



The Scottish Parliament

Communities Committee

2nd Report, 2007 (Session 2)

Stage 1 Report on the Schools (Health Promotion and Nutrition) (Scotland) Bill

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Her Majesty's inspectorate of Education
Learning and Teaching Scotland
Scottish Consumer Council
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Scottish School Boards Association
Scottish Executive

Written evidence
Child Poverty Action Group in Scotland

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Automatic Vending Association
British Dental Association
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COSLA
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The Scottish Parliament

Communities Committee

Remit and membership

Remit:

To consider and report on matters relating to housing and area regeneration, poverty, voluntary sector issues, charity law; matters relating to the land use planning system and building standards; such other matters as fall within the responsibility of the Minister for Communities; and health promotion and nutrition in schools.

Membership:

Karen Whitefield (Convener)
Scott Barrie
Cathie Craigie
Christine Grahame
Patrick Harvie
John Home Robertson
Tricia Marwick
Dave Petrie
Mr Jamie Stone

Committee Clerking Team:

Clerk to the Committee

Steve Farrell

Senior Assistant Clerk

Katy Orr

Assistant Clerk

Catherine Fergusson

Support Manager

Sam Currie



The Scottish Parliament

Communities Committee

2nd Report, 2007 (Session 2)

Stage 1 Report on the Schools (Health Promotion and Nutrition) (Scotland) Bill

The Committee reports to the Parliament as follows—

INTRODUCTION

1. The Scottish Executive introduced the Schools (Health Promotion and Nutrition) (Scotland) Bill (SP Bill 68) to the Scottish Parliament on 8 September 2006. The Bill was accompanied by Explanatory Notes (SP Bill 68-EN), which include a Financial Memorandum, and by a Policy Memorandum (SP Bill 68-PM) as required by Standing Orders. On 13 September 2006, the Parliament designated the Communities Committee as lead committee in consideration of the Bill. Under Rule 9.6 of the Standing Orders, it is for the lead committee to report to the Parliament on the general principles of the Bill.

2. The provisions of the Bill that confer powers to make subordinate legislation were referred to the Subordinate Legislation Committee under Rule 9.6.2. In addition, the Finance Committee took evidence on matters relating to the Financial Memorandum accompanying the Bill. The reports of these Committees are attached at Annex A.

3. The Bill proposes amendments to the Education (Scotland) Act 1980 (c.44) and the Standards in Scotland's Schools etc. Act (2000) (asp 6). The two Acts will be referred to as "the 1980 Act" and "the 2000 Act" respectively in this report.

FACT-FINDING VISITS

4. The Communities Committee held two fact-finding visits and conducted a teleconference with pupils in hostel accommodation in Shetland. The Committee visited Hurlford Primary School in Kilmarnock,¹ and Drumchapel High School in Glasgow.² The teleconference consisted of an informal discussion with staff and

¹ The visit to Hurlford Primary School was attended by Patrick Harvie MSP, John Home Robertson MSP and Karen Whitefield MSP.

² The visit to Drumchapel High School was attended by Scott Barrie MSP, Patrick Harvie MSP, Tricia Marwick MSP and Karen Whitefield MSP.

pupils of the Janet Courtney Hall of Residence in Lerwick on the Shetland Isles. The Communities Committee would like to thank all those involved in organising these meetings, as well as the school staff and pupils who spoke to members of the Committee.³

5. The Communities Committee held its meeting of 22 November 2006 at the @Home Centre in Airdrie. The Committee would like to extend its thanks to the @Home Centre for hosting this meeting, to the witnesses who gave evidence and to pupils from Taylor High School, Rosehall High School, St Ambrose High School, Calderhead High School, Brannock High School, Coltness High School, Chryston High School and St Aidan's High School, who attended the meeting. It would also like to thank all the Scottish Parliament staff - particularly broadcasting, the Official Report and security staff - who supported this external meeting.

6. The Convener of the Communities Committee wrote to all education authority schools in Scotland inviting them to respond to the call for evidence. The Committee would like to thank all those schools, as well as the other bodies, that submitted written evidence on the Bill.

THE SCOTTISH EXECUTIVE CONSULTATION PROCESS

7. The Scottish Executive published a consultation paper, *Improving the Health and Nutrition of Scotland's Children* on 3 May 2006. 6,000 copies of the consultation document were sent out to key stakeholders and a series of targeted events on the proposals were organised by NHS Health Scotland and the Scottish Health Promoting Schools Unit. The consultation period lasted for a period of 12 weeks, and a total of 371 responses were received. Following the consultation, the Scottish Executive published the individual responses on its website, as well as a report summarising the findings.⁴ The Scottish Executive also commissioned the Scottish Out of School Care Network (SOSCN) to consult children on the proposals, the results of which were published in a report.⁵ YoungScot conducted an online survey of secondary schools, to which 335 responses from 29 local authorities were received. A summary of these responses was also published.⁶

8. The overwhelming response to the Scottish Executive's consultation from those that gave oral evidence to the Committee on the Schools (Health Promotion and Nutrition) (Scotland) Bill was positive. Witnesses were satisfied that they had been made aware of the consultation and that sufficient time had been provided to respond to the consultation.

9. Some reservations in relation to the Executive's consultation were expressed in evidence. Notably, UNISON – the public service trade union – commented that insufficient account had been taken by the Scottish Executive in conducting the

³ The teleconference with Janet Courtney Hall of Residence was attended by Scott Barrie MSP, Cathie Craigie MSP, Patrick Harvie MSP, John Home Robertson MSP, Tricia Marwick MSP, Dave Petrie MSP and Karen Whitefield MSP.

⁴ Scottish Executive, *Improving the Health and Nutrition of Scotland's Children: Schools (Nutrition and Health Promotion) (Scotland) Bill: Consultation Findings*, 11 September 2006.

⁵ Scottish Executive, *Consulting Primary School Children on Food at School*, 25 September 2006.

⁶ Scottish Executive, *Schools Health and Nutrition: Young People Consultation Feedback*, 13 October 2006.

consultation of the many non-teaching staff employed in the education sector. In addition, One Plus indicated that it was “disappointed that the Executive ruled out discussion in the consultation of universal provision of free school meals.”⁷ Save the Children expressed disappointment that there had not been greater consultation of children and young people, noting that “more effort could have been made to get the voices of more children and young people heard.”⁸ However, Scotland’s Commissioner for Children and Young People stated, “I was pleased to note the importance placed on listening to the views of children and young people and particularly encouraged by some of the examples of what consultation with them had achieved.”⁹ The Committee also noted the evidence provided by the British Dental Association indicating that professional bodies representing oral health and hygiene were not specifically targeted as part of the consultation. However, the Committee recognises that a representative of the British Dental Association was part of the Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch.

10. The Committee is content that the Scottish Executive conducted an inclusive consultation on the proposed Bill and that it succeeded in reaching the key stakeholders concerned. It recognises the concerns expressed by a few on the consultation process, but is not of the view that this ultimately restricted the debate on the specific provisions of the proposed legislation or limited the opportunity of key bodies or of individuals to provide input.

EXECUTIVE SUMMARY

11. The Communities Committee welcomes the Schools (Health Promotion and Nutrition) (Scotland) Bill. The Communities Committee has reached a number of conclusions and made a number of recommendations in this report in response to the evidence that it has heard or received on the Bill. It urges the Scottish Executive to take these into account with a view to introducing amendments to improve the legislation at the later stages of the Parliamentary process or to develop further measures to promote health and nutrition for all children and young people in Scotland. The following paragraphs, 12-46, represent the principal conclusions and recommendations contained within this report.

Overarching Objectives

12. The Communities Committee welcomes the introduction of this legislation as one way of promoting health and good nutrition in schools. The Committee supports the principle of legislation to ensure that minimum nutritional standards are met in all food provided to children in public schools across Scotland. It concurs with the evidence presented by witnesses that the health-promotion duties will make health a central

⁷ Marion Davies, One Plus, Communities Committee, Official Report, 22 November 2006, column 4308.

⁸ Douglas Hamilton, Save the Children, Communities Committee, Official Report, 22 November 2006, column 4308.

⁹ Written evidence submitted by Scotland’s Commissioner for Children and Young People.

component of schooling and reinforce the practice of providing and promoting healthy food and drink in schools.

13. The Committee also concurs with the view that the Bill will contribute to the culture change in the understanding of nutrition and health issues as well as habits that is already taking place among children and young people in Scotland. It is of the view that the nutritional requirements for food and drink should promote the production of healthier food and drink.

Health Promotion

14. The Communities Committee welcomes the introduction of the health-promotion duties in the Bill. It is of the view that the provisions will make health promotion a key part of the learning that takes place at school as well as ensuring that standards are met uniformly. It also believes that the involvement of schools in health promotion will have a broader effect on the wider community through families engaging in some of the activities and through schools working in partnership with other bodies.

15. The Committee is of the view that guidance issued by the Scottish Ministers for the purposes of the implementation of the health-promotion duty should be used as a tool in encouraging a change in ethos and culture and ensuring that this happens throughout Scotland. In light of the excellent examples that the Committee has seen in some local authorities, it would encourage the Scottish Executive to ensure that a mechanism for the exchange of best practice is put into place.

16. In addition, the Committee is unanimous in the view that the Scottish Executive should extend the health-promotion provisions contained in the Bill to ensure that they apply to all children in Scotland, regardless of where they are educated. It considers that health-promotion should be a central part of education for all children in Scotland and that all children should benefit from activities organised to promote healthy lifestyles. Health is an issue for all of Scotland's children, and as such all of them should have the opportunity to benefit from the measures introduced by the Bill.

17. In particular, the Committee is of the view that the health promotion provisions should apply more broadly to the early years sector, in order that those pre-school children not at education authority or partnership nurseries might also benefit. The Committee calls on the Scottish Executive to respond positively to this proposal and to indicate, prior to the conclusion of the Stage 1 process, how this could be achieved.

18. The Committee is also of the view that the distinct funding arrangements for independent schools should not preclude a legislative requirement with regard to health promotion from applying to these schools. The Committee therefore calls on the Executive to bring forward appropriate amendments to the Bill to extend the health-promotion duty to independent schools.

19. The Communities Committee is of the view that the requirement to include health promotion in an education authority's annual statement will

ensure that health promotion is central to the objectives of both education authorities and schools. It also calls on the Scottish Executive to consider how a parallel process could be put in place to ensure that independent schools develop strategies for health promotion.

Food and drink: nutritional requirements

20. The Committee welcomes the proposal to introduce statutory nutritional requirements for food and drink provided for pupils on the premises of a public school or on the premises of a hostel provided and maintained by the education authority for pupils. It considers that this will promote greater consistency in nutritional standards across Scotland and help ensure that all products sourced by schools and provided to them will meet the nutritional requirements.

21. The Committee considers that it is appropriate to define the nutritional requirements through regulations in order that they may be amended to meet changing circumstances or advances in scientific knowledge. It notes that the regulations made under section 56A(1) of the 1980 Act will be subject to affirmative resolution of the Scottish Parliament¹⁰ and calls on the Executive to ensure that any subsequent amendments to, or revisions of, those regulations are similarly subject to an affirmative resolution.

22. The Committee welcomes the provision for the regulations on nutritional requirements to include the provision of drinking water free of charge to pupils on the premises of public schools or education authority hostels. Drinks manufacturers raised the problem of dehydration among schoolchildren but the Committee considers that this will be addressed by the provision of free water in schools.

23. Whilst the Committee found it valuable to hear evidence on the Expert Working Group's recommendations on Nutritional Standards for the Regulation of School Lunches and Standards for the Regulation of Food and Drinks Outwith the School Lunch, it considers that there should also be an appropriate level of scrutiny of the regulations. The Committee therefore calls on the Executive to find an appropriate means of providing the relevant parliamentary committee with an opportunity to take evidence on the content of the regulations before they are formally laid.

24. The Committee is concerned that food and drink manufacturers appear to produce an extremely limited range of healthy and nutritional products, particularly those which may be suitable for vending machines in schools. The Committee does not consider that measures such as the reduction in size of confectionary products, the replacement of one ingredient by another, or the provision of straws for the consumption of soft drinks are an appropriate response by manufacturers to tackling the health problems resulting from the consumption of such products.

¹⁰ Schools (Health Promotion and Nutrition) (Scotland) Bill, Delegated Powers Memorandum, paragraph 22.

25. The Committee considers that the introduction of nutritional requirements should be established in such a way that they result in the production of healthier and more genuinely nutritious products by food and drink manufacturers. The Committee considers that food and drink manufacturers need to develop more products that have a positive nutritional value, particularly in the context of this Bill for the schools' market, but also for the population at large.

26. The Committee supports the approach of the Executive in applying the nutritional requirements to all food and drink served in schools. It is aware of the potential short-term impact of these requirements on the income generated by schools from vending machines or tuck shops. However, it is of the view that it is appropriate and necessary to exclude their sale in schools and considers that the development of new products may help to alleviate the impact on schools' incomes in the medium to long term.

