities. In the early years, it will also enable government to track the proportion of children in receipt of the benefit who are receiving cow's milk or an alternative. This will inform both our understanding of how the Scheme is being used and future cost projections, particularly after the first year.

12.6 To complete the annual monitoring return and to ensure appropriate financial assurance, authorities will wish to seek information from registered settings.

12.7 The Scottish Milk and Healthy Snack Scheme Regulations provide local authorities with the power to require childcare providers to provide information for monitoring purposes.

12.8 At a local authority level, appropriate monitoring remains important and must be proportionate to the risks involved and align with the systems that local authorities already have in place. It is anticipated that authorities' existing internal audit processes will normally provide the appropriate level of assurance for the Scheme. In line with usual practice, settings will be asked to maintain receipts and records of purchase which may be requested by the local authority.

13. Reporting concerns

13.1 Where an individual or a local authority has a concern about how a setting is operating the Scheme, the expectation remains – as for other purposes – that the

issue will be raised in the first instance with the setting; where this is not satisfactorily resolved, it may then be referred to the relevant local authority.

13.2 In the unlikely circumstances where there is a concern about financial probity associated with the Scheme, the local authority will work with Scottish Ministers to consider the appropriate action, informing other regulatory or enforcement bodies as appropriate.

14. Review and Evaluation

14.1 This is a new Scheme and as such it is anticipated that there will be learning to take from the first year. It is anticipated that Scottish Ministers and COSLA may wish to conduct a light-touch review of the policy in advance of year 2 of the Scheme, taking the learning from year 1

Section 3: Information for and Responsibilities of Day Care Settings Registering for SMHSS

This section to be read in conjunction with Sections 1, 2 and 4.

15. Overview

15.1 Our ambition is to ensure that as many children as possible attending eligible settings can benefit from the milk and healthy snack policy, embedding the habit of regular consumption of high-quality dairy produce (or non-dairy alternative) and fruit and vegetables from an early age. The purpose of the Scheme is to support improvement in children's health in the earliest years, which is crucial in tackling health inequalities.

15.2 The Scottish Milk and Healthy Snack Scheme will replace the existing UK Nursery Milk Scheme for regulated pre-school childcare settings in Scotland. **The UK NMS will cease to operate in Scotland with effect from midnight on 31 July 2021.** There will continue to be a six-month period (until end January 2022) during which you may reclaim monies for milk that has been supplied up to and including 31 July. However, milk supplied from 1 August 2021 cannot be reimbursed through the UK NMS.

15.3 The first payments under the new Scheme will be made from 1 August 2021. These are intended to enable settings to purchase what is required in order to offer the milk (or specified alternative) and healthy snack (fruit or vegetable) specified in the Scheme. It is to be noted that there is no supplementary payment for alternatives to milk: the costs of alternatives have formed part of the calculation of the indicative rates and the payments to settings should be sufficient for the purchase of what they require.

15.4 Under the new Scheme, eligible settings must register with the Local Authority, providing the required information which will include a forecast of your intended provision (see **Annex F**).

15.5 The Local Authority will make upfront payment(s) to enable settings to purchase the necessary products. Where settings are run directly by the Local Authority, the Local Authority will manage supply and payment arrangements in line with its existing practice.

15.6 It will be the responsibility of the setting to purchase products that meet the specification of the Scheme and to pay your suppliers with the funding provided. The list of products required or specified under the Scheme is set out at **Paragraph 18**. The new Scheme offers plain cow's milk as the default option on the basis of its greater nutritional content although where children cannot drink this for health, ethical or religious reasons, specified alternatives should be provided.

15.7 Settings will also be asked to provide information to the local authority, usually annually to enable them to calculate your payments. In line with existing practice, you must also retain receipts relating to the purchase of milk and healthy snacks although you will only be required to produce these in the event of monitoring by the local authority.

15.8 It is to be noted that you may not ask families to pay for these items for which you have received funding via the local authority. (This Scheme does not affect your approach to charging for items that fall outside its parameters).

16. Registering for the Scheme

16.1 To participate in the new Scheme, eligible settings must register with the relevant local authority, providing the required information. Settings which do not register with the new Scheme will not receive payments.

16.2 Each setting will need to register in the local authority in which it operates (in the case of chains, registration must be where each individual setting is located).

