

SCHOOLS (HEALTH PROMOTION AND NUTRITION) (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Schools (Health Promotion and Nutrition) (Scotland) Bill introduced in the Scottish Parliament on 8 September 2006. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 68–EN.

POLICY OBJECTIVES OF THE BILL

2. The Schools (Health Promotion and Nutrition) (Scotland) Bill is one important step in the work of the Scottish Executive to improve the health of the nation. It will help to improve the health of young people in Scotland by ensuring that food and drink supplied in local authority schools is nutritionally balanced and, more generally, it will embed the active promotion of a healthy lifestyle within schools.

3. The Bill will:

- Place a duty on the Scottish ministers, local authorities and managers of grant-aided schools to endeavour to ensure that all their schools and grant-aided schools are health-promoting environments;
- Place a duty on local authorities and managers of grant-aided schools to ensure that food and drink supplied in schools and grant aided schools meet defined nutritional standards;
- Give local authorities the power to provide children in school and nursery with food and drink (within defined nutritional standards) at any time of the day, either free of charge or subject to a charge; and
- Place a duty on local authorities to promote the uptake of school meals, in particular free school meals, and a duty to ensure those receiving free school meals can do so anonymously, as far as is practicable.

CONSULTATION

4. A consultation paper, *Improving the Health and Nutrition of Scotland's Children*, was published on 3 May 2006. Just under 6000 copies of the consultation paper were distributed, including to every school in Scotland; Scottish education authorities; public bodies; education organisations; equality organisations; youth organisations; health boards; and other interested parties. Several hundred more copies were distributed on request and the document was made available on the Scottish Executive website. A consultation with primary school children was also carried out by the Scottish Out of School Care Network (SOSCN). An online version of the consultation, targeted at young people (aged 12+) and phrased accordingly, was carried out by Young Scot. The consultation period ran for 12 weeks, closing on 31 July 2006. Late responses were accepted and in total 371 responses were received.

5. In addition, a number of consultation events were held by both the Executive and its partners – Health Scotland, the Scottish Health Promoting Schools Unit, and Young Scot whilst Cosla also assisted in raising awareness. These targeted different audiences, and explained the proposals in more detail as well as providing stakeholders with the opportunity to contribute to the consultation process.

6. The Scottish Executive appointed Accent Scotland to analyse the consultation responses, except for those of Young Scot and the SOSCN, who carried out the analysis themselves. The report on the consultation exercise findings can be found on the Scottish Executive website at www.scotland.gov.uk. Most respondents were from the broad education sector (42%), individuals (23%) and health related stakeholders (15%). The respondents were very supportive of the legislation, with 96% being positive towards the proposals overall, 1% negative and 3% neutral. There were also very high levels of support for each of the 6 individual elements of the legislation. No more than 4% of respondents disagreed with any one of these elements. A significant proportion of respondents provided additional comments on the individual proposals and the key findings to emerge were:

- There was little variation in the views expressed by different groups of stakeholders.
- A significant proportion of stakeholders (typically around 30%) provided additional comments on the proposals. The views expressed centred on possible changes to the legislation and the practical implications of implementing the proposed duties and powers including the financial aspects.
- The main changes proposed to the legislation included bans or limitations on some foods and drinks, including food brought into schools by pupils, extending the provisions to embrace pupils in independent schools, extending free school meals to all, taking a broader view of health promotion than just food and just in school premises.
- The main implications of the proposals were felt to be funding, central monitoring of foods brought to school by pupils, accompany the powers with practical education on cookery, healthy foods and health in general and determining the most appropriate access times for healthy snacks.

7. Young Scot's survey attracted 335 responses. Support from young people for all food and drink in schools to be healthy was significantly lower than that found in the main consultation (55% of respondents felt that there should still be unhealthy options available to them in school).

The importance of choice to young people was the most common remark, with regard to healthy eating. Choice and flexibility were equally important to young people in relation to taking a school meal. However, a significant proportion felt that school meals should be promoted to all pupils. With regard to schools having anonymised systems in place for school meals, comments centred on the embarrassment of receiving free school meals and the potential bullying of pupils who receive them.