27. The Committee considers it appropriate that food and drink served at social, cultural and recreational activities, as well as food brought onto the premises of a school or hostel by a pupil, need not meet the nutritional requirements. It believes that this reflects the need for a degree of flexibility and that it allows pupils to bring food of their own choice into schools and hostels for personal consumption. The Committee also considers it appropriate that there should be flexibility in the types of food and drink provided to pupils resident in hostels.

28. Given the evidence that the Committee has heard in relation to the pressing health problems evident among children and young people in Scotland, it is of the view that the nutritional requirements should be met across the whole educational sector.

29. The Committee is of the view that there should be an extension of the nutritional standards to independent schools. It therefore calls on the Executive to bring forward proposals on how this can be achieved before the conclusion of the Stage 1 consideration of the Bill.

30. The Committee also considers that the private nursery sector should also be subject to appropriate statutory nutritional standards to ensure that children in Scotland can benefit from the earliest possible age. The Committee calls on the duty to be extended to cover the whole of the pre-school sector and requests that the Executive provide details of how this could be achieved before the conclusion of the Stage 1 consideration of the Bill.

31. The Committee welcomes the provision for Scottish Ministers to provide guidance to education authorities on the duty to meet nutritional requirements. It recommends that appropriate guidance is also developed for the independent school and private nursery sector. The Committee calls on the Executive to ensure that the guidance draws on some of the good practice evident in schools and education authorities, as well as such initiatives as the Soil Association's "Food for Life" programme.

School Meals and Snacks

32. The Committee welcomes the provisions relating to snacks. It considers that this will give education authorities greater flexibility to broaden provision relating to existing initiatives or to introduce initiatives on a local basis according to need.

33. The Committee welcomes the flexibility provided by the discretionary power given to education authorities to provide food and drink, other than school lunches, free of charge. It considers that this may be particularly useful in relation to the provision of free breakfasts.

34. A majority of the Committee¹¹ supports the re-enactment of the current legislation requiring education authorities to charge for school lunches as they do not support the universal provision of free school lunches.

35. A minority of the Committee¹² regrets that the Bill does not provide local authorities the flexibility to introduce free school lunches or even allow for pilot programmes to take place. These Committee members believe that a pilot should be conducted to assess the benefits of free school lunches as well as providing an assessment of the implications for education authority resources.

36. The Committee welcomes the Minister's commitment to examine the criteria for the provision of free school lunches, especially in light of the disparity between the number of children officially recognised as living in poverty and the number entitled to free school lunches.

Promotion of school lunches

37. The Communities Committee is of the view that the duty on education authorities to promote school lunches is a necessary complement to the nutritional requirements that the Bill proposes to introduce. The duty should oblige education authorities to take into account the various ways that school lunches can be promoted and to implement them. The Committee is not of the view that targets would be constructive in increasing uptake given the role of individual choice in determining uptake figures.

38. The Committee recognises the variety of factors that can influence the choices made by young people and is of the view that education authorities should encourage schools to work with pupils to promote more attractive and efficient dining facilities.

39. The Committee notes the findings of the Soil Association's Food for Life project which show that uptake can be increased by promoting children's and young people's cultural awareness of the farming and food production process, as well as encouraging their understanding of the preparation of food for consumption in schools. The Committee recommends that the Executive should look closely at the findings of this piece of work with a

¹¹ Scott Barrie MSP, Cathie Craigie MSP, John Home Robertson MSP, Dave Petrie MSP, Jamie Stone MSP and Karen Whitefield MSP.

¹²Christine Grahame MSP, Patrick Harvie MSP and Tricia Marwick MSP.

view to identifying good practice examples to be included in guidance to all schools.

40. The Committee recognises the challenges posed by vans and nearby outlets, especially to secondary schools where pupils are able to leave the school at lunch time. It takes the view that local authorities should work with both vans and shops to promote healthier options to school pupils and, if necessary, use their existing licensing powers to either distance vans selling unhealthy food from a school or prevent them from locating near a school. The Committee notes that existing licensing powers have been used successfully in some local authorities to tackle the problem of vans selling unhealthy food locating close to schools and calls on the Scottish Executive to issue guidance on how this problem can be addressed by exercising licensing powers in relation to vans or other retail outlets.

41. The Committee is of the view that a significant increase in the uptake of school meals in the future may result in a requirement for additional food preparation and dining facilities. The Committee calls on the Scottish Executive to ensure that any monitoring measures put in place to evaluate the impact of the provisions of the Bill take into account the potential requirements for additional infrastructure or investment resulting from increased uptake. It further recommends that all school refurbishment or new build programmes should also take full account of these issues.

42. The Committee is also of the view that the preparation of food on site can bring benefits in terms of the freshness and nutritional value of food and provide an opportunity for young people to develop a relationship with the food being prepared around them. The Committee therefore recommends that refurbishment and new build programmes should take account of the desirability of providing facilities for food preparation on-site where this is practicable and can reasonably be achieved.

Protection of identity of pupils receiving free school lunches

43. The Committee is concerned that not all children and young people take up the free school meals to which they are entitled and considers that proposals to protect their identity may remove a barrier to increasing uptake among this group.

44. A majority¹³ of the Committee welcomes the duty proposed in the Bill to ensure that anonymised systems relating to the provision of free school meals are in place and the duty to protect the identity of pupils in receipt of free school meals. It is of the view that this will protect the rights of children and young people, as well as reducing any potential stigma among children and young people and their parents.

45. The Committee notes the potential high costs of anonymised systems which use cards for cashless vending, but has also been made aware of simpler systems that do not have the same cost implications, yet also

¹³ Patrick Harvie MSP dissented.

ensure anonymity. The Committee therefore considers that there is sufficient flexibility in the way in which this duty can be implemented.

46. A range of reservations were expressed about a range of biometric and other technology-led systems being introduced as a means of promoting anonymised systems, particularly as much of the technology associated with such systems has not been extensively trialled in a school environment and that no code of conduct has been developed to cover their use. Whilst they acknowledge that it is a matter for each education authority to decide how they ensure anonymity, they consider that such systems would represent a disproportionate response to tackling the issue of stigma that may be associated with taking free school meals.

Other Issues

47. The Committee is of the view that involving children and young people in the development and implementation of the provisions contained within the Bill is crucial. It calls on the Executive to ensure that this area is covered in any guidance issued under new section 56C of the 1980 Act.

48. The Committee is of the view that the results of the inspection of schools should be closely monitored to ensure that the provisions in the Bill are implemented and whether any further initiatives or adaptations in existing policies are required to maximise the impact of the legislation. It calls on the Scottish Executive to make participation in the framework for accreditation mandatory for all local authorities.

49. The Communities Committee is of the view that local authorities have the capacity to include criteria relating to sustainable development in the tendering process and is concerned that this is not widespread. It therefore calls on the Executive to be more proactive in encouraging such an approach and recommends that, when the guidance on public sector procurement is re-issued, it should be strengthened in this regard and strongly promoted. It also considers that information on the good practice in East Ayrshire and other areas should be promoted by the Executive.

Conclusion

50. The Communities Committee recommends that the Parliament agree the general principles of the Schools (Health Promotion and Nutrition) (Scotland) Bill.

THE BILL

Overarching Objectives

51. The Policy Memorandum describes the Bill as “one important step in the work of the Scottish Executive to improve the health of the nation”, stating that “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 health lifestyle within schools.”¹⁴

52. In evidence to the Committee, the Minister for Education and Young People argued that “we have paid insufficient attention to the contribution that diet makes to health”¹⁵ and emphasised that, “In addition to making a legal shift, we are making a cultural shift.”¹⁶ He further highlighted the degree to which poor diet is a significant contributor to Scotland’s poor health record and the opportunity that the provisions contained in the Bill provided to influence very young children to eat more healthily.

53. The Communities Committee heard and received considerable evidence testifying to the poor health of children in Scotland, and therefore recognises the strong case for tackling the health problems linked to poor diet and lack of exercise that make the population of Scotland statistically one of the unhealthiest in Europe. The situation facing children was presented in stark terms to the Committee by Gillian Kynoch, the Scottish Food and Health Coordinator—

“Children in Scotland face huge challenges. We are bringing up children in a strongly obesogenic environment. Scottish children grow up in a toxic culture in which, if they make rational decisions, they will become obese. We are surrounded by unhealthy food and unhealthy environments that encourage children to be physically inactive and to eat food that is too salty, too fatty and too sugary.”¹⁷

54. Similarly, the Chair of the Scottish Executive’s Expert Working Group outlined the implications of a poor diet for later health—

“It is increasingly recognised that adopting an unhealthy lifestyle early in life, including poor dietary habits, being inactive and so on, sets habits that can later contribute to the development of overweight and obesity and Scotland’s three biggest killers: coronary heart disease; various cancers; and stroke. Overweight and obesity are increasing at alarming rates in our children and raise the risk of individuals developing type 2 diabetes, the incidence of which among children is also going through the roof.”¹⁸

55. The Committee also notes the positive view of COSLA in this respect that, “For our country, there is something symbolic about having those standards embedded in statute; it sends out a signal.”¹⁹

¹⁴ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 2.

¹⁵ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4384.

¹⁶ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4400.

¹⁷ Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, Official Report, 1 November 2006, column 4190.

¹⁸ Dr Cathy Higginson, Chair of the Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch, Communities Committee, Official Report, 8 November 2006, column 4223.

¹⁹ Michael O’Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4292.

56. The Committee agrees that there is a pressing need to address poor health by trying to improve the diet and health of children and young people. In taking evidence on the Bill, the Committee explored the issue of whether there was a real need for legislation, given that the Bill's proposals reflect much of the current policy and guidance stemming from the Scottish Executive's *Hungry for Success* initiative.²⁰

57. In evidence to the Committee on the need for legislation, a Scottish Executive official explained that the implementation of *Hungry for Success* was patchy across Scotland.²¹ It was argued that the provisions in the Bill would ensure greater consistency across Scotland and that other snacks and meals served in schools met nutritional standards. The proposals would also make health-promotion a "central purpose of schooling" and place a duty on education authorities to promote school lunches.²²

58. This view was echoed by other witnesses, with a consensus emerging from oral evidence that the Executive's approach was appropriate given the variations in the implementation of the *Hungry for Success* initiative. Witnesses supported the view that statutory duties in relation to health-promotion and statutory nutritional requirements should promote more comprehensive and consistent implementation across Scotland, as well as placing a legal duty on the education sector to ensure that food provided in schools meets the nutritional requirements. The duties in relation to health-promotion were also widely welcomed as a way of reinforcing messages about healthy diet and lifestyle, and making these a fundamental part of education.

59. UNISON confirmed its view that legislation was required, stating, "Although hungry for success has had a large degree of success in particular areas—particularly in procurement and in the quality of food and its nutritional value—we must recognise that that good practice has not been universally followed in Scotland."²³ This was a view shared by the Educational Institute of Scotland (EIS), which also emphasised the importance of the health-promotion duty, "Creating a legislative basis for that concept is an important function of the bill."²⁴

²⁰ The Scottish Executive established the Expert Panel on School Meals in 2001. The remit of the Expert Panel was to establish nutritional standards, develop a strategy to improve take up and eliminate stigma associated with taking free school meals. In 2003, the Scottish Executive accepted the 24 recommendations made by the Expert Panel in *Hungry for Success* and provided nearly £120 million for investing in the implementation of the recommendations. The three key recommendations were: the adoption of nutrient standards in primary and special schools by December 2004, and secondary schools by December 2006; the monitoring of implementation by Her Majesty's Inspectorate of Education (HMIE); and the requirement for local authorities to incorporate implementation strategies into mainstream planning.

²¹ The HMIE report published in 2005 - *Monitoring the Implementation of Hungry for Success: A whole School Approach to School Meals in Scotland: A Report on Progress* – showed that there were differences in implementation, although the majority of primary schools were following the guidelines.

²² David Cowan, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4135.

²³ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4268.

²⁴ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, column 4268.

60. The Scottish Food and Health Coordinator emphasised the significance of the Bill in promoting health—

“Hungry for success was just about food. As the food and health co-ordinator, I think that food is really important, but we must wrap around that the strong context of the health-promoting school. We should use the work that schools are doing to build on the whole-school approach of hungry for success and put health promotion at the heart of education. That is what the bill is all about... We will see the impact of that in the coming years.”²⁵

61. The Minister for Education and Young People, in evidence to the Committee, stated “I am confident that, because we are attempting not only to legislate but to make a significant change to culture and habits, people will start to respond over a period of time.”²⁶

62. In the course of its Stage 1 consideration of the Bill, the Communities Committee has been encouraged by the initiatives that it has seen or been provided with evidence on, and by the work being undertaken by education authorities, schools, catering services and hostels in promoting healthy eating and lifestyles. This has demonstrated the progress already made in effecting a change in culture in terms of attitudes to food and health. In particular, the Committee was encouraged by the initiatives it saw in its visits to schools and learned about in the teleconference with the Janet Courtney Hall of Residence for pupils in the Shetland Isles.