16.3 Eligible settings are those which:

- are registered with Care Inspectorate;
- where pre-school children spend 2 or more hours per day; and
- have registered with their local authority to be part of the Scheme.

16.4 At registration, settings will be asked to provide relevant information including evidence of their registration with the Care Inspectorate, bank details and forecasts requested by the local authority that will enable them to calculate payments. Further information, including a worked example of how to estimate benefit, is outlined in **Annexes D and F**.

16.5 Eligible childcare settings are strongly encouraged to ensure that they register in plenty of time for the new Scheme to ensure that they can access the agreed funding to provide milk and healthy snack from 1 August 2021.

16.6 Following the initial deadline for registration for 1 August 2021, it will be for local authorities to determine subsequent deadlines for in-year registration for the Scheme. Where registration takes place after deadline for the initial payment on 1

August 2021, payment will be made within 4 weeks of registration. Funding will not normally be backdated to cover a period prior to the date of registration.

16.7 Once a setting has registered for the Scheme, it is expected that this registration will remain valid unless and until the setting confirms in writing or electronically to the local authority that it wishes to withdraw from the Scheme.

17. Funding, payments and reporting

17.1 Following registration, the Local Authority will confirm arrangements for making payments to settings. Payment should be made no less frequently than once per Scheme year.

17.2 It will be for the day care provider/ childcare setting to register for the Scheme, providing payment details and determine how best to use this funding to procure and pay for the supply of dairy milk and healthy snack or non-dairy alternative for those children who cannot consume milk for medical, ethical or religious reasons.

17.3 Funding provided as part of the Scheme can only be used for the benefit provided under the Scheme as set out in paragraph 2.4.

17.4 You may not charge families for this provision for which Scottish Ministers funding has been provided (as noted above, this does not affect your approach to charging for other items that fall outside the parameters of this Scheme).

17.5 Where a child attends two or more providers in one day, the intention is that they must have provision under the Scheme only once in the 24 hour period. It is the expectation that the first setting in which child spends 2 hours will provide the milk and healthy snack unless agreed otherwise. Providers and families may wish to agree where it is most appropriate for the SMHSS provision to be given, in line with the approach taken to agreeing meal provision. If a child has already received SMHSS by the time they attend your setting you are not required to provide this again.

17.6 It is expected that a proportionate approach will be applied to monitoring and reporting. Settings will be asked to provide information to local authorities, normally annually, possibly additionally in the first year of the Scheme, to inform national assessment of the impact of the Scheme and projected costings. Settings will also be required to keep receipts as good practice and also to inform financial assurance which will be undertaken by local authorities in line with existing practice.

17.7 Settings must inform the local authority if circumstances change significantly and it is recommended this should be done within a month of the change occurring. An example of a significant change is a change in enrolment levels +/- 10% of the stated enrolment at registration. If there is doubt about whether a change would be deemed as "significant", local authority advice should be sought. Where the changes would result in a need for additional funding, the local authority will advise on options for adjusting the payments.

17.8 Settings must also inform the local authority as soon as reasonably practicable if due to a change of circumstances (such as closure) they are no longer entitled to a payment of the scheme.

17.9 If a funded provider does not offer the benefit, local authorities may take reasonable action, working in conjunction with the relevant authorities and regulatory bodies.

18. What must be provided under the new Scheme

18.1 If you are registered and receiving funding under the new Scheme, you must provide to each pre-school child attending for 2 hours or more:

- 189mls (1/3 pint) (or 200mls where supplied in containers of that size only) of plain fresh cow's milk (whole milk for children 1 year and over); 189mls first infant formula for children under 12 months; or to include semi-skimmed milk for children 2 years and over or first infant formula for children under 12 months); OR
- where children cannot consume cow's milk for medical, ethical or religious reasons plain, fresh, goat or sheep milk should be provided; OR
- for those children who cannot consume cow's milk, goat's milk or sheep milk for medical, ethical or religious reasons, the provision of 189mls (or 200 mls where supplied in containers of that size only) a specified non-dairy alternative defined as a unsweetened, liquid, calcium enriched; **and**
- in addition to milk or a specified alternative, a healthy snack item (a serving of fruit or vegetables) for children over six months old.
- Further information on what should be provided is set out in **Annexes B and C**.