8. SOSCN held 5 focus groups involving 52 children in Glasgow, Aberdeen, Angus and Perth. The report is available on the Scottish Executive website at www.scotland.gov.uk. The key findings to emerge from the primary school consultation were that children of all ages understood about, and knew the benefits of, eating healthily yet preferred to eat unhealthier foods given a choice. However, children also indicated that they would be interested in eating more healthily at school if there was an incentive, or more “interesting” foodstuffs were available such as exotic fruit or smoothies. However, despite a change in the quality of school dinners, uptake may remain low unless the whole dining experience is improved for children.

POLICY OBJECTIVES

Duty to ensure that all schools are health-promoting

9. The new statutory duty we propose will require schools to eliminate practice which is detrimental to good health; schools will be expected to consider how they can improve the short and long term health of their pupils. The Scottish Executive has been active in encouraging the development of holistic approaches to the education, health and care of Scotland’s children and young people. To help create a focus for such development, we announced our aim early in 2002 that every Scottish school should become a health-promoting school by 2007. This ensures not only that health education is integral to the curriculum but also that school ethos, policies, services and extra-curricular activities foster mental, physical and social well-being and healthy development.

10. The links between the health and well-being of pupils and their capacity to benefit from educational opportunities and reach high levels of attainment, have been established for many years. Health improvement also promotes social inclusion and has a significant impact on personal, social and educational achievement. The Bill aims for schools to instill a thorough understanding and appreciation of the importance of health and wellbeing, that children can draw on throughout their lives, and also take back home and into the wider community, and so more generally help improve Scotland’s poor health record in the long term.

11. This Bill states in law that a central purpose of schooling is health promotion in a wide sense and makes this a clear legal duty on Scottish Ministers and local authorities. The Scottish Ministers will issue guidance to local authorities to assist them in fulfilling their new duty. The Bill states that local authorities must take account of this guidance. There is a solid foundation of work on which to build and develop and this new duty affirms our intention and commitment to improving, in the broadest sense, the health of all people in Scotland.

Nutritional requirements for food and drink supplied in schools

12. Health experts recognise that diet and health are inextricably linked. Currently, many people in Scotland face serious health risks, partly because they do not eat a healthy diet. In children, diet plays an essential role in growth, well-being and educational performance. For this reason, the Scottish Executive wants to ensure that all food and drink children are served in school has a positive impact on their health. This includes not only the dining room, but also other sources of food in schools such as vending machines. Improving children's diet will have a major impact on their long term health, in particular through the avoidance of diseases such as diabetes, coronary heart disease and cancer. It also has a part to play in reducing obesity and could pay dividends in terms of increased educational attainment and improved health in later life.

13. Currently there are no statutory standards in Scotland which apply specifically and explicitly to school meals. Nevertheless, the importance of nutrition in schools has long been acknowledged, and has influenced policy over generations, though our understanding of what constitutes good nutrition has changed as it has grown. Most recently, *Hungry for Success* introduced nutritional standards for food and drink served in schools, though this too does not have a statutory basis. This Bill provides such a basis by providing a power to set nutritional requirements in regulations. This ensures flexibility surrounding the nutritional standards as our knowledge evolves.

14. This Bill also provides for the nutritional requirements regulations to include a requirement that drinking water is made available to every pupil, free of charge, on the premises of a school or school hostel. This measure is already included in *Hungry for Success*, and the vast majority of schools have freely available fresh, chilled water, which has proved popular with pupils. We now intend to make it a statutory requirement, to acknowledge the vital links between adequate hydration and good health. Health experts believe that even mild dehydration which leads to lower body function performance, especially of the brain. Having access to drinking water will create healthy habits and ensure pupils are adequately hydrated at all times, leading to possible associated health benefits and improvements in classroom performance.