63. The Communities Committee welcomes the introduction of this legislation as one way of promoting health and good nutrition in schools. The Committee supports the principle of legislation to ensure that minimum nutritional standards are met in all food provided to children in public schools across Scotland. It concurs with the evidence presented by witnesses that the health-promotion duties will make health a central component of schooling and reinforce the practice of providing and promoting healthy food and drink in schools.

64. The Committee also concurs with the view that the Bill will contribute to the culture change in the understanding of nutrition and health issues as well as habits that is already taking place among children and young people in Scotland. It is of the view that the nutritional requirements for food and drink should promote the production of healthier food and drink.

Health Promotion

Duties in relation to promotion of health

65. Section 1 of the Bill amends section 2 of the 2000 Act. It inserts new section 2A which places a duty on the Scottish Ministers “to endeavour to ensure” that schools managed by education authorities, grant-aided schools, and hostels provided and maintained by education authorities are health-promoting. A similar

²⁵ Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, Official Report, 1 November 2006, columns 4188-9.

²⁶ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4399.

duty is placed on education authorities to ensure that schools managed by them and hostels provided and maintained by them for pupils are health-promoting. The managers of grant-aided schools must also ensure that the school is health-promoting.

66. A school is defined in section 135 of the 1980 Act as “an institution for the provision of primary or secondary education or both primary and secondary education being a public school, a grant-aided school or an independent school, and includes a nursery school and a special school”. The definition therefore covers local authority nursery schools but not private nurseries, childminders or free statutory pre-school education provided under contract to the local authority. Thus, local authority nursery schools will be subject to the health promotion duty. In addition, the Policy Memorandum indicates that where a local authority arranges nursery provision with a private provider, 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 nutritional requirements.²⁷ In relation to the health-promotion duty, the Bill refers only to “schools managed by education authorities and grant-aided schools”, therefore the provisions do not apply to independent schools.

67. In the Policy Memorandum the Scottish Executive refers to the established links between the ‘health and well-being of pupils and their capacity to benefit from educational opportunities and reach high levels of attainment.’ The Minister for Education and Young People explained the broader benefits of the health promotion duty—

“We want to make health promotion a central feature and purpose of schooling, partly because there is a fundamental recognition of the impact that health has on life chances, life expectancy and so on. However, it is also right to reflect on the contribution that healthy eating and, through it, health promotion in general can make to a child’s ability to learn. A child who is clearly in good health will be able to absorb, learn and develop better than a child who suffers from ill health. Health promotion is a central tenet of trying to ensure that children receive the best possible start in life.”²⁸

68. The Bill defines “health-promoting” as “a school or hostel which provides – either on its own or in conjunction with Health Boards, parents or other persons – activities and an environment and facilities which promote the physical, social, mental and emotional health and well-being of pupils in attendance at the school or residing in the hostel.” This builds on the Hungry for Success target for all schools to become health-promoting schools by 2007. In response to questioning by the Committee, a Scottish Executive official confirmed that this would cover a whole range of learning and activities, including education about sexual health.

69. The Bill also makes provision for guidance to be issued by the Scottish Ministers for the purposes of health promotion, to which all education authorities and managers of grant-aided schools must have regard. The Policy Memorandum

²⁷ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 16.

²⁸ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4385.

also indicates that where a local authority arranges nursery provision with 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.²⁹

70. The Policy Memorandum sets out the Scottish Executive’s ambitions for the health-promotion duty, stating that it will ensure “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.”³⁰ Schools will be responsible for instilling “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.”³¹

71. COSLA expressed a concern about the limitations of the health-promoting duty, stating, “Our concern is that the health-promoting schools initiative involves only schools and does not include nurseries and early years services. Nursery schools are of course not schools, because statutory provision starts at the age of five.”³²

72. In evidence to the Committee, the Minister for Education and Young People stressed the importance of the pre-school setting and indicated that he would “reflect on whether we need to do more at a later stage.”³³ However, he also emphasised the role of the Care Commission and local authorities—

“To ensure that the standards are implemented in the early years sector, as well as in our schools, our tools are the care commission and—for many establishments—the local authorities, which purchase provision. If a local authority knows that an establishment is failing to deliver the required standards of health promotion and healthy meals, it can choose not to place children there or not to pay for them. Also, the care commission will be able to use its existing powers to ensure that standards are adhered to and, if they are not, to withdraw registration, which would put an establishment out of business.”³⁴

73. The duty will not apply to independent schools. Learning and Teaching Scotland indicated that the issue of health promotion in independent schools had been discussed. It was noted that while the *Hungry for Success* targets had not applied to independent schools, “many independent schools are already making good progress in promoting health in response to that.” Furthermore, it was stated that “independent schools are well equipped to provide health-promoting school

²⁹ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 16.

³⁰ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 9.

³¹ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 10.

³² Michael O’Neill, COSLA, Communities Committee, Official Report, 15 November 2006, columns 4287-8.

³³ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4387.

³⁴ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4390.

activities and an ethos and environment that we would want for our children, and many such schools are excelling in providing the right environments and circumstances to encourage health and well-being.”³⁵

74. The Minister for Education and Young People further explained the Executive’s approach—

“...if we try to reflect objectively on the issues, we see that health, life expectancy and opportunities in life are not the same for the average pupil who attends those schools as they are for many who attend secondary schools in our more deprived areas. By and large, children in independent schools probably eat better, live longer and have better life opportunities. That is no reason to say that, if there is something that we can do to help them as individuals, we should not do it, but there is also a different relationship with those schools, because we do not provide public funding for them in the way that we do for other nursery, primary and secondary schools.”³⁶

75. In written evidence to the Committee, the Scottish Council of Independent Schools emphasised the work that was already being done in independent schools—

“The independent sector has long demonstrated good practice in promoting health and well being through the curriculum, through personal and social education programmes, through sport and extra curricular activities. The schools take full account of current standards and promote awareness of good health in the widest sense, with parents, staff, catering teams, medical and other colleagues. The schools are also aware of the importance of accessibility and of respecting the traditions of all ethnic groups.”³⁷

76. Learning and Teaching Scotland, the organisation with responsibility for the development and support of the Scottish curriculum, outlined how the concept of health promotion was developed in practice—

“Through the whole-school approach to health promotion, learning and teaching methodologies are being used to encourage the development of the relevant knowledge, understanding, skills and attributes. Much of that is being done in a supportive environment in which the ethos and culture are conducive to the adoption of what was learned through the hungry for success programme and the developments on active schools and health-promoting schools more generally. As well as offering an opportunity for the universal provision of services to children and young people, the model of the health-promoting school enables us to consider what individual children and young people need and how the school can meet that need. The whole-school approach endorses the idea of the school as a community, to which

³⁵ Wendy Halliday, Learning and Teaching Scotland, Communities Committee, Official Report, 1 November 2006, column 4210.

³⁶ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4393.

³⁷ Written evidence submitted by the Scottish Council of Independent Schools.

the engagement of parents and school staff is as crucial as the engagement of children and young people.”³⁸

77. The breadth of the definition of “health-promoting” contained in the Bill was welcomed by witnesses. The EIS welcomed the fact that the definition was “not only about physical health, important though that is; it is also about one’s emotional, mental and social well-being.”³⁹

78. Children in Scotland agreed that, “A duty on schools to take a whole-school approach to health promotion is welcome. That will entail putting the focus on break times, leisure facilities and education about food, where food comes from and food sustainability. We welcome that whole-child, whole-school approach.”⁴⁰

79. NHS Scotland expressed the view that the duties would help bring all schools up to a common standard and enhance the health-promoting role of schools in the broader community—

“It will accelerate the positive change that is already happening and strengthen the hand of schools and education departments in the community planning process. Much of the philosophy of health-promoting schools is about schools being at the heart of the community, which requires them to engage with a diverse range of partners. For example, schools need to get the people who have responsibility for road traffic to play their part in promoting safe routes to school and physical activity around schools. The duty will strengthen the hand of schools by enabling them to initiate and pursue the wide range of actions that they need to take. It will also give them a stronger hand in their work with parents, both in encouraging and supporting parents whom they know are moving in the right direction and in giving added incentive to those who need to be encouraged more.”⁴¹

80. Diabetes UK also welcomed the duty “from the point of view that it will help to accelerate change” in the context of tackling increasing levels of obesity among children in Scotland and the emergence of cases of type 2 diabetes in this age group.⁴²

81. Similarly, the British Medical Association (BMA) stated that, “By ensuring that schools are health promoting, children will be provided with a clear and consistent message of a healthy lifestyle covering both food and exercise.”⁴³ The BMA also emphasised the importance of offering a choice for children in the types of exercise on offer as not all children liked competitive sports. It called for “detailed

³⁸ Wendy Halliday, Learning and Teaching Scotland, Communities Committee, Official Report, 1 November 2006, columns 4190-1.

³⁹ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, column 4270.

⁴⁰ Paula Evans, Children in Scotland, Communities Committee, Official Report, 22 November 2006, column 4309.

⁴¹ Mary Allison, NHS Scotland, Communities Committee, Official Report, 8 November 2006, column 4247.

⁴² Audrey Birt, Diabetes UK, Communities Committee, Official Report, 1 November 2006, column 4248.

⁴³ Written evidence submitted by the British Medical Association.

guidance relating to what constitutes health promotion...to be provided to schools...to ensure uniformity across Scotland.”⁴⁴

82. The school pupils who gave evidence to the Committee indicated that varied sports programmes, including exercise and dance classes as well as competitive sports, had the advantage of attracting more interest from pupils. One young person gave examples of the activities on offer at her school—

“Our school runs a lot of activities through lunch times and after school. We have everything from yoga to rugby. Also, we do not say that the boys can do one sport and the girls another; everyone can try any sport they want. It is quite good that way.”⁴⁵

83. The Soil Association, while welcoming the provisions, emphasised that “the duty will not of itself be enough to effect a culture change.”⁴⁶ The Soil Association stressed the cultural value of children and young people learning about the food production and preparation process, for example through visits to farms, so that pupils “can see how food is produced and reconnect with the production process.”⁴⁷

84. In evidence to the Committee, the Minister for Education and Young People stressed that the Executive was “keen to ensure that good practice is shared” in the area of health promotion.⁴⁸

85. The Communities Committee welcomes the introduction of the health-promotion duties in the Bill. It is of the view that the provisions will make health promotion a key part of the learning that takes place at school as well as ensuring that standards are met uniformly. It also believes that the involvement of schools in health promotion will have a broader effect on the wider community through families engaging in some of the activities and through schools working in partnership with other bodies.

86. The Committee is of the view that guidance issued by the Scottish Ministers for the purposes of the implementation of the health-promotion duty should be used as a tool in encouraging a change in ethos and culture and ensuring that this happens throughout Scotland. In light of the excellent examples that the Committee has seen in some local authorities, it would encourage the Scottish Executive to ensure that a mechanism for the exchange of best practice is put into place.

87. In addition, the Committee is unanimous in the view that the Scottish Executive should extend the health-promotion provisions contained in the Bill to ensure that they apply to all children in Scotland, regardless of where

⁴⁴ Written evidence submitted by the British Medical Association

⁴⁵ Annisha Davie, Communities Committee, Official Report, 22 November 2006, column 4332.

⁴⁶ Hugh Raven, The Soil Association, Communities Committee, Official Report, 8 November 2006, column 4248.

⁴⁷ Hugh Raven, The Soil Association, Communities Committee, Official Report, 8 November 2006, column 4248.

⁴⁸ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4385.

they are educated. It considers that health-promotion should be a central part of education for all children in Scotland and that all children should benefit from activities organised to promote healthy lifestyles. Health is an issue for all of Scotland's children, and as such all of them should have the opportunity to benefit from the measures introduced by the Bill.

88. In particular, the Committee is of the view that the health promotion provisions should apply more broadly to the early years sector, in order that those pre-school children not at education authority or partnership nurseries might also benefit. The Committee calls on the Scottish Executive to respond positively to this proposal and to indicate, prior to the conclusion of the Stage 1 process, how this could be achieved.

89. The Committee is also of the view that the distinct funding arrangements for independent schools should not preclude a legislative requirement with regard to health promotion from applying to these schools. The Committee therefore calls on the Executive to bring forward appropriate amendments to the Bill to extend the health-promotion duty to independent schools.

Annual statement: account of health promotion

90. Section 2 introduces a requirement for education authorities to ensure that part of an education authority's annual statement on improvement objectives covers strategies for health promotion. This will mean that the annual statement will include an account of the authority's plans in relation to health promotion, which will then form the basis for a school's individual development plan.

91. The Communities Committee is of the view that the requirement to include health promotion in an education authority's annual statement will ensure that health promotion is central to the objectives of both education authorities and schools.

92. Following on from its recommendation at paragraph 89, the Committee calls on the Scottish Executive to consider how a parallel process could be put in place to ensure that independent schools develop strategies for health promotion.

Food and drink

Food and drink: nutritional requirements

93. Section 3 introduces four new sections on nutritional requirements for food and drink into the 1980 Act. Proposed new section 56A in the 1980 Act places a duty on an education authority to ensure that food and drink provided for pupils in attendance at public schools or pupils resident in education authority hostels complies with nutritional requirements specified by the Scottish Ministers in regulations. This provision will cover both food and drink served in school dining areas and food and drink available from other outlets such as vending machines or school tuck shops.