18.2 It is not possible to opt-in to part of the Scheme. Settings registering for the Scheme **must** offer both milk (or a specified alternative) and a healthy snack to children with the exception of those under the age of 6 months who would not receive solid food. Parents may decide to decline all or part of the offer and in this situation, settings are asked to document this.

19. Milk and specified alternatives to milk

19.1 Breast milk and plain cow's milk are a good source of nutrients and are recommended to support the development of children above 12 months of age. Babies under 12 months who are not breastfed should receive first infant formula milk.

19.2 The current nutritional advice recommends that children over the age of 12 months should be offered plain cow's milk under the Scheme as the most nutritious drink. The specified alternatives should only be provided where parents advise that children cannot drink cow's milk for medical, ethical or religious reasons. Further information on the rationale behind this approach is set out at **Annex B** together with a table representing the hierarchy of alternatives for children who cannot drink plain cow's milk for medical, ethical or religious reasons.

19.3 However, where children cannot consume cow's milk for medical, ethical or religious reasons, you **must** offer plain fresh goat or sheep milk (whole milk for children 1 year and over or to include semi-skimmed milk for children 2 years and

over), or where for those reasons they cannot consume cow's milk, goat or sheep milk a specified unsweetened calcium-enriched non-dairy alternative (See **Annexes B and C**).

19.4 Where parents advise that their children should not drink any of the specified products, we would ask you to document this. In this situation children should be offered water, in line with the guidance of Setting the Table.

19.5 When offering milk, snack and the specified alternative non-dairy drinks attention should be given to the food safety implications. As a child care provider, it is your responsibility to ensure that you can provide allergen information for the food you serve and that this is accurate, consistent and verifiable. You will need to be able to identify any child with a food allergy or intolerance and provide them with food which is safe for their consumption. [Allergen information](#) should be easily accessible and readily available to children in your care and their parents/carers. When handling allergens attention should be given to cross contamination, cleaning and storage. For more information visit [Food safety advice for caterers and retailers | Food Standards Scotland](#) or [Childminders | Food Standards Scotland](#); you could also contact your environmental health service at your local authority.

20. Healthy snack

20.1 The regulations define the healthy snack as fruit or vegetables, including loose, whole, sliced, chopped, or mixed fruit but not fruit or vegetables to which fat, salt, sugar, flavouring or any other ingredient has been added. The snack provided as part of the Scheme **must** meet this definition.

20.2 In line with the [Setting the Table](#) nutritional guidance and food standards for early years childcare providers in Scotland, children should have opportunities to try a variety of different foods and food should be seen as part of the learning experience and an integral part of the caring environment. Fruit and vegetable portions offered as part of the Scheme should include variety of different types, flavours and textures. Serving sizes for pre-school children are smaller than those for adults. A rule of thumb is what a young child can hold in their hand. Examples include ½ large fruit or one small fruit.

Food preparation and hygiene

20.3 A childcare provider supplying food and drink must comply with food safety, hygiene and standards regulations. When handling raw and ready to eat foods attention should be given to cleaning, cooking, cleaning and storage. As a childcare provider, it is your responsibility to ensure that you can provide allergen information. For example, celery is one of the 14 allergens that must be labelled or indicated as being present in foods. Information and resources to support with the management of food safety and standards can be found on [Food safety advice for caterers and retailers | Food Standards Scotland](#) , [Childminders | Food Standards Scotland or Scotland Food and Drink](#) . If you have any questions about changes to your food provision contact your environmental health service at your local authority.

20.4 It is important to supervise young children when they are eating and provide assistance if required. Remove any stones or pips before serving. Slice, halve or chop small fruit and vegetables like cherry tomatoes and grapes. Cut large fruits into slices rather than chunks. Avoid whole nuts. Please see [Care Inspectorate Good Practice Guidance](#) for further advice on reducing the risk of choking in young children.

21. Sourcing the specified products

21.1 Buy local, buy ethical, be environmental, discuss billing arrangements

21.2 As noted at **Paragraph 17.2** above, it is the responsibility of the registered setting to arrange supply of, and payment for the products to be provided under the Scheme.