Application of nutritional requirements

15. The measures of this Bill apply to all local authority schools, including primary, secondary and special schools. Independent schools are not covered, however, they are encouraged to implement the same minimum standards as other schools, and the majority do. The measures will also apply to food and drink supplied in hostels attached to local authority schools for pupils who live too far away to travel to school each day, and to local authority nurseries. Local authorities must also have regard to whether an independent school complies with the nutritional requirements in cases where they are considering whether to arrange for, or pay for, a child to attend an independent school.

16. Where a local authority arranges nursery provision with a private provider (often referred to as a "partnership nursery") the Scottish Ministers will issue guidance under section 34 of the Standards in Scotland's Schools etc. Act 2000 about taking account of health promotion and the nutritional requirements regulations.

17. There will be some exemptions from the nutritional requirements. The emphasis remains on a healthy balance, with room for occasional treats. The requirements will not apply to packed lunches or other food brought onto school premises by a pupil. They will also not apply to special events taking place in a school context, such as parties, discos, Christmas lunches or school trips. We recognise that in certain situations, it is either undesirable or impractical to impose nutritional requirements; school trips, for example, are relatively infrequent but highly educational experiences and would be an occasion where flexibility is desirable.

18. The measures will also not apply to staff common rooms and events held by a third party on the school premises, such as PTA (Parent Teacher Association) meetings or a community event. The Bill aims to improve the nutrition of young people and teach them to make healthy choices. Adults should be able to make responsible choices for themselves and are outside of the scope of the Bill in this respect. However, all these exceptions must be considered in light of the health promotion duties and any guidance issued by Scottish Ministers in that regard.

Provision of food and drink (within defined nutritional standards) at any time of the day, either free of charge or subject to a charge

19. Currently, under the Education (Scotland) Act 1980, local authorities have the power to provide milk, meals and other refreshments to pupils at their schools. They must charge for these and must charge each pupil the same price for the same food and drink. The Act also states that local authorities must provide, free of charge, sufficient milk, meals and other refreshments in the middle of the day according to eligibility rules.

20. The power to provide pupils with snacks will give local authorities more flexibility to provide children with food and drink in addition to lunches, at any time they wish. Restrictions in current legislation are no longer necessary and deny schools some options for improving pupils' nutrition. The new power will, for example, enable local authorities to offer all children in their schools free breakfasts or snacks, or to target certain children for free breakfasts or snacks, or to offer breakfasts and snacks and to charge for them.

Promotion of school meals, in particular free school meals

21. This Bill will ensure that all food and drink served in schools is of nutritional value and contributes towards pupils' health and wellbeing. It aims to improve the health of all young people in Scotland, but uptake of school meals is currently less than 50%. In 2005, the rate of uptake for school meals was 47% of all pupils. 19% of all pupils were entitled to free school meals, and some 67% of those took a free school meal on the day of the survey. This means that about 12% of all pupils took free meals. It is anticipated that there is therefore considerable scope for increasing uptake of free school meals, and this measure requires local authorities to promote an increase in uptake where this is needed.

22. Improvement in nutritional standards of meals will lead to the improvement in eating habits and health of those children taking school meals. The standards will help make meals healthier; however, this does not guarantee higher uptake in and of itself. There are various factors that influence whether children opt for school meals, regardless of whether or not they are entitled to free school meals. These are complex and include peer group pressure, quality and

choice of food, long queues, overcrowded and unappealing dining rooms and separation from friends who bring packed lunches or buy lunch out of school. In promoting school meal uptake, schools need to take all these various factors into account.

23. In order to create health benefits for a maximum number of pupils, this Bill places a duty on local authorities to promote school meals. Each pupil taking a school meal is definitely receiving a nutritionally balanced, healthy meal, whereas many of the alternative options are unhealthy, and should be discouraged. Advice will also be made available to parents on healthy packed lunches, so that those not taking school meals can also benefit from healthier food.

24. Although the uptake of free school meals is higher than that of school meals in general, it is particularly important to encourage all eligible families to take advantage of free school meals. Past studies have shown that poorer children rely more on school meals for nutrition and have less well-balanced diets.¹ Receiving a nutritious meal at school, containing at least a third of the daily requirement of certain essential nutrients, can therefore have an especially significant impact on the health of pupils who are eligible for free school meals.