94. By setting nutritional requirements in regulations, the Scottish Executive will have the flexibility to update them to adapt either to changing circumstances or the

development of scientific knowledge. The Bill also includes a provision for the regulations to require that drinking water be available to every pupil at no charge on the premises of a school or hostel. The Policy Memorandum indicates that the Scottish Executive plans to make use of this power to make it a statutory requirement to have drinking water available.⁴⁹

95. The Bill includes a number of exceptions to the duty to comply with the nutritional requirements, namely when food is brought onto the premises of a school or hostel by a pupil or when it is provided as part of a social, cultural or “recreative” activity. Thus packed lunches, school trips, sports days, school events and other similar activities would be excluded from the requirement. This also allows children and young people resident in hostels to bring their own food into a hostel. A Scottish Executive official also indicated in evidence that, “As young people who live in hostels are effectively at home, a subsection in the regulations will take into account what is called a 24-hour approach, which recognises the need for flexibility. My understanding is that not all confectionery will be completely banned from hostels, although we want children to eat healthily in general.”⁵⁰

96. The statutory nutritional requirements, like the health-promotion duty, will apply only to education authority schools and nurseries and grant-aided schools. The Policy Memorandum indicates that where a local authority has an arrangement with 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 the nutritional requirements, as well as health promotion.⁵¹ The statutory nutritional requirements will not apply to independent schools and private nurseries.

97. In the Policy Memorandum the Scottish Executive recognises the objective behind this proposal is to ‘ensure that all food and drink served in school has a positive impact’ on the health of children.⁵²

98. The Scottish Executive appointed an Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School with the remit of proposing nutritional standards. It was composed of 10 external members, as well as representatives from the Scottish Executive Education Department and Health Department. The members, who brought a range of relevant expertise to the table, comprised academic and public health nutritionists; a representative of local authority caterers; a dental expert, representatives of HMIE; and an independent nutritionist who had been very involved in the work of the school meals review panel in England.

99. The Expert Working Group published its recommendations in early November and submitted them to the Communities Committee as evidence.⁵³ The

⁴⁹ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 14.

⁵⁰ Maria McCann, Scottish Executive, Communities Committee, 6 December 2006, column 4402.

⁵¹ Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 16.

⁵² Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraph 12.

⁵³ Written evidence submitted by the Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch.

Minister for Education and Young People indicated that the Executive had still to finalise its view on the recommendations, but that it was “a helpful piece of work and it sets out a useful framework.”

100. Dr Cathy Higginson, the Chair of the Expert Working Group emphasised in oral evidence to the Committee that the “standards are founded on the principle of achievability.”⁵⁴ She recognised that as some of the elements of *Hungry for Success* had proved to be challenging to implement, the Expert Working Group had adopted an approach of recommending achievable standards, as well as suggesting a phased approach for others in the move from guidance to statute. This approach was designed to ensure that “tasty and appealing” food could be provided in schools and that the standards would not undermine efforts to increase the uptake of school meals.

101. The Expert Working Group also drew a distinction between nutrient standards and the food and drink standards, although the two sets of standards had been designed to work together. The mandatory nutrient standards for lunches were developed to ensure that lunches did not contain food products which were high in fat, salt or sugar and also ensure that children and young people received sufficient quantities of protein, fibre, vitamins and minerals. The levels of nutrient standards – particularly sodium – had been set at a “realistic” level, which took into account the difficulty experienced in meeting the standards under *Hungry for Success*. The food and drink standards aim to promote the consumption of foods with particular health benefits, particularly fruit, vegetables and oily fish. The food and drink standards proposed also seek to tackle unhealthy patterns of consumption such as the high consumption of confectionary and soft drinks.

102. The proposal to set nutritional requirements in regulations was widely welcomed by those giving evidence to the Committee. The Executive’s approach was perceived as providing a statutory basis for ensuring that nutritional requirements were met throughout education authority schools in Scotland, and that they would have the additional effect of raising standards in the industry.

103. NHS Scotland explained the benefits that it saw in the Executive’s approach—

“We are in complete agreement with the approach, which will lead to consistent adherence to the standards and will accelerate change. From a public health perspective, we must be mindful that history tells us that such policies often have a surge effect that is broader than the effect of the action that is taken, and can be difficult to quantify or predict...The bill will send a strong signal that the nation cares about its health and will have a ripple effect beyond the school environment. For example, the committee heard about the bill’s impact on the food industry, which will have to reformulate products. When the public sector, which is a big consumer of food, starts to demand that food for schools be reformulated on a large scale, the industry

⁵⁴ Dr Cathy Higginson, Chair, Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch, Communities Committee, Official Report, 8 November 2006, column 4216.

will not produce different food for the supermarket, so healthier products will become available not just in schools but on supermarket shelves.”⁵⁵

104. Save the Children stressed the importance of the uniformity that the Bill would promote, both across Scotland and among all children—

“Save the Children thinks that it is key that there will be a consistent approach nationally. Wherever a child goes to school in Scotland, we can be assured that they will receive food that meets minimum nutritional standards. It is important that the same standards apply to all children. It is important that we give a bit of extra force to the existing guidance because we know that the intake of fruit and vegetables among children in Scotland is low, as the evidence from the Scottish health survey that we quote in our submission shows. That is especially true of children who live in poverty, who are less likely to get five portions of fruit and veg a day than are children in other parts of the population. It is vital that we try to address that situation in schools. Statutory regulation will certainly help with that.”⁵⁶

105. The Scottish Consumer Council emphasised the likely impact that statutory nutritional requirements would have on the food and drink industry—

“...pressure will exist for suppliers to know the supply standards. The standards will be consistent for all suppliers, rather than being a result of negotiations with individual suppliers or with a group of a particular type of catering supplier. All suppliers will have to supply on the basis of the set nutritional standards. The competition will then be on price, the quality of the food and the level of service. That will remove individual negotiating, which will be an advantage for the receivers of the supply. The suppliers will have a statutory baseline from which to operate and will therefore compete on other issues.”⁵⁷

106. The EIS, which welcomed “the provision in the bill that those acting on behalf of education authorities—those with whom education authorities have contracts—must meet the same nutritional standards as the education authorities themselves.”⁵⁸

107. A note of caution was voiced by the Scottish Parent Teacher Council (SPTC) about “creating a control regime that requires children to eat healthy food.”⁵⁹ It stressed that, “A distinction should be drawn between placing a duty and a responsibility on local authorities, which falls within the Government’s remit, and

⁵⁵ Mary Allison, NHS Scotland, Communities Committee, Official Report, 8 November 2006, columns 4252-3.

⁵⁶ Douglas Hamilton, Save the Children, Communities Committee, Official Report, 22 November 2006, columns 4312-3.

⁵⁷ Martyn Evans, Scottish Consumer Council, Communities Committee, Official Report, 1 November 2006, column 4168.

⁵⁸ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, column 4269.

⁵⁹ Judith Gillespie, Scottish Parent Teacher Council, Communities Committee, Official Report, 1 November 2006, column 4164.

putting pressure on youngsters to comply. One must encourage rather than force youngsters to eat healthily.”⁶⁰

108. School pupils who gave evidence to the Committee stressed the importance of choice, indicating that a lack of choice might lead to school pupils purchasing their lunch outside schools. One young person stated—

“There should be more healthy options than unhealthy options, but we should always have the option. If healthy food is the only option available and kids do not want to take that, they will just go and spend their money in the shops, in the chippie or at the burger van. There should always be the option.”⁶¹

109. The Expert Working Group disagreed with the view that children should be presented with choices between healthy and less healthy food and drinks in school. It argued that given the pervasive availability of less healthy food outside schools, school education could provide an “exemplar environment” were there was an opportunity “to show children and young people what a healthy diet is.”⁶²

110. Some witnesses indicated that they would value the opportunity to respond to a consultation on the contents of the regulations. In giving evidence to the Committee, the Minister for Education and Young People stated that the Executive had not finalised its view on the Expert Working Group’s recommendations, but that it anticipated doing this in early 2007.⁶³ The Minister also ruled out any consultation on the regulations.

111. There was only limited comment in evidence on the recommendations of the Expert Working Group or the eventual content of the regulations defining nutritional requirements. The Scottish Food and Drink Federation stated that it supported healthy eating messages which were not “about avoiding fat, sugar and salt or specific food products. Rather, they should be about eating less of these nutrients/foods and eating more vegetables, fruit and starchy carbohydrates.”⁶⁴ Furthermore, it emphasised that, “It should be borne in mind that should the proposed statutory nutrition requirements effectively establish a legalised ‘fixed target’ for salt, fat and sugar levels in food and drinks offered in schools, they would not allow the scope or flexibility required to be able to make phased reductions and so would effectively reduce the range of products and choices on offer in schools.”⁶⁵

112. The British Medical Association backed the approach taken in the Bill, stating that—

⁶⁰ Judith Gillespie, Scottish Parent Teacher Council, Communities Committee, Official Report, 1 November 2006, column 4164.

⁶¹ Greig Walker, Rosehall High School, Communities Committee, Official Report, 22 November 2006, column 4335.

⁶² Dr Cathy Higginson, Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch, Communities Committee, Official Report, 8 November 2006, column 4219.

⁶³ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4395.

⁶⁴ Written evidence submitted by the Scottish Food and Drink Federation.

⁶⁵ Written evidence submitted by the Scottish Food and Drink Federation.

“The BMA believes that mandatory nutrient and compositional standards should be in place for school meals and all food supplied in schools, with maximum and minimum levels set for fat, sugar, salt, vitamins and minerals. Free water should also be available from clean and hygienic sources.”⁶⁶

113. The Caroline Walker Trust, an independent charity providing guidance on eating well across the UK, commended the work that has been done to date on *Hungry for Success* and indicated that it was “delighted that further steps are being taken to strengthen the commitment to good food and drink in schools in Scotland.”⁶⁷

114. The British Soft Drinks Association indicated in written evidence that there had been considerable adaptation in the drinks industry through the development of “no added sugar” and “sugar-free drinks”, which currently account for two thirds of the soft drinks market. It expressed a concern about hydration, presenting evidence that 40% of children consume insufficient quantities of liquids. The British Soft Drinks Association argued that it was therefore necessary for a range of drinks to be on offer within a school.⁶⁸

115. In written evidence to the Committee, other drinks manufacturers highlighted the risks of dehydration and provided examples of drinks that they considered could be beneficial to children and young people. These included non-carbonated drinks, soft drinks containing vitamin C, low calorie or diet drinks, “no sugar” or “no-added” sugar drinks, sport drinks and drinks which had a negligible effect on tooth decay.⁶⁹

116. The British Soft Drinks Association also argued that there was a potential for straws to be used to reduce the risk of dental decay resulting from the acid in soft drinks:

“Your first point goes back to the dental issue. The main reason for wanting to phase out soft drinks in schools is dental erosion. That is an acid issue. Obviously, a lot of food and drink contains acid, so it is not just drinks that have erosive potential. We are not in denial. The issue has been raised, so we are looking for a solution to it. We have good dental advice that straws can be helpful. If straws are the solution—it is not unusual to drink through a straw—we would promote that solution.”⁷⁰

117. The British Dental Association acknowledged that it had been demonstrated that the use of a straw could reduce the contact of a drink with teeth, but that this was not generally effective for children in practice:

“...soft drinks are drunk for pleasure, which is derived from the drink's texture and the feeling that it creates in the mouth through the sensory perception of flavour. Children maximise that perception. We have all seen a child drink a

⁶⁶ Written evidence submitted by the British Medical Association.

⁶⁷ Written evidence submitted by the Caroline Walker Trust.

⁶⁸ Written evidence submitted by the British Soft Drinks Association.

⁶⁹ Written evidence submitted by GlaxoSmithKline and by Coca-Cola Enterprises Ltd.

⁷⁰ Jill Ardagh, British Soft Drinks Association, Communities Committee, Official Report, 8 November 2006, columns 4243-4.

fizzy drink through a straw and then swish the drink round their mouth until the drink has gone flat. Straws are a good idea in theory but, in practice, when we are dealing with children, they are a non-starter.”⁷¹

118. The Bill states that the Regulations may, in particular, include a requirement for drinking water to be made available to every pupil free of charge. The British Dental Association supported the Expert Working Group’s recommendations in relation to drinks containing sugar, emphasising the value of the school hours in that they provided an opportunity for children’s teeth to recover from the consumption of sugary food or drink consumed outside the school:

“Dental caries are caused by the frequency and duration of exposure to sugars, so the recommendation that drinks containing sugar and confectionary should not be sold will have a marked impact. During school hours, which are most of children’s waking hours, children’s teeth will be able to recover from the sugar onslaughts at breakfast and tea time.”⁷²

119. A food manufacturer expressed its commitment to playing a full part in the “overall programme to improve the nutritional value of school food”, but warned against the standards being “so complex” or “so purist or idealistic in nature” that “children reject the meals that the standards create and instead turn to take-away food or packed lunches of questionable nutritional value.”⁷³

120. There was a consensus in evidence that the Executive’s proposal to exclude food and drink consumed as part of “a social, cultural or recreative activity” and “food brought onto the premises of the school or hostel by a pupil.” UNISON supported the flexibility that this provided at events, stating, “The bill is flexible in recognising, for example, provision that can be made at school events.”⁷⁴ In approving the approach taken in relation to packed lunches, the Scottish Consumer Council commented that, “It would be a step too far to cover packed lunches. Such provisions would not be enforceable, and it would bring the whole purpose of the bill into disrepute. It is right that that is not included.”⁷⁵

121. The Bill will ensure that food and drink provided in hostels meets the nutritional requirements, although a the Minister explained that there would be some flexibility “to let those children feel that they are in a home-like environment and that we do not place a burden on children who live in hostels that is not on children who go home.”⁷⁶

122. UNISON welcomed the fact that there would be more flexibility in relation to hostels, emphasising that, “When children are in educational care for longer

⁷¹ David McCall, British Dental Association, Communities Committee, Official Report, 8 November 2006, column 4250.