21.3 It is our expectation that in most cases, settings will wish to continue supply arrangements with existing suppliers. Settings will wish to have early conversations with suppliers about the move to the new Scheme and to ensure that agreed arrangements for billing and payment are in place, replacing the previous arrangements that applied under the UK Nursery Milk Scheme. From 1 August 2021, settings on the new Scheme will receive upfront payments from local authorities and no claims may be submitted for milk supplied from this date.

21.4 As part of the Scheme and in line with our wider commitment to the Good Food Nation vision³, Scottish Ministers encourages milk, fruit and vegetables to be sourced locally as part of our ambition to improve access to, and understanding of, the benefits of healthy local foods and ensuring sustainability of our Scottish food industry. If a setting that is not bound by a requirement to use the Scotland Excel framework is interested in which dairies operate in their area they can contact Dairy UK, the School and Nursery Milk Alliance or visit [Scotland Food and Drink](#). There may also be opportunities to explore provision of fruit and vegetables via local community food groups.

21.5 Scottish Ministers also expect childcare settings to adhere to environmental standards and to minimise waste. We would therefore encourage settings to source products which align with these expectations and reduce the use of single-use packaging and straws and move towards more sustainable, environmentally-friendly alternatives.

Section 4: Transition from UK Nursery Milk Scheme

22. Transition

22.1 The UK Nursery Milk Scheme will cease to operate in Scotland from 31 July 2021 and there is no option for Scottish settings to continue to use it after that date.

³ The Good Food Nation vision is about making a real and positive difference to the lives of the people of Scotland by helping to improve their access to, and understanding of, the benefits of healthy local foods; ensuring sustainability of our wonderful food industry; and looking to grow Scotland's reputation as a Good Food Nation from which other countries can learn.

22.2 Scottish Ministers want to make it as easy as possible for settings to transition to the new Scottish Healthy Milk and Snack Scheme. To ensure there is no gap in provision for day care providers and childminders the following transition process has been agreed:

- any milk provided to the children in settings on the current scheme up to and on 31 July 2021 will be funded by the UK NMS via the current claims and reimbursement model through the National Milk Reimbursement Unit
- claims for milk provided up to and on the 31 July can be submitted to the UK NMS for 6 months i.e. within 6 months from the date of the claim and before 31 January 2022
- any milk provided on and after the 1 August 2021 will be funded through the new Scheme where settings have registered for the SMHSS;
- where a childcare provider registers for the Scheme after 1 August and within the Scheme year, payment in respect of that period **must** be made within 4 weeks of the date of registration. Payment should normally be back-dated no further than the date of registration; however in Scheme year 1, in order to avoid any interruption to the supply of milk, authorities will wish to consider whether it is appropriate for payment to be backdated to a date earlier in Scheme year 1 where it is clear that the benefit has been provided.

22.3 Settings that were registered with the UK Nursery Milk Scheme will have received confirmation of the changes from the Department of Health and Social Care. Settings are encouraged to ensure that outstanding claims have been submitted by the deadline to ensure that these will be paid.

22.4 As noted above, settings registering for the SMHSS are encouraged to discuss new billing arrangements with their suppliers at the earliest opportunity.

Section 5: Learning from Year 1

23. Contact Details

23.1 The first payments will be made under the SMHSS from 1 August 2021. There will be learning from the early months of the new Scheme. Comments and queries may be directed to: smhss@gov.scot.

Annex A: Scottish Milk and Healthy Snack Scheme Summary

The Scottish Milk and Healthy Snack Scheme will replace the UK Nursery Milk Scheme (NMS) in Scotland with effect from 1 August 2021. The new Scheme is underpinned by the [Milk and Healthy Snack Scheme \(Scotland\) Regulations 2021](#) which came into force on 21 March 2021.

Purpose and ambition

Under the new Scheme eligible childcare providers – those (including childminders) providing pre-school day care, registered with the Care Inspectorate and registered with the local authority for the new Scheme will receive funding via the local authority to enable children in receipt of 2 hours or more childcare in the day to be provided with:

- 189mls (1/3 pint) (or 200mls where supplied in containers of that size only) of plain fresh cow's milk (whole milk for children 1 year and over or to include semi-skimmed milk for children 2 years and over), or 189mls first infant formula for children under 12 months; OR
- where children cannot consume cow's milk for medical, ethical or religious reasons plain, fresh, goat or sheep milk should be provided; OR
- for those children who cannot consume cow's milk, goat's milk or sheep milk for medical, ethical or religious reasons, the provision of 189mls (or 200 mls where supplied in containers of that size only) a specified non-dairy alternative defined as a unsweetened, liquid, calcium enriched; **and**
- in addition to milk or a specified alternative, a healthy snack item (a serving of fruit or vegetables) for children over six months old.