Protection of the identity of pupils receiving free school meals

25. This measure aims to remove a potential barrier to free school meals. There is evidence to suggest that one reason uptake is lower than it could be, is the perceived stigma of being known to receive school meals. Anonymous systems ensure that the identities of those taking free school meals are not divulged, particularly to other pupils, and that those taking free school meals cannot be identified through the arrangements schools make for free school meals. We are also keen to ensure that access to free school meals is straightforward for all families who are entitled to them.

ALTERNATIVE APPROACHES

26. Various strategies to improve the health of children and young people are being implemented across Scotland. *Hungry for Success*, launched in 2003, introduced national, nutritional defined standards for school meals in Scotland and a strategy for delivering the standards and improving the uptake of meals. Schools in Scotland are already working towards becoming health-promoting schools. The Bill will build on this momentum, strengthen and build on our current approach, and ensure that practice is brought up to uniformly high standard across the country.

27. All local authority schools are working towards becoming health-promoting schools by 2007. This involves a whole school approach to promoting the physical, social, mental and emotional well-being of all pupils and staff. The Bill will go further and place a duty on local authorities and Scottish Ministers to endeavour to ensure that health promotion is at the core of all local authority schools. The Bill will also go further than current policy and place the same duty on managers of grant-aided schools in relation to a school under their management. The

¹ For example, see Ruxton C.H., Kirk. T. R, Belton N.R., Holmes M.A. (1996). *Relationships between social class, nutrient intake and dietary patterns in Edinburgh schoolchildren*. International Journal of Food Science and Nutrition, 47(4):341-9. [Erratum in: Int J Food Sci Nutr 1997 Jan;48(1):4]

Bill establishes health promotion as a permanent central purpose of schooling, locking in the progress we have achieved so far whilst ensuring that the current momentum is not lost.

28. Primary schools have made excellent progress with *Hungry for Success*, and the majority of secondary schools have either completed or are near completing the process of implementation. However, HMIE inspections have highlighted that while there is much good practice across Scotland, there is sufficient variability in practice and standards to back up current measures with legislation. A prime aim of this Bill is to ensure consistent high quality in schools everywhere in Scotland. The alternative is to do nothing beyond the further implementation of existing policies, with the risk that some areas will fall behind.

29. *Hungry for Success* focuses on school meals but food available in schools is not restricted to that served at lunchtime. The Bill therefore will build on *Hungry for Success* and will introduce nutritional requirements for all food and drink provided by schools including in vending machines and tuck shops. It will also extend the nutritional requirements to school hostels maintained by local authorities.

30. This Bill will give local authorities a new power to provide pupils with free nutritious snacks. Previously, schools were restricted in the times they could serve snacks, and had a duty to charge most pupils for these. This Bill enables local authorities, if they wish, to provide children in schools, either free of charge or subject to a charge, with drink, fruit, vegetables, bread or cereal based snacks, at any time of the day. These food and drink will be required to meet defined nutritional standards. The alternative is to maintain the status quo, restricting schools' options regarding the provision of snacks.

31. Our Health Promoting Schools policy and *Hungry for Success* are already helping to improve the health of Scottish children and young people. By introducing this Bill we will not only lock-in these achievements but also extend the scope of our policies for the benefit of our young people. The Bill will: build on the momentum already established; ensure that practice is brought up to a uniformly high standard across the country; extend the scope of our current approach; and reinforce our commitment to improving the health of the people of Scotland.

EFFECTS ON HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT AND EQUAL OPPORTUNITIES.

Human Rights

32. The provisions in this Bill touch on human rights specifically in respect to Article 26(2) of the United Nations' Universal Declaration of Human Rights of 1948 which states that "Education shall be directed to the full development of the human personality...". In addition, the Charter of Fundamental Rights of the European Union states in Article 24(2) that: "In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration."