⁷² David McCall, British Dental Association, Communities Committee, Official Report, 8 November 2006, columns 4250-1.

⁷³ Written evidence submitted by McCain Foods (GB) Ltd.

⁷⁴ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4273.

⁷⁵ Martyn Evans, Scottish Consumer Council, Communities Committee, Official Report, 1 November 2006, column 4174.

⁷⁶ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4410.

periods, it is entirely appropriate to be flexible in order to achieve the right balance.”⁷⁷

123. As it is proposed that the nutritional requirements cover all food and drink provided on the premises of a public school or on the premises of a hostel provided and maintained by the education authority for pupils, food and drink sold in vending machines or tuck shops will have to meet the nutritional requirements. The Committee heard evidence on the implications of these requirements both in terms of the food and drink industry, vending bodies and the income that schools receive from vending machines.

124. Under the *Hungry for Success* initiative there have already been changes in the types of food and drink sold in vending machines in schools, notably in the types of drinks available in primary schools. The Automatic Vending Association (AVA) explained that the difficulties for its members lay primarily in the sourcing of products that would meet nutritional requirements—

“The vending industry in Scotland has not offered carbonated sugared drinks in secondary schools for a year now. To be honest, there has not been much effect in terms of the children. The drinks industry has been ready to supply, but it is very difficult to find healthier products on the food side. The manufacturers are not there yet—they are not up to speed. As the committee heard earlier, at the moment, the vending industry can offer only two types of snack that meet the healthier snack criteria. It will be quite a while before any of the manufacturers get up to speed in offering healthy products that children want to buy.”⁷⁸

125. The AVA also indicated that it provided two types of vending machine, one of which was a “healthy-options machine that sells products that are deemed to be healthy. However, take-up on a healthy-options machine is, on average, five times lower than take-up on a conventional vending machine.”⁷⁹

126. The Scottish Food and Drink Federation estimated the cost of product reformulation as being between £35,000 and £250,000, depending on the number of factors that had to be changed. It explained the challenges of reformulating food products and potential costs of microbial testing when the water content of food is increased—

“There is often a sugar-fat seesaw: if we reduce sugar levels, we sometimes fat up and the other way round. The product has to be bulked with something and it is a difficult matter. With regard to product testing, a special group considered what would happen if fat and sugar levels in foods, not only salt levels, were reduced. The FSA has advised us that we will have to do microbial testing on all the products that we have developed because we often have to up the water level, as we have to substitute the food elements

⁷⁷ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4274.

⁷⁸ Len Braid, Automatic Vending Association, Communities Committee, Official Report, 8 November 2006, column 4233.

⁷⁹ Len Braid, Automatic Vending Association, Communities Committee, Official Report, 8 November 2006, column 4234.

with water, which evokes microbial growth. The microbial growth tests will be expensive.”⁸⁰

127. The British Soft Drinks Association indicated that if preservatives were not permitted in juice drinks in schools, manufacturers would have to invest in heat treatment equipment which could cost in excess of £1 million.

128. Reference was also made to the ways in which the size of products could be reduced to meet nutritional requirements. The Scottish Food and Drink Association presented evidence that had emerged from a test of products—

“When we tested more than 100 products, we found that 47 per cent of them met the standards across the range. We also tested by portion size, so a large flapjack might fail the test whereas a finger-sized flapjack would pass. We looked at products that were already available and which could be extended with innovation. It might be difficult to reduce the fat in a bar of chocolate because chocolate has to contain a certain amount of fat, but it could be sold in smaller, thinner bars or fun-sized bars—or not-so-fun-sized bars, as the children call them. A reduction can be made by changing portion size—that is being talked about a lot at the moment—or by reducing the level of the nutrients of concern.”

129. In written evidence, COSLA provided an indication of the implications for schools of the loss in revenue from vending machines, “One local authority indicated that vending machines contribute 13% (£500,000) of the income generated by the school catering service”.⁸¹

130. COSLA elaborated on the impact of the application of nutritional requirements to vending machines and the income generated through sales in oral evidence—

“The amount of money that is involved will vary... School population and school size are a factor. Some schools introduced vending machines as a money raiser, but that did not happen in all schools, so the effect will also depend on that. Some of those decisions were school decisions. It should be remembered that vending machines in schools were installed not by local authorities but by head teachers, parent groups or school boards, which chose years ago to install the machines as a way of raising money for school funds. The more vending machines that a school has, the greater the loss that it will experience; the fewer machines that it has, the less that loss will be... Our submission makes the general point that a significant loss of income will result for individual schools—particularly secondary schools—that have been generating money through that system for many years.”⁸²

131. However, COSLA also emphasised that, “A phased approach would allow a school to phase in the loss of cash and build in other things so that there is no

⁸⁰ Gaynor Bussell, Scottish Food and Drink Federation, Communities Committee, Official Report, 8 November 2006, column 4242.

⁸¹ Written evidence submitted by COSLA.

⁸² Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4295.

such fall-out with parents or others” and that schools would find alternative ways of raising money.⁸³ COSLA stated that, “Schools are very inventive. The underpinning issue is that they will need to find a way to move from one income-generating source to a healthier alternative without damaging their ability to provide extra-curricular activities for pupils, for which that money has been used.”⁸⁴

132. In evidence to the Committee, the Minister for Education and Young People stated his view that, “Even if there is a momentary dip in or disadvantage to revenue streams, I am not persuaded that it is enough in itself to stop us trying to improve our children's health.”⁸⁵

Application of nutritional requirements to independent school and the early years sector

133. While section 5 of the Bill amends the Education (Scotland) Act 1980 (c.44) to place a requirement on an education authority to have regard to the extent to which food and drink supplied in an independent school would comply with nutritional requirements specified by the Scottish Ministers by regulations if those regulations were applied in relation to the independent school when purchasing a place at the school, there will be no statutory duty for independent schools to meet the nutritional requirements.

134. There was considerable comment in evidence on the fact that the nutritional requirements will not apply to independent school or private early years provision.

135. A Scottish Executive official explained its approach to the independent school sector—

“Essentially, it is not normal practice for the Executive to impose legislative burdens on independent schools as, by their very nature, they are independent. That is Scottish Executive policy. The main reason is that we do not provide funding for meals in independent schools; such funding is the tie that we have with local authority schools that we do not have with independent schools.”⁸⁶

136. The Scottish Executive also emphasised that the Scottish Council of Independent Schools (SCIS) was encouraging its members to implement the *Hungry for Success* approach, and that the SCIS was already working with the Scottish Health-Promoting Schools Unit.

137. In written evidence to the Committee, the SCIS argued that the independent sector was already pursuing many of the objectives relating to health promotion and nutrition—

⁸³ Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4293.

⁸⁴ Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, columns 4295-6.

⁸⁵ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4401.

⁸⁶ David Cowan, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4140.

“With regard to the Schools (Health Promotion and Nutrition) (Scotland) Bill, although the independent sector is not covered by the legislation, the schools are aware of the requirements of the Bill on education authority schools (and on pupils in the independent sector funded by authorities) and a health promoting approach will continue to be actively pursued in the independent sector. The schools are accustomed to HMIE and Care Commission inspections, when the nutrition, health and well being of pupils are closely monitored. Independent schools are also aware of the expectations of parents, many of whom will be aware of the current Bill and will expect independent schools to comply with the same or similar standards.”⁸⁷

138. The SCIS also made the point that, “If independent schools were to be covered by the Bill in the same way as education authority schools, they would expect funding on the same basis. This has not been provided to date with regard to, for example, the Hungry for Success initiative, the provision of fruit and drinks for pupils, training, materials and support for staff. Without funding, independent schools would continue to comply with the spirit of the Bill, each according to its circumstances.”⁸⁸

139. A number of witnesses emphasised that the independent sector should not be excluded from duties which related to the health of children. For example, UNISON stated—

“...we see the bill as predominantly a public health measure and therefore we see no reason why private or independent schools cannot be covered by it.... [T]he evidence that we have seen indicates that the problem of childhood obesity is not limited to state schools and to the children who attend them. It is an issue for all children, so we see no reason for excluding the paying sector.”⁸⁹

140. The Minister for Education and Young People confirmed the Executive’s intention to work in partnership with independent schools on developing guidance. He also emphasised that the “HMIE also inspects those schools, and it will inspect them to the standards that we have set. If they are not providing meals to the standards that we have set in the bill, HMIE will take the matter up in the appropriate way.”⁹⁰

141. Barnardo’s Scotland emphasised that it was an issue of consistency—

“The argument that is presented for introducing the legislation is that we have achieved a lot through guidance and we want to plug the gaps, finish the job and do as much as we can by making the provision of healthy school meals a legislative duty. The assumption is that that will make a difference, so that is what is happening to local authority provision. The parallel argument is that guidance is good enough in the independent sector, but that is inconsistent.

⁸⁷ Written evidence submitted by the Scottish Council of Independent Schools.

⁸⁸ Written evidence submitted by the Scottish Council of Independent Schools.

⁸⁹ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4274.

⁹⁰ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4293.

To say that it is not our practice to impose such standards on the independent sector is not an answer because it has not, until now, been our practice to have a legislative duty to meet nutritional standards, but we are now creating such a duty.”⁹¹

142. Witnesses also commented on the fact that the nutritional requirements would not be extended to the early years sector, other than where local authority provision was concerned. Currently, all pre-school providers are expected to meet the nutritional requirements set out in “Nutritional Guidance for Early Years: Food choices for Children aged 1-5 in Early Education and Childcare Settings” which was issued in January 2006.

143. A number of witnesses argued that it was important to include this age group as it was important to expose young children to a variety of tastes to help develop their taste buds, as well as ensuring that the food provided to them was of a high nutritional standard.

144. Gillian Kynoch, the Scottish Food and Health Coordinator, emphasised that the private nursery sector was at a different stage from schools, which had already been working to meet the *Hungry for Success* targets—

“The private nursery sector has only recently received nutritional guidance, whereas schools have had a while to get up to speed on nutrition. That guidance is now having an impact on the sector, and, supported by the statutory regulatory power, it needs to be bedded in. The sector must deliver to the required level before any necessary legislation is introduced. A legislative approach in that sector seems to be too heavy, too soon and inappropriate at this time. The guidance is being supported by a high level of training. However, we probably need to do more and let the care commission get out to nurseries to inspect them and see what is happening in them.”⁹²

145. Children in Scotland suggested the establishment of an expert panel to consider the pre-school sector and argued for the importance of applying standards to the food and drink consumed by the pre-school age group—

“As I said, if we are making the case for moving from a guidance-led approach to a statutory approach in schools, the same arguments apply to the pre-school sector. In certain respects, the pre-school sector is more important, because if we want to change culture and habits, we need to focus on children before they form habits and tastes. It would make sense to engage with children's nutrition at the earliest stage, before children's palates develop and they acquire a taste for high-fat, high-salt foods.”⁹³

146. The Minister for Education and Young People emphasised the role of the Scottish Commission for the Regulation of Care in considering an early years

⁹¹ John Watson, Barnardo's Scotland, Communities Committee, Official Report, 22 November 2006, columns 4316-7.

⁹² Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, Official Report, 1 November 2006, columns 4210-1.

⁹³ Paula Evans, Children in Scotland, Communities Committee, Official Report, 22 November 2006, column 4311.

establishment's food and nutritional provision and that the Commission could potentially withdraw registration if "a provider's food did not reach the required standard."⁹⁴

147. The Committee welcomes the proposal to introduce statutory nutritional requirements for food and drink provided for pupils on the premises of a public school or on the premises of a hostel provided and maintained by the education authority for pupils. It considers that this will promote greater consistency in nutritional standards across Scotland and help ensure that all products sourced by schools and provided to them will meet the nutritional requirements.

148. The Committee considers that it is appropriate to define the nutritional requirements through regulations in order that they may be amended to meet changing circumstances or advances in scientific knowledge. It notes that the regulations made under section 56A(1) of the 1980 Act will be subject to affirmative resolution of the Scottish Parliament⁹⁵ and calls on the Executive to ensure that any subsequent amendments to, or revisions of, those regulations are similarly subject to an affirmative resolution.