Our **ambition** is for as many as possible of the eligible children attending regulated pre-school day care settings for 2 hours or more to receive milk (or alternative) and a healthy snack regularly, and to acquire healthy eating habits for the future.

How this will work

Scottish Ministers will provide funding to **local authorities** to administer and deliver the Scheme.

Eligible (regulated) pre-school day care **settings** including childminders, wishing to participate in the Milk and Healthy Snack Scheme must register with their local authority to become a member of the Scheme, providing data about the number of children who attend and the anticipated volume of provision (anticipated number of servings of milk and snack to be provided). For this policy there is no differentiation between ELC funded and unfunded settings.

Local authorities will establish local registration schemes and will calculate and make arrangements for upfront payments to registered settings, based on the number of servings to be provided. Settings registering after the deadline for 1

August payments (“in-year registration) will receive payments within 4 weeks of registration, backdated to the date of registration.

Settings will use the funding provided by the local authority to purchase the necessary volume of milk and healthy snacks (which must conform with the requirements of the Scheme – plain cow’s milk or a specified alternative and fresh fruit or vegetables). Settings are encouraged to source milk, fruit and vegetables locally as part of our ambition to improve access to, and understanding of, the benefits of healthy local foods.

While children who cannot consume plain cow’s milk for medical, religious or ethical reasons may be offered a specified alternative; it is noted that these alternatives do not offer the same nutritional benefit as cow’s milk and should not therefore be regarded as equivalent.

Settings will be asked to retain their proof of purchases which may be subject to occasional audit.

Scottish Ministers and COSLA will agree light-touch monitoring arrangements for the policy and will review the overall arrangements in advance of year 2 in case any adjustments are required. It is envisaged that by the end of year 2 (end July 2023) the new approach will be fully embedded.

Transition from the UK Nursery Milk Scheme

Where **settings** have been registered with the UK NMS, they may, until the 31 January 2022, continue to submit claims within six months for milk provided no later than 31 July 2021.

Settings which have registered for the new Scottish Milk and Healthy Snack Scheme will receive funding from the local authority for the purchase of milk and snack to be provided from 1 August 2021.

Annex B

Annex B: SMHSS: milk and permitted “specified” alternatives to milk

- 1 In setting out what may be provided under the Scheme, Scottish Ministers have taken advice from Food Standards Scotland.
2. Plain cow’s milk is most nutritious for children and this is what should be offered under the scheme to all children except where they are under 12 months (and receive breast milk or first infant milk formula) or where children cannot drink it for medical, ethical or religious reasons.
3. Only where children cannot drink cow’s milk for medical, ethical or religious reasons, the new Scheme will allow settings to provide plain goat or sheep milk and where for those reasons children cannot drink cow’s milk, sheep’s milk or goat’s milk, the Scheme will allow a specified non-dairy alternative defined as a drink which is an unsweetened calcium enriched liquid (excluding rice milk).
4. In line with [Setting the Table](#), after the age of 2, semi-skimmed milk can be introduced gradually as long as the child is eating well and has a varied diet. Fully skimmed milk is not suitable as a main drink for a young child until they are 5 years old, as it does not contain enough calories or vitamins.
5. Unsweetened calcium enriched soya drinks are the closest nutritional equivalent to plain cow’s milk and these should be the first option for children who cannot drink dairy milks. Other unsweetened calcium enriched non-dairy alternative drinks may be offered only where a child cannot drink an unsweetened calcium enriched soya milk. A guide to support those selecting an unsweetened, calcium enriched soya drink is included in **Annex C**.
5. Rice milk must not be given to children under 5 years of age due to concerns about the levels of arsenic.