33. In addition, this Bill strongly supports the United Nations Convention on the Rights of the Child. Specifically, article 24, section 2(c) requires states to "combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious

foods and clean drinking-water” and section 2(e) requires states to “ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition”. In addition, article 29 section 1(a) states that “the education of the child shall be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential.”

34. The Scottish Executive is satisfied that the provisions of this Bill are compatible with, and enhance human rights. It is becoming increasingly apparent that a comprehensive education consists of more than just the teaching of academic subjects. Scotland is moving towards a holistic approach in all public services, that recognises the relationship between physical and mental well-being, personality development and happiness. It aims to improve the nutrition and health of children and young people in Scotland and thereby contribute to the long-term well-being of all people in Scotland. A health-promoting school that serves nutritionally balanced food will aid pupils in achieving their fullest potential.

Island Communities

35. This Bill will have no specific effect on island communities, as it applies equally to all communities in Scotland. However, it is likely that island and remote rural authorities will experience higher costs for ingredients for school meals than other areas as is currently and historically the case. It is not anticipated that this will be exacerbated by the Bill.

Local Government

36. The provisions in the Bill will mainly be for Local Government to implement, but its effects will vary across local authorities. The Bill builds on and provides a legislative basis for policies that have been ongoing for several years. *Hungry for Success* was launched in 2003, and set nutritional standards in Scotland’s schools. The target date for its implementation in primary and special schools was December 2004 and for secondary schools is December 2006. In 2002, schools in Scotland were set the target of becoming a health-promoting school by 2007.

37. It is difficult to estimate the full financial implications of the Bill for local authorities. Many authorities are already implementing the *Hungry for Success* recommendations and developing health-promoting schools and the Bill will therefore not impose substantial additional costs. However, each local authority is at a different stage of implementation and there may be additional costs for some authorities as they adapt to the nutritional requirements and adopt health-promoting schools policies. There will also be additional costs for local authorities if they choose to use the new power to provide free food and drink at any time of the day.

Sustainable Development

38. The provisions in this Bill support sustainable development in several ways. Healthier school meals contribute to the health and well-being of all pupils who eat them. The Bill will also reduce health inequality by promoting the uptake of free school meals. The nutritional requirements mean that there will be less demand for processed foods in schools, resulting in a potential packaging waste reduction; in the meantime studies show that healthier meals will

likely have a more positive effect on the environment in general as they tend to have a smaller ecological 'footprint'.²

39. Sustainable development is also firmly embedded within health-promoting schools. Health-promoting schools have people's wellbeing at heart. They support an inclusive whole school ethos and provide positive social, physical and emotional environments where buildings, facilities, grounds and outdoor spaces are conducive to promoting and protecting the health and wellbeing of its community. A health-promoting school is aware of sustainable development and makes sure to consider sustainability in all its decisions, and encourages pupils, parents and staff to do the same. It supports links to the wider environment and community, and takes forward a broad range of approaches such as engaging in activities relating to sports and culture, encouraging active travel (walking or cycling) and safer routes to school, providing drinking water, eco-school developments, recycling, gardening and learning outdoors.

40. The Scottish Executive established a policy in 2004 that public sector procurement should take account of relevant sustainability and healthy eating objectives when awarding contracts for food and catering services. This Bill further encourages local authorities to foster a school meals service where pupils will become educated consumers who understand the health, environmental and sustainable development impacts of their food choices.

Equal Opportunities

41. The provisions of this Bill are not discriminatory on the basis of gender, race, disability, marital status, religion or sexual orientation. Many groups in Scotland's population have restrictions on the types of food they can eat, whether for health, cultural, or religious reasons. In implementing measures dealing with food served in schools, local authorities and schools must consider the needs of those with any specific dietary requirements.

Race equality impact assessment

Evidence

What evidence are you aware of on the needs of minority ethnic communities in this policy area and have you referred to it?

42. We are aware that some minority ethnic communities and people of certain faiths are restricted in the types of food they can eat for cultural or religious reasons.

Based on the evidence and information available, does or could the policy impact differently on different ethnic or racial groups?