149. The Committee welcomes the provision for the regulations on nutritional requirements to include the provision of drinking water free of charge to pupils on the premises of public schools or education authority hostels. Drinks manufacturers raised the problem of dehydration among schoolchildren but the Committee considers that this will be addressed by the provision of free water in schools.

150. Whilst the Committee found it valuable to hear evidence on the Expert Working Group's recommendations on Nutritional Standards for the Regulation of School Lunches and Standards for the Regulation of Food and Drinks Outwith the School Lunch, it considers that there should also be an appropriate level of scrutiny of the regulations. The Committee therefore calls on the Executive to find an appropriate means of providing the relevant parliamentary committee with an opportunity to take evidence on the content of the regulations before they are formally laid.

151. The Committee is concerned that food and drink manufacturers appear to produce an extremely limited range of healthy and nutritional products, particularly those which may be suitable for vending machines in schools. The Committee does not consider that measures such as the reduction in size of confectionary products, the replacement of one ingredient by another, or the provision of straws for the consumption of soft drinks are an appropriate response by manufacturers to tackling the health problems resulting from the consumption of such products.

152. The Committee considers that the introduction of nutritional requirements should be established in such a way that they result in the

⁹⁴ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 December 2006, column 4387.

⁹⁵ Schools (Health Promotion and Nutrition) (Scotland) Bill, Delegated Powers Memorandum, paragraph 22.

production of healthier and more genuinely nutritious products by food and drink manufacturers. The Committee considers that food and drink manufacturers need to develop more products that have a positive nutritional value, particularly in the context of this Bill for the schools' market, but also for the population at large.

153. The Committee supports the approach of the Executive in applying the nutritional requirements to all food and drink served in schools. It is aware of the potential short-term impact of these requirements on the income generated by schools from vending machines or tuck shops. However, it is of the view that it is appropriate and necessary to exclude their sale in schools and considers that the development of new products may help to alleviate the impact on schools' incomes in the medium to long term.

154. The Committee considers it appropriate that food and drink served at social, cultural and recreational activities, as well as food brought onto the premises of a school or hostel by a pupil, need not meet the nutritional requirements. It believes that this reflects the need for a degree of flexibility and that it allows pupils to bring food of their own choice into schools and hostels for personal consumption. The Committee also considers it appropriate that there should be flexibility in the types of food and drink provided to pupils resident in hostels.

155. Given the evidence that the Committee has heard in relation to the pressing health problems evident among children and young people in Scotland, it is of the view that the nutritional requirements should be met across the whole educational sector.

156. The Committee is of the view that there should be an extension of the nutritional standards to independent schools. It therefore calls on the Executive to bring forward proposals on how this can be achieved before the conclusion of the Stage 1 consideration of the Bill.

157. The Committee also considers that the private nursery sector should also be subject to appropriate statutory nutritional standards to ensure that children in Scotland can benefit from the earliest possible age. The Committee calls on the duty to be extended to cover the whole of the pre-school sector and requests that the Executive provide details of how this could be achieved before the conclusion of the Stage 1 consideration of the Bill.

158. The Committee welcomes the provision for Scottish Ministers to provide guidance to education authorities on the duty to meet nutritional requirements. It recommends that appropriate guidance is also developed for the independent school and private nursery sector, consequential to the recommendations at paragraphs 156 and 157 above. The Committee calls on the Executive to ensure that the guidance draws on some of the good practice evident in schools and education authorities, as well as such initiatives as the Soil Association's "Food for Life" programme.

School Meals and Snacks

159. Section 6 of the Bill amends section 53 of the 1980 Act to use “food and drink” instead of “milk, meals or other refreshments”. It also re-enacts the existing legislation that an education authority must charge pupils for lunches. However, it also gives an education authority the power to provide food or drink other than school lunches, free of charge and at such times of the day that the education authority considers fit. Food or drink which is provided free of charge may be provided to pupils who satisfy such conditions as the authority considers fit. Where an education authority does charge for food or drink, it must charge the same price for the same quantity of food or drink.

160. The Policy Memorandum explains that the purpose behind these provisions is to provide education authorities with greater flexibility by allowing them to provide either free breakfasts or snacks, or to target certain children for free breakfasts or snacks. The proposals would allow for initiatives such as the free fruit provision to primary 1 and 2 children to be extended. It will also provide a solid legal basis for breakfast clubs, some of which provide free breakfasts to pupils. Both the provision of free fruit and free breakfasts has been proven to be beneficial to children and young people; notably by extending their tastes or their powers of concentration.

161. The provisions relating to snacks were broadly welcomed in evidence. The Scottish Parent Teacher Council commented—

“The provision of fruit in schools has been fantastic and the kids have really liked it. Many youngsters have tasted fruits that they would not have tried at home—they have moved beyond the conventional bananas and apples into new and interesting fruits. That encourages youngsters to think about those options. The proposed powers obviously provide authorities with a good opportunity to offer young people healthy foods and to encourage them to eat them. The provision of fruit in schools, along with the provision of water, is an aspect of the food package that has been really successful.”⁹⁶

162. The Scottish School Boards Association made specific reference to a survey conducted in Angus which found that “attainment levels, especially in the morning after the kids have had a breakfast, have improved immensely. Introducing breakfast clubs into every school would be one of the best things that could happen.”⁹⁷

163. UNISON welcomed the provisions but noted that the existing initiatives had benefited from short-term funding and that the “Executive must ensure that long-term funding is put in place so that schools can respond ... over a long term.”⁹⁸ COSLA recognised that there were some “practical issues and some resource

⁹⁶ Judith Gillespie, Communities Committee, Official Report, 1 November 2006, column 4177.

⁹⁷ James Ewens, Communities Committee, Official Report, 1 November 2006, column 4177.

⁹⁸ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column, 4276.

issues” but did not view these as “insurmountable.”⁹⁹ It also noted that most local authorities funded breakfast clubs through regeneration funding.

164. COSLA also welcomed the legal clarity that the new power would bring as helpful to local authorities and that the results would be visible in “breakfast clubs and services and on local authorities helping schools with healthy tuck-shops, healthy vending or the extension of the free fruit initiative.”¹⁰⁰

165. The Committee welcomes the provisions relating to snacks. It considers that this will give education authorities greater flexibility to broaden provision relating to existing initiatives or to introduce initiatives on a local basis according to need.

166. The Committee welcomes the flexibility provided by the discretionary power given to education authorities to provide food and drink, other than school lunches, free of charge. It considers that this may be particularly useful in relation to the provision of free breakfasts.

167. The decision by the Executive to re-enact the requirement for education authorities to charge for lunches effectively precludes the provision of universal free meals. However, in its consultation on the Bill, the Executive did seek views on the extension of the eligibility criteria. In evidence to the Committee, the Minister for Education and Young People precluded the provision of free school meals to any particular age-groups of children, for example to primary 1 or 2 pupils. However, he did confirm that the Executive would “reflect carefully on extending eligibility.”¹⁰¹ He further elaborated—

“We will consider carefully what can be done for disadvantaged people at the margins who are seen as being in relative need. Such an approach is far better than aspiring to give free meals to the children of people such as members of the United Kingdom Parliament, members of the Scottish Parliament, doctors, lawyers and the well-to-do. I acknowledge that some people aspire to help the better-off people in society, but I would prefer to concentrate on those who are in need. We will certainly consider anything that can be done at the margins.”¹⁰²

168. Many of the witnesses supported either extending the eligibility criteria for free school meals or the provision of free school meals to certain years within the school roll, or to all pupils. A number of different arguments were made in support of this approach, including that it would ensure higher uptake and therefore have a more positive health impact and make sure that no pupils were stigmatised for receiving a free school lunch.

⁹⁹ Michael O’Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4302.

¹⁰⁰ Michael O’Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4301.

¹⁰¹ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 November 2006, column 4419.

¹⁰² Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 November 2006, column 4412.

169. The Child Poverty Action Group argued that the current system of targeting provision on those that most needed it was not entirely successful—

The problem with targeting is that the target is too often missed. As I said earlier, a significant number of children who live in poverty are not receiving an important benefit for them and their families that they should be receiving. A big part of the argument in response to our case is that better-off children would get free school meals, but we would reply that that is a small price to pay for ensuring that every child that genuinely needs a free school meal gets one. Secondly, free school meals would be of real value to better-off children. The provision of nutritious school meals for them in the middle of the day would contribute to the Executive's overall child health objectives.¹⁰³

170. Children in Scotland, One Plus, Barnardo's Scotland, Save the Children, the Poverty Alliance and Children 1st all supported some extension of the provision of free school meals. Children in Scotland argued, "For us, the universal principle is the best way in which to achieve a culture change to a situation in which all children are on an equal footing and engaged in learning about food—hopefully together around a table—at the earliest stages."¹⁰⁴

171. One Plus emphasised that it had supported the provision of universal school meals for some time as a means of supporting poorer families and as a means of tackling, as countries such as Finland have done, serious problems of obesity and heart disease. One Plus highlighted the way in which in-work costs can effect some parents, noting, "For parents on low wages, the price of school meals can be considerable."¹⁰⁵

172. Barnardo's Scotland drew the Committee's attention to the "difference between the percentage of children who live in poverty—23 per cent—and the percentage of children who are eligible for free school meals, which is 18 per cent" and commented that, "It seems strange that an anti-poverty measure is set at a level that excludes an awful lot of children who it is accepted live in poverty."¹⁰⁶ Children 1st argued that "Making sure that these children have a nutritious meal every day would help tackle poverty in these households, and would be an important support for many families."¹⁰⁷

173. In numerical terms, the Child Poverty Action Group estimated that 38,000 children in Scotland were officially recognised as living in poverty in Scotland, yet were not eligible for school meals.¹⁰⁸ While Save the Children expressed its support for the universal provision of free school meals, it commented that other

¹⁰³ John Dickie, Child Poverty Action Group, Communities Committee, Official Report, 1 November 2006, column 4186-7.

¹⁰⁴ Paul Evans, Children in Scotland, Communities Committee, Official Report, 22 November 2006, column 4321.

¹⁰⁵ Marion Davies, One Plus, Communities Committee, Official Report, 22 November 2006, column 4322.

¹⁰⁶ John Watson, Barnardo's Scotland, Communities Committee, Official Report, 22 November 2006, column 4323.

¹⁰⁷ Written evidence submitted by Children 1st.

¹⁰⁸ John Dickie, Child Poverty Action Group, Communities Committee, Official Report, 1 November 2006, column 4182.

measures - such as extending entitlement through the tax credit system - could be adopted “to ensure that every child who lives in poverty gets school meals.”¹⁰⁹

174. UNISON also supported the extension of free school meals as a universal provision. However, in the light of the Executive’s support for a targeted approach, UNISON suggested that the Executive consider giving “local authorities the power to provide free school meals” as was the case with English legislation.¹¹⁰ The EIS also put on record its support for free school meals, stating, “The EIS is committed to free school meals for all. We realise that that is not part of the bill, but we propose that to encourage healthy eating habits, serious consideration should be given to providing free school meals, at least for all younger primary-aged children—perhaps up to primary 3.”¹¹¹

175. A number of witnesses also referred to a three-year pilot taking place in Hull, where the City Council started providing free school meals to primary school children in 2004. Although a full evaluation will only take place once the pilot has been completed in 2007, witnesses claimed in evidence that there has been an increase in uptake resulting in more children eating healthier food.

176. A COSLA representative argued that the provision of free school meals to all would cost significant amounts of money that could potentially be invested in other areas of education. When the Committee heard from school pupils, one of them stated her view on the proposal to make lunches free for all—

“I do not think that that is fair. If you are well enough off to pay for your own lunch, you should do so. If someone from a poor family cannot pay for their lunch, that is not their fault, which means that they should get free meals. Free meals would encourage more people to eat in the school, but I do not think it is very fair.”¹¹²

177. The Committee also heard evidence about the logistical impact on school infrastructure of a significant extension of the provision of school meals. It was clear to the Committee that many schools across Scotland would not have the facilities to accommodate all of the school pupils having lunch. Even the introduction of the staggering of lunch times for different classes might not be sufficient to address the problem of space. The EIS commented in oral evidence to the Committee that—

“Some schools would find a massive increase extremely difficult. Schools would have to consider timetabling, so that there was more than one dinner session. Otherwise, they would have the problem—which is certainly off-putting for some youngsters—of massive queues building up and folk

¹⁰⁹ Douglas Hamilton, Save the Children, Communities Committee, Official Report, 22 November 2006, column 4324.

¹¹⁰ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4283.

¹¹¹ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, columns 4276-7.

¹¹² Lynsey Currie, @Home Centre, Airdrie, Communities Committee, Official Report, 22 November 2006, column 4340.

thinking, "I'm not going to stand at the back of this. I'm off to get something somewhere else." That would impact on the organisation of the school."¹¹³

178. One of the school; pupils from a school in North Lanarkshire also made a similar point about the implications of free universal provision—

"If school meals were free, a lot more people would always go to the cafeteria to eat, as that would save them having to go and pay for stuff. They would be like, "Oh yes, the school's paying for more stuff for us." They would get their free lunch and then be able to go wherever they wanted after that. However, if all 1,000 pupils in a high school got free school meals, how would the school be able to feed everyone in the space of a lunch time?"¹¹⁴

179. A majority of the Committee¹¹⁵ supports the re-enactment of the current legislation requiring education authorities to charge for school lunches as they do not support the universal provision of free school lunches.