Rationale

7. Food Standards Scotland (FSS), is responsible for providing advice to Scottish Ministers on a range of food related issues including advice on diet and nutrition. FSS provided nutritional advice and identified the types of additional animal milks and non-dairy alternative drinks that can be included as part of the new Scheme to ensure the best health benefits and outcomes for children who do not drink cow’s milk. The policy is therefore based on the most up to date scientific evidence and dietary advice.
8. While inclusion of alternatives to cow’s milk offer more nutritional advantage than offering no alternative/ water alone, **the nutritional benefits of the alternatives are not comparable with those of cow’s milk and children should therefore continue to be offered cow’s milk except where they cannot drink this for medical, ethical or religious reasons.** Non-dairy alternative drinks offer less energy and nutrients than cow’s milk which can lead to deficiencies if not taken account of in the rest of the diet.

In summary:

Age of child	Default milk for the Scheme	Ranking of alternatives which should only be offered where children cannot drink the default for ethical, health or religious reasons
Under 12 months	N/A	First infant formula for children for whom breast milk is not available
12 months but under 2 years	Plain whole cow's milk	<p>Where a child cannot drink plain cow's milk for health, ethical or religious reasons, you should offer, in the following order:</p> <ul style="list-style-type: none"> (i) plain, whole fresh goat or sheep milk; (ii) specified unsweetened calcium-enriched soya drink (see Annex C for information on soya drinks) <p>Where a child is also unable to drink soya:</p> <ul style="list-style-type: none"> (iii) specified unsweetened calcium-enriched non-soya alternative (excluding rice milk). (iv) water
2 years and over	Plain cow's milk, whole or semi-skimmed	<p>Where a child cannot drink plain cow's milk for health, ethical or religious reasons, you should offer, in the following order:</p> <ul style="list-style-type: none"> (i) plain whole or semi-skimmed fresh goat or sheep milk; (ii) unsweetened calcium-enriched soya alternative (see Annex C for information on soya drinks); <p>Where a child is also unable to drink soya:</p> <ul style="list-style-type: none"> (iii) specified unsweetened calcium-enriched non-soya alternative (excluding rice milk). (iv) water

Please remember: you **must not** provide rice milk under the Scheme. The dairy milks to be provided under the Scheme are plain whole or semi-skimmed dairy milks only.

Annex C: Soya Drink Specification

1. There is a very wide range of soya drinks on the market with varying levels of nutritional content (calories, protein, sugar and fat) and added (fortified) vitamins and minerals. This specification has been designed as a guide to support those selecting an unsweetened, calcium enriched soya drink for children over 12 months as part of the scheme to ensure that those provided have the closest nutritional content to cow's milk.
2. The values below are guiding amounts and can be used to compare against the nutritional information of unsweetened, calcium enriched soya drinks. This information can be found on the back of the packaging, or requested from suppliers.
3. Any soya drink provided must be unsweetened, and enriched with calcium. Fortification with other nutrients which are present in plain cow's milk has been included as desirable to help ensure adequate nutrient intakes in children drinking dairy alternatives. However, please note that not all drinks will contain all of the desirable nutrients listed below.

Nutrition	Guiding Amount per 100ml
Energy	At least 33kcal/ 138kJ
Fat	At least 1.7g
Sugar	No more than 0.5g
Protein	At least 3.3g

Essential fortified nutrient	Guiding Amount per 100ml
Calcium	120mg

Desirable fortified nutrient	Guiding Amount per 100ml
Riboflavin (B2)	0.2mg
Vitamin B12	0.38µg
Iodine	31µg

4. Organic varieties are not fortified with any vitamins or minerals and are therefore not suitable to be provided within the scheme.

How to know if a product meets the requirement to be unsweetened

5. Descriptions of unsweetened calcium enriched soya drinks varies between products. Products may include descriptions such as 'reduced calorie', 'no sweeteners', 'totally unsweetened', 'no sugars', 'light', 'original', 'natural', 'skinny' and more. The specification above should be used to determine the amount of sugar within the product and this will help to ensure that it meets acceptable levels.
6. This specification will be reviewed in August 2022.