43. The only potential impact of the Bill on minority ethnic groups is in relation to religious and cultural dietary requirements, which means some pupils are restricted in the types of food they can eat, and in some cases the times they can eat (e.g. during Ramadan). However, this Bill provides a power to specify nutritional requirements in regulations. Whilst those regulations will place requirements on the nutritional make-up of food, this does not necessarily restrict the types

² WWF Wales conducted a school footprint study, reported on page 46 section 3.3 of: <http://www.sei.se/pubs/walesfootprintfull.pdf>. WWF Scotland is in the process of assessing Hungry for Success' effect on school meals' footprint, and indicates a substantial reduction.

of food that can be served. In addition, the regulations will provide for circumstances where the nutritional requirements will not have to apply. Therefore this policy should not impact differently on different ethnic and racial groups.

Could this policy have an adverse impact on any particular group?

44. This Bill should not have an adverse impact on any particular group, as it does not prescribe foods that must be consumed. Local authorities and schools have discretion over the type of food served, as long as it meets the defined nutritional standards. Local authorities and schools must consider children with dietary needs - whether for health, religious or cultural reasons - and make appropriate provision. In addition parents and pupils remain free to choose the food pupils consume in school by taking a packed lunch.

Does this have, or potentially have, a high, medium or low impact on race equality?

45. Not applicable.

Consultation

Whom have you consulted on the impact of the policy or proposed policy on race equality?

46. The consultation included the Black Community Development Project, Black and Minority Ethnic Elders Group, Commission for Racial Equality, Edinburgh and Lothians Racial Equality Council, Grampian Racial Equality Council, Equality Network, Evangelical Alliance (Scotland), Scottish Council of Jewish Communities, Scottish Inter Faith Council, Scottish Gypsy/Travellers' Association, Tayside Racial Equality Council, West of Scotland Racial Equality Council and Scottish Refugee Council.

Did they include people who could be (potentially) directly affected by this policy?

47. Yes. As detailed above, pupils of all ages were involved in the consultation process, as well as parental interest organisations.

What was the outcome of the consultation and has this been published?

48. No consultation responses were received from the organisations listed in paragraph 34. Of all the responses received, none referred to any potential impact on race equality and nobody expressed concerns in this respect. The consultation analysis has been published as detailed in paragraph 6.

Actions

If adverse or potential adverse impact identified, what action will you now take to remedy this?

49. No potential adverse effects have been identified. Current guidance already encourages schools to continue to develop their knowledge and awareness of the needs of pupils from minority ethnic and religious communities.

Who will be responsible for this action?

50. Not applicable.

When will this be done?

51. Not applicable.

Outcomes

What are the intended outcomes?

52. The aim of this Bill is to help improve the health of young people in Scotland by ensuring that food and drink supplied in schools is nutritionally balanced. More generally, it will embed the active promotion of a healthy lifestyle within schools.

Monitoring

How will you monitor the impact of this policy?

53. HMIe has been inspecting *Hungry for Success*, and will consider the implementation of this Bill's measures as part of its wider school inspection process. The impact of this policy on different racial groups of pupils will be monitored as part of the inspection process to ensure that, in practice, the policy meets, and continues to meet, the needs of all pupils. HMIe have since September 2005 been compiling a Health database for all schools for which inspections have been undertaken.

54. In the meantime, a framework for National Accreditation of local authorities' own arrangements for promoting and supporting the health-promoting schools agenda in their areas was developed in winter 2006/07. Local authorities submit their arrangements for accreditation on a voluntary basis, but are well aware that they will be asked to account for progress with the health-promoting schools agenda in view of the 2007 target, and the vast majority have opted to introduce some form of local accreditation scheme. Some are still developing their schemes, whilst others have had them for some years now.

This document relates to the Schools (Health Promotion and Nutrition) (Scotland) Bill (SP Bill 68) as introduced in the Scottish Parliament on 8 September 2006

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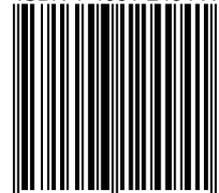
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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

ISBN 1-4061-2494-X



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