180. A minority of the Committee¹¹⁶ regrets that the Bill does not provide local authorities the flexibility to introduce free school lunches or even allow for pilot programmes to take place. These Committee members believe that a pilot should be conducted to assess the benefits of free school lunches as well as providing an assessment of the implications for education authority resources.

181. The Committee welcomes the Minister's commitment to examine the criteria for the provision of free school lunches, especially in light of the disparity between the number of children officially recognised as living in poverty and the number entitled to free school lunches.

Promotion of school lunches

182. Section 7 of the Bill introduces new section 53A into the 1980 Act with the objective of promoting uptake of school lunches. It places a duty on education authorities to promote the availability of school lunches in public schools and other educational establishments under their management and to encourage pupils in attendance at those schools and other educational establishments to consume school lunches.

183. A Scottish Executive official explained that the key objective of this section of the Bill was to increase uptake—

"The purpose of the duty to promote uptake is to ensure that local authorities are doing what they can to encourage pupils to take lunches by, for example, improving the quality of the food and of the dining experience, ensuring that information is provided on what is available and involving pupils and parents

¹¹³ George MacBride, Communities Committee, Official Report, 15 November 2006, column 4279.

¹¹⁴ Annisha Davie, Rosehall High School, Communities Committee, Official Report, 22 November 2006, column 4340.

¹¹⁵ Scott Barrie MSP, Cathie Craigie MSP, John Home Robertson MSP, Dave Petrie MSP, Jamie Stone MSP and Karen Whitefield MSP.

¹¹⁶Christine Grahame MSP, Patrick Harvie MSP and Tricia Marwick MSP.

in menu selection. Local authorities can do a variety of such things, but we will be looking for evidence of activities to promote school lunches.”¹¹⁷

184. The variations in uptake between and within education authorities and between primary and secondary schools were discussed widely in evidence. In particular, the challenges of increasing the uptake of school meals among pupils, particularly in relation to secondary school pupils for whom the uptake levels were lower, was the focus of considerable discussion. The fact that many pupils who are entitled to free schools meals, especially secondary school pupils, do not take them was also raised in evidence.

185. The Scottish Consumer Council (SCC) indicated that it had initiated a research programme into the issue with the Child Poverty Action Group, as it considered that such research was necessary to establish evidence for pupils’ choices rather than just relying on anecdote. On the basis of previous research carried out in 2001, the SCC enumerated a number of factors influencing pupils’ choices. These included “choice of and information on what is available; the quality of the food; the appearance of the dining room; time constraints, especially when having to queue for a long time; and peer pressure—what other children are doing.”¹¹⁸ It also demonstrated that the situation changed with age as older children had access to alternatives bought outside a school. Cost was also demonstrated to be an issue.

186. The Child Poverty Action Group also emphasised that cost was an important factor, especially in consideration of what could be purchased with that money outside a school. It pointed out that, “The Scottish Executive’s baseline survey on the hungry for success programme found that cost was a key reason for not taking a school meal for 21 per cent of primary school children and a third of secondary school children.”¹¹⁹ The CPAG also argued that “the evidence suggests that to effect the dramatic increases in take-up that the Executive is looking for, you have to consider providing free school meals for all.”¹²⁰

187. The Scottish Food and Health Coordinator emphasised the importance of the duty, pointing out that it was necessary to consider “what would happen if the duty to increase uptake did not exist. If local authorities had only a duty to make school meals, we might have healthy school dinners but nobody would come.”¹²¹ She also stressed that, “Putting a duty on authorities to increase uptake places the onus on schools and local authorities to make the service popular. Rather than trying to drive uptake from 50 per cent up to 60 per cent, 70 per cent or 80 per cent, it is more important that we protect the service and build its popularity, so that the children who want to take school lunches continue to take them and

¹¹⁷ David Cowan, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4150.

¹¹⁸ Martyn Evans, Scottish Consumer Council, Communities Committee, Official Report, 1 November 2006, column 4167.

¹¹⁹ John Dickie, Child Poverty Action Group, Communities Committee, Official Report, 1 November 2006, column 4168.

¹²⁰ John Dickie, Child Poverty Action Group, Communities Committee, Official Report, 1 November 2006, column 4172.

¹²¹ Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, 1 November 2006, column 4206.

children who are entitled to free school meals have a service that is enjoyable and which they want to be part of.”¹²²

188. Some witnesses called for targets for increased uptake. Children in Scotland questioned, “If we are to impose a duty to increase uptake, I would ask to what level it should be increased. The bill fails to set any baselines or parameters according to which local authorities will be inspected and monitored.”¹²³

189. One particular challenge to increasing uptake identified by some witnesses was the presence of vans selling food outside schools and of shops situated close to schools. There was some suggestion that there was a need to tackle vans through the local authority licensing regime, or to work with them and shops to encourage the promotion of healthy food in these outlets. However, it was also pointed out that a ban on vans might just result in pupils going further away to buy food from shops.

190. Reference was made in evidence to Fife, which recognised that young people may seek alternatives to school lunches and “had tried to provide a healthy vans service, so that kids had the opportunity to escape the school and go to a van that provided healthy food.”¹²⁴

191. COSLA emphasised the importance of working “on the youngsters and their choices” as well as with “outlets to try to improve the quality of what they provide.”¹²⁵ COSLA proposed a dual approach involving moving vans further away from schools to make them less convenient and working with the van owners—

“As we have seen in North Lanarkshire, other legislation ensures that those people have the right to fair trade—that takes us into a legal debate, which becomes a bit sterile. It is important to work with those people to try to ensure that the food that they supply is healthier. We should try to control it; we are never going to stop it.”¹²⁶

192. In evidence to the Committee, the Minister for Education and Young People explained that two local authorities had successfully used their powers as licensing authorities to restrict the presence of vans selling unhealthy food from the vicinity of schools and that the Scottish Executive had written to other local authorities to explain the approach taken.

193. A pupil from Rosehall High School in North Lanarkshire provided first-hand evidence of the impact that an improved environment had had in her school. She gave examples of ways in which cafeterias could “be made more accessible and more fun places to have lunch”, stating that “in our school we have school radio

¹²² Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, 1 November 2006, column 4206.

¹²³ Paula Evans, Children in Scotland, Communities Committee, Official Report, 22 November 2006, column 4313.

¹²⁴ Judith Gillespie, Scottish Parent Teacher Council, Communities Committee, 1 November 2006, column 4175.

¹²⁵ Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4298.

¹²⁶ Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4298.

and television and we take it in turns to take part. The school newspaper is sold in the cafeteria, too.”¹²⁷ She also explained how pupils had started a petition to have a “burger van” moved further away from the school, the result of which was that, “People do not want to walk to the van any more, so they stay in school or go to the shops.”¹²⁸ Reference was also made to the importance of making menus attractive to young people.

194. Save the Children also stressed the importance of working with children and young people, pointing out that, “What emerged clearly from the consultation with children and young people is that children need to have a choice. We should educate them to make healthier choices and the food that is provided in the school environment should meet nutritional standards.”¹²⁹ This was echoed by One Plus, which argued that, “The only long-term solution relates to choice. If children who are under five or who are at primary school now have access to nutritious foods and that is part of the education system, over time they will not want to choose other food and they will prefer to stay in the school and enjoy a healthy school meal in a pleasant social environment.”¹³⁰

195. The Soil Association stressed the evidence emerging from schools which had engaged with its Food for Life programme and targets. This showed an increase in uptake in the schools with which the Soil Association had worked for a protracted period of time, rather than a decline. The Soil Association expressed its view that this “is as much to do with the cultural changes ...—reconnecting people with where their food comes from—as with tastier school meals and the differences that are perceived on the palate.”¹³¹ It explained the importance of this part of the programme as it “involves getting children out onto farms and ensuring that teachers have the necessary teaching resources to help them to enthuse children about where their food comes from. The cultural and social aspects are equally important, in our judgment, and will feed through to an increase in school meals uptake because people will feel that they are more connected with the food and where it comes from.”¹³²

196. Another factor perceived as hindering the capacity of schools to attract pupils to take school lunches was school dining facilities. HMIE indicated that the facilities available to schools varied and gave examples of ways in which schools had tried to make dining facilities more attractive—

“Some schools, such as new builds, have attractive surroundings. However, although the surroundings might be attractive at other schools, there are challenges in coping with increased numbers...Many schools that are not

¹²⁷ Annisha Davie, Rosehall High School, Communities Committee, Official Report, 22 November 2006, column 4336.

¹²⁸ Annisha Davie, Rosehall High School, Communities Committee, Official Report, 22 November 2006, column 4336.

¹²⁹ Douglas Hamilton, Save the Children, Communities Committee, Official Report, 22 November 2006, column 4314.

¹³⁰ Marion Davies, One Plus, Communities Committee, Official Report, 22 November 2006, column 4314.

¹³¹ Hugh Raven, The Soil Association, Communities Committee, Official Report, 8 November 2006, column 4262.

¹³² Hugh Raven, The Soil Association, Communities Committee, Official Report, 8 November 2006, column 4259.

new builds are consulting their pupils about how they want to improve the environment. School nutrition action groups and pupil councils are involved in such consultation. Some schools have plasma screens to inform pupils of what is happening in the school and to display good practice. Putting artwork on display is another positive way to improve the environment that links in with art and other parts of the curriculum. Even just a bit of redecoration helps—new tables and chairs or crockery.”¹³³

197. UNISON pointed out that where schools had facilities for preparing fresh produce, there tended to be more potential for innovation. UNISON stated that, “Best practice has shown that with a dedicated area, a school can do a great deal to make its food attractive and to get pupils to take it up.”¹³⁴ UNISON sounded a note of reservation about the commissioning of new builds under Public Private Partnership (PPP) contracts and the tendency for “non-essential areas” to be cut back. However, UNISON did note that, “A duty to promote school lunches would ensure that suitable facilities were higher up the design specification.”¹³⁵

198. The EIS commented further on the limitations of schools built under PPP contracts, pointing out that “because of the drive to keep down costs, areas with multipurpose functions are built, with the result that in some new PPP-build schools the dining area is also the school's main thoroughfare for parts of the day and is the place in which events such as school gatherings and assemblies are held. Such a part of the building cannot serve the purpose of a dedicated, attractive area in which to eat one's food.”¹³⁶

199. COSLA was more positive about the ways in which the opportunity to provide more attractive dining areas had been taken into account in the design of new schools, stating that “a key part of the design specification has been to make the dining area more friendly to young people, to make them want to be there.”¹³⁷ Examples were cited of new schools with dedicated dining areas designed to be appealing to pupils and the benefits of joint campuses which could designate more space to food preparation and dining.

200. Learning and Teaching Scotland highlighted that there was already a publication entitled “Being Well: Building Well” which aimed to “to encourage procurement teams to think about building health promotion into their school estate strategies” and that this had been widely circulated.¹³⁸

201. The Minister for Education and Young People emphasised the “extensive building programme in which we are engaged” and that individual local authorities

¹³³ Marjory Robertson, HMI, Communities Committee, Official Report, 1 November 2006, columns 4205-6.

¹³⁴ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4272.

¹³⁵ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4277.

¹³⁶ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, column 4272.

¹³⁷ Michael O'Neill, COSLA, Communities Committee, Official Report, 15 November 2006, column 4289.

¹³⁸ Wendy Halliday, Learning and Teaching Scotland, Communities Committee, Official Report, 1 November 2006, column 4121.

had responsibility for deciding the most appropriate means of preparing meals. He further said, "If improvements need to be made to a school, one should ask the respective local authority why it has not availed itself of the funding that has been made available—funding that has been used to very good effect throughout Scotland."¹³⁹

202. The Expert Working Group explained to the Committee in evidence that increasing uptake had been a key consideration in its development of recommendations for the nutritional requirements, and that it had been pragmatic in its approach to ensure that there was not a negative impact on uptake. Nevertheless, the Chair of the Expert Working Group stated, "We acknowledge that there may be an initial drop in uptake, although that will probably happen in secondaries rather than primaries, because secondaries have not yet experienced so much of the hungry for success programme—it is not due for full implementation in secondaries until next month, whereas that happened in primaries two years ago."¹⁴⁰

203. COSLA noted that any reduction in uptake of school meals might have an impact on private contractors, a point which was also raised in evidence to the Finance Committee. However, in COSLA's view this raised the issue of whether the provision of school meals should be profit-making or cost neutral, rather than running at a loss as was the case with some other local authority services.

204. The Communities Committee is of the view that the duty on education authorities to promote school lunches is a necessary complement to the nutritional requirements that the Bill proposes to introduce. The duty should oblige education authorities to take into account the various ways that school lunches can be promoted and to implement them. The Committee is not of the view that targets would be constructive in increasing uptake given the role of individual choice in determining uptake figures.