Annex D: Registration for the Scottish Milk and Healthy Snack Scheme

As set out in the Regulations, the information required for registration is as follows:

- a) the full name and address of the childcare provider,
- b) the category of childcare provision ("day care of children" or "childminding"),
- c) the address where eligible children are to be cared for by the childcare provider,
- d) whether the childcare provider keeps attendance records,
- e) the number of eligible children enrolled with the childcare provider at the beginning of the Scheme Year (a year ending with 31 July),
- f) the number of eligible children enrolled with the childcare provider at the date of application for registration,
- g) the banking details of the childcare provider
- h) a copy of the childcare provider's certificate of registration issued by SCSWIS (Care Inspectorate),
- i) the anticipated benefit to be provided by the childcare provider to eligible children under the Scheme in the period from registration until 31 July next, and
- j) any other relevant information which Scottish Ministers reasonably require in order to register the childcare provider.

Estimating the benefit you expect to provide

As part of the registration process, you are asked to estimate the benefit you expect to provide.

We suggest that you approach this as follows:

- (i) Estimate how many servings you might expect to provide in one calendar day at your setting. This is likely, in the first instance, to be the same as the number of children who will attend the setting for 2 hours or more on that day.
- (ii) Consider if there are days in the week for which this is not an appropriate proxy – add up to assess the total provision you might expect in the week to provide your average number of weekly servings.
- (iii) Multiply average weekly servings by the number of weeks that your setting will be open between a) 1 August (or from registration if joining the Scheme after that date) and the end of the financial year (31 March) and b) from 1 April – 31 July.

If you do not know how many weeks you expect to be open, please give a best estimate and let the local authority know that there is some uncertainty. You are required to notify the local authority of any significant change (defined as a change +/- 10%).

Over time, you may wish to adjust your projections to take account of seasonal change (e.g. lower attendance in holiday months); regular patterns of absence etc.

E.g. If you are a nursery with a capacity of 80, you might have anywhere between 80 and 160 children attending for 2 hours or more in one calendar day. You might estimate provision as follows:

Average week

Day	Mon	Tues	Wed	Thurs	Fri	Weekly total
Average attendance/ required servings	110	112	110	114	88	538

Estimated annual total

Weekly total (average)	538
Number of weeks open between 1 Aug* and 31 March:	34
Number of weeks open between 1 April and 31 July:	16
Total number of weeks open in Scheme year:	50

Anticipated servings until 31 March = 34 x 538 = 18,292

Anticipated servings 1 April – 31 July = 16 x 538 = 8608

(* or registration if joining Scheme post 1 August)

Annex E: Monitoring the Scottish Milk and Healthy Snack Scheme

As set out in the Regulations, the information local authorities can obtain from settings for monitoring purposes is as follows:

- a) its status as a childcare provider under regulation 4,
- b) the number of eligible children enrolled with the childcare provider during any period,
- c) records of attendance in relation to any eligible child during any period,
- d) the eligibility of a child under regulation 3,
- e) the entitlement of a child under regulation 5,
- f) the benefit provided or expected to be provided to a child under regulation 6, and
- g) any other relevant information which Scottish Ministers reasonably require in order to administer the Scheme.

Annex F: Suggested Registration Template

Scottish Milk and Healthy Snack Scheme: Suggested Registration Template

Note: This provision is for pre-school childcare providers only

Below is a suggested registration template local authorities may wish to use or draw on to implement local registration procedures for the Scottish Milk and Healthy Snack Scheme. Each local authority should have a registration process in place by mid-May 2021.

Please return your form to the following address no later than [DATE] for access to the Scheme from 1 August 2021

Provider Details	
Full name and address of childcare provider (registered office where the childcare provider is a company)	
Address of the childcare setting to be registered	
Key contact for this application (name and contact details)	
Type of Setting (Daycare/ childminder)	
Financial Details	
Account Name	
Account Number	
Account sort code	

Setting Details	
Does the child care setting keep attendance records	Yes/No (will be a drop down in excel)
The number of day care sessions expected to be provided by the childcare provider per week	
The expected duration of each session in the first month after the date of application for registration	
The number of eligible children expected to be cared for by a childcare provider at a session in the first month after the date of application for registration.	
The number of eligible children enrolled with the childcare provider at the beginning of the financial year	
The number of eligible children enrolled with the childcare provider at the date of application for registration	
Maximum capacity of the setting (number of places/ children who may attend at one time)	
How many days will your setting be open to provide childcare in the period 1 August 2021- 31 July 2022?	

Anticipated benefit (servings of "milk and healthy snack")	
Anticipated number of servings (a serving is the combined milk and healthy snack) to be provided per week from 1 August 2021 up to the end of the Financial Year (end March 2022)	
Anticipated (aggregate) number of servings from 1 August 2021 up to the end of the Financial Year (end March 2022)*	
Anticipated (aggregate) number of servings to be provided from 1 April to 31 July 2022	
* Or from the date of registration if registering in year	
Please confirm that you have:	
a) provided a copy of the child care provider's certificate of registration issued by Social Work Improvement Scotland	
b) Read the information at <u>Annex A</u> summarising the information for settings registering for the Milk and Healthy Snack Scheme including the requirement to have regard to guidance issued by Scottish Ministers.	
We will provide confirmation of admission to the Scheme and the schedule of payment.	
Please refer to the following link for further information on the Scheme. https://www.gov.scot/policies/maternal-and-child-health/milk-and-healthy-snack-scheme/	

Information for Settings Registering for the Scottish Milk and Healthy Snack Scheme (text accompanying the draft registration template)

This information is based upon the Milk and Healthy Snack (Scotland) Regulations 2021 which you are advised to read prior to application and should be read in conjunction with the Guidance for the Scheme which will be available from May 2021.

Purpose of the Scheme

1. Scottish Ministers ambition is to ensure that as many children as possible attending eligible settings are in receipt of the milk and healthy snack policy, embedding the habit of regular consumption of high-quality dairy produce and fruit and vegetables from an early age. The purpose of the Scheme is to support improvement in children's health in the earliest years, which is crucial in tackling health inequalities.

Eligibility for the Scheme

2. Childcare settings which are registered with the Care Inspectorate and which provide care to pre-school children for 2 hours or more per day are eligible to apply to join the Scheme.

Benefit

3. Under the Scheme, a pre-school child who is attending childcare for more than 2 hours per day should receive once in the day, the following benefit:

- 189 mls of first infant formula for children under 12 months
189mls (1/3 pint) - or a 200ml container- of
- plain fresh cow's milk (whole milk for children 1 year and over, including the option of semi-skimmed milk for children 2 years and over) ;
- or, where children cannot consume cow's milk for medical, ethical or religious reasons, plain fresh goat or sheep milk (whole milk for children 1 year and over or to include semi- skimmed milk for children 2 years and over),
- or where children cannot consume cow's milk, goat's milk and sheep's milk for medical, ethical or religious reasons a specified unsweetened calcium-enriched non-dairy alternative;
- AND a healthy snack portion (fruit or vegetables) per child per day.

4. Childcare providers should offer cow's milk to children except where children may not drink this for medical, ethical or religious reasons. In these instances, settings should offer a sheep or goats milk, or where those are not acceptable, a specified,

unsweetened non-dairy alternative may be offered (details on specification will be included in the guidance). First infant formula can be provided for children up to the age of 12 months.

Funding

5. Funding for the Scheme will be provided via the local authority which will confirm the payment arrangements.
6. Funding provided via the Scheme must be used for the specified benefit only. Families should not be charged for a benefit which has been funded via the Scheme.
7. A childcare provider that is no longer entitled to a payment under the Scheme due to a change in circumstances must inform the Local Authority (acting on behalf of Scottish Ministers) of that change as soon as reasonably practicable.
8. Where there has been a significant change to the number of eligible children enrolled, or to the benefit to be provided in relation to a payment period, the childcare provider must notify the Local Authority (acting on behalf of Scottish Ministers).

Guidance

9. Registered childcare providers must have regard to any guidance issued by Scottish Ministers with respect to the operation of the Scheme.

Provision of information

10. Registered childcare providers must provide specified information as requested by the Local Authority in relation to the Scheme. Information that may be required is listed within the regulations.

Completing data on anticipated servings

11. The information requested on anticipated servings is to enable us to calculate your payment. While children under the age of 6 months would not be offered solid food, for the purposes of administration we ask you to count 1 serving for each day a pre-school child would be offered the benefit under the Scheme, without making this age distinction. So if 3 pre-school children aged 5 months, 2 and 5 attend your provision 3 times a week for 2 hours or more, the number of anticipated servings in that week would be 9.

Definitions

12. Where sessions are referred to please provide information on any period in which care is provided for a child for a total of 2 or more hours in a day.