205. The Committee recognises the variety of factors that can influence the choices made by young people and is of the view that education authorities should encourage schools to work with pupils to promote more attractive and efficient dining facilities.

206. The Committee notes the findings of the Soil Association's Food for Life project which show that uptake can be increased by promoting children' and young people's cultural awareness of the farming and food production process, as well as encouraging their understanding of the preparation of food for consumption in schools. The Committee recommends that the Executive should look closely at the findings of this piece of work with a view to identifying good practice examples to be included in guidance to all schools.

207. The Committee recognises the challenges posed by vans and nearby outlets, especially to secondary schools where pupils are able to leave the

¹³⁹ Hugh Henry, Minister for Education and Young People, Communities Committee, Official Report, 6 November 2006, column 4406.

¹⁴⁰ Dr Cathy Higginson, Chair, Expert Working Group, Communities Committee, Official Report, 8 November 2006, column 4227.

school at lunch time. It takes the view that local authorities should work with both vans and shops to promote healthier options to school pupils and, if necessary, use their existing licensing powers to either distance vans selling unhealthy food from a school or prevent them from locating near a school. The Committee notes that existing licensing powers have been used successfully in some local authorities to tackle the problem of vans selling unhealthy food locating close to schools and calls on the Scottish Executive to issue guidance on how this problem can be addressed by exercising licensing powers in relation to vans or other retail outlets.

208. The Committee is of the view that a significant increase in the uptake of school meals in the future may result in a requirement for additional food preparation and dining facilities. The Committee calls on the Scottish Executive to ensure that any monitoring measures put in place to evaluate the impact of the provisions of the Bill take into account the potential requirements for additional infrastructure or investment resulting from increased uptake. It further recommends that all school refurbishment or new build programmes should also take full account of these issues.

209. The Committee is also of the view that the preparation of food on site can bring benefits in terms of the freshness and nutritional value of food and provide an opportunity for young people to develop a relationship with the food being prepared around them. The Committee therefore recommends that refurbishment and new build programmes should take account of the desirability of providing facilities for food preparation on-site where this is practicable and can reasonably be achieved.

Protection of identity of pupils receiving free school lunches

210. Section 8 of the Bill proposes to insert new section 53B into the 1980 Act to place a duty on education authorities to “take reasonable steps to ensure that the pupil cannot be identified by any person other than an authorised person as a pupil who receives a school lunch free of charge” and that information on pupils receiving a school lunch free of charge is not disclosed to unauthorised persons.

211. The Policy Memorandum states that this measure aims to remove a potential barrier to the uptake of free school meals by ensuring that anonymous systems are in place to limit any stigma being attached to accessing free school meals. The Scottish Executive conducted research into the issue of stigma and free school meals and concluded that it was not an issue for pupils but that parents might be embarrassed. The Executive therefore considered that the measures might ensure that “some parents who had not done so previously might encourage their children to sign up for free school meals.”¹⁴¹ The Executive acknowledged while there was not strong evidence that anonymised systems would result in increased uptake, it would promote a “position that no one and no family should be stigmatised for

¹⁴¹ David Cowan, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4151.

taking a free school meal. If there is a perception that that could be the case, we want to ensure that we remove it.”¹⁴²

212. It was explained to the Committee by a Scottish Executive official that there were a variety of means of ensuring anonymity. These did not have to be cashless systems, which were often “chosen for administrative reasons and to improve efficiency and effectiveness rather than to provide anonymity,” but could involve a simple system administered by school staff or teachers.¹⁴³

213. The witnesses who gave evidence to the Committee agreed that pupils had a right to anonymity. There was also common agreement that the proposals should result in the discontinuation of practices whereby children received tickets, had to queue in different places or had to put their hand up to indicate entitlement to free school meals. Systems which used cards, or in the case of one primary school – palm-recognition technology – were cited as examples of ways of putting anonymous practices into place.

214. A pupil from a North Lanarkshire secondary school explained the impact that the introduction of an anonymous system had had in her school:

Since we got the cards, it is no longer noticeable. Before, however, there was a lot of stigma because you would have to go down at break to collect your ticket from one of the assistant head teachers. Everyone knew that you were getting a free school meal. It was seen as a sort of poor people's thing and it could be one of the reasons for bullying—people would get called names because they had to go and get the ticket. Because of the card system, people do not know who has a free school meal, so people cannot judge them on that basis.¹⁴⁴

215. UNISON welcomed the proposals but expressed reservations about the resource implications, stating, “Our members, presumably, will have to administer such systems, which involves significant time and cost burdens and means that other things in the school simply do not get done.”¹⁴⁵ It also commented that even when systems were in place, “the kids always seemed to find out who was getting free school meals.”¹⁴⁶

216. The Poverty Alliance argued that as there was evidence which indicated that some pupils were still able to identify those who received free school meals and that the anonymised systems had had a limited impact on uptake, that the “most effective way of tackling stigma is to provide universal free school meals.”¹⁴⁷

¹⁴² David Cowan, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4155.

¹⁴³ Maria McCann, Scottish Executive, Communities Committee, Official Report, 24 October 2006, column 4155.

¹⁴⁴ Lynsey Currie, @Home Centre, Airdrie, Communities Committee, Official Report, 22 November 2006, column 4339-40.

¹⁴⁵ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, column 4281.

¹⁴⁶ Dave Watson, UNISON, Communities Committee, Official Report, 15 November 2006, columns 4282.

¹⁴⁷ Written evidence submitted by the Poverty Alliance.

217. **The Committee is concerned that not all children and young people take up the free school meals to which they are entitled and considers that proposals to protect their identity may remove a barrier to increasing uptake among this group.**

218. **A majority¹⁴⁸ of the Committee welcomes the duty proposed in the Bill to ensure that anonymised systems relating to the provision of free school meals are in place and the duty to protect the identity of pupils in receipt of free school meals. It is of the view that this will protect the rights of children and young people, as well as reducing any potential stigma among children and young people and their parents.**

219. **The Committee notes the potential high costs of anonymised systems which use cards for cashless vending, but has also been made aware of simpler systems that do not have the same cost implications, yet also ensure anonymity. The Committee therefore considers that there is sufficient flexibility in the way in which this duty can be implemented.**

220. **A range of reservations were expressed about a range of biometric and other technology-led systems being introduced as a means of promoting anonymised systems, particularly as much of the technology associated with such systems has not been extensively trialled in a school environment and that no code of conduct has been developed to cover their use. Whilst they acknowledge that it is a matter for each education authority to decide how they ensure anonymity, they consider that such systems would represent a disproportionate response to tackling the issue of stigma that may be associated with taking free school meals.**

Other issues

Pupil Involvement

221. In the oral evidence heard by the Committee and in the written evidence received – particularly that from school pupils – there were references to the importance of involving children and young people in the decisions relating to health promotion and food and drink provided in schools. The Committee also saw examples of good practice in involving pupils in its visits and heard examples in its teleconference with pupils at a hostel in the Shetland Isles. For example, the Scottish Food and Health Coordinator noted that “one of the most significant lessons that we have learned from the hungry for success initiative is that it is important to encourage schools to take the pupils with them and to put them in the driving seat. Where schools have a strong school nutrition action group or an involved pupil council, progress is far quicker and better than where things are imposed on the kids.”¹⁴⁹

222. This was echoed by other witnesses. One Plus cited the example of Finland where children were involved in the choice of menu for school lunches. Children in Scotland emphasised the importance of getting children involved in “the process of

¹⁴⁸ Patrick Harvie MSP dissented.

¹⁴⁹ Gillian Kynoch, Scottish Food and Health Coordinator, Communities Committee, Official Report, 1 November 2006, column 4192.

developing healthier habits as well as the decisions around them.”¹⁵⁰ Save the Children went further in calling for reference to the involvement of children and young people to be made on the face of the Bill:

“If health-promoting schools are to be effective in any shape or form, it is essential that children and young people are involved in the process of such initiatives within their schools. Schools already have a range of ways to involve children and young people in decision making, such as school councils. Statutory provision would ensure that children are involved in school development plans. I do not think that it would be beyond the scope of the bill to provide that children are consulted and involved integrally in decision making about health-promoting schools, diet and nutritional provision in schools. The only way that the bill will be successful is if there is a proper partnership between the pupils, parents and teachers to identify effective solutions in schools.”¹⁵¹

223. Scotland’s Commissioner for Children and Young People also stressed the importance of seeking the views of children and young people. She drew the Committee’s attention to article 12 of the UN Convention on the Rights of the Child which promotes giving due weight to all matters affecting the child.

224. The Committee is of the view that involving children and young people in the development and implementation of the provisions contained within the Bill is crucial. It calls on the Executive to ensure that this area is covered in any guidance issued under new section 56C of the 1980 Act.

Monitoring

225. The Scottish Executive indicated in oral evidence that it planned to measure the success of the provisions relating to health promotion and nutritional standards through the HMIE as part of its inspection programme. The HMIE has been inspecting schools in relation to the achievement of the *Hungry for Success* initiative and this process will be extended to take into account the eventual provisions of the Bill once enacted. The Scottish Executive also indicated that in the long term, it would look at National Health Service statistics to identify whether the measures have helped to improve health in Scotland.

226. The Policy Memorandum also indicated that the HMIE have started compiling a Health database for all schools which have been inspected and that a framework for national accreditation of local authorities’ individual arrangements for promoting and supporting the health-promoting schools agenda in their own area has been established, although local authorities submit their arrangements for accreditation on a voluntary basis.

227. The Committee is of the view that the results of the inspection of schools should be closely monitored to ensure that the provisions in the Bill are implemented and whether any further initiatives or adaptations in existing policies are required to maximise the impact of the legislation. It

¹⁵⁰ Paula Evans, Children in Scotland, Communities Committee, Official Report, 22 November 2006, column 4310.

¹⁵¹ Douglas Hamilton, Save the Children, Communities Committee, Official Report, 22 November 2006, columns 4309-10.

calls on the Scottish Executive to make participation in the framework for accreditation mandatory for all local authorities.

Sustainable Development and Procurement

228. The Policy Memorandum stated that the provisions in the Bill will support sustainable development. It points to evidence emerging from the evaluation of the *Hungry for Success* initiative that any decrease in the demand for processed foods in schools has the potential to reduce packaging waste and reduce the ecological footprint created by school meals. It also highlights how health-promoting schools can contribute to the promotion of sustainable development by considering sustainability in its decisions and by individual initiatives such as promoting walking or cycling to school.¹⁵²

229. A number of those that provided evidence raised issues relating to sustainable development and the inclusion of sustainable development criteria in the procurement process.

230. World Wildlife Fund (WWF) Scotland argued that, “Alongside nutritional standards it [the Bill] could enshrine in legislation what to date only exists as guidance – namely sustainability standards for school meals.” Scotland’s Commissioner for Children and Young People also indicated that she “would support the idea of a duty on local authorities to meet defined sustainability standards.”¹⁵³

231. WWF Scotland further emphasised that, “Making the links between health, diet and sustainability by recognising how food that is good for you can also be good for the planet, is important in the everyday choices of school children but also in the procurement of food offered to them by local authorities.”¹⁵⁴ Through *Scotland’s Global Footprint Project*, managed by WWF Scotland, it had been shown that the implementation of *Hungry for Success* in North Lanarkshire schools had considerably reduced the environmental burden of the food being offered to school children.

232. The issue of procurement also came up in relation to the sourcing local or organic produce. The Committee visited Hurlford Primary School in East Ayrshire, which demonstrated that a 40% reduction in the ecological footprint created by food served in schools could be achieved by procuring food locally.

233. The EIS emphasised that the nutritional quality of food should be a key criteria in sourcing food “but once a number of suppliers can meet the appropriate nutritional standards, positive weighting can be given to those that are local, those that supply ethically traded produce, those that are environmentally sound and those that are not wasteful in their use of packaging. Positive weighting should be given to all those factors to balance the issues of cost.”¹⁵⁵

¹⁵² Schools (Health Promotion and Nutrition) (Scotland) Bill, Policy Memorandum, paragraphs 38-9.

¹⁵³ Written evidence submitted by Scotland’s Commissioner for Children and Young People.

¹⁵⁴ Written evidence submitted by WWF Scotland.

¹⁵⁵ George MacBride, Educational Institute of Scotland, Communities Committee, Official Report, 15 November 2006, column 4285.

234. The Soil Association also brought up the issue of the sustainability of food that is procured for schools. It presented the example of its Food for Life programme and the work that it had carried out with 11 local authorities in Scotland on school meal provision. The Food for Life targets are that 75 per cent of food should be made from unprocessed ingredients, 50 per cent of ingredients should be sourced locally and 30 per cent of the food should be organic. The Soil Association argued that this approach could help re-establish a local supply chain, as well as having other benefits:

“If the targets are met, there are significant spin-off benefits to the community and the local economy, as well as in relation to familiarising pupils, teachers and school catering staff with the cultural connections that are so important if people are to take healthy eating more seriously. Healthy eating is as much to do with an attitude as it is to do with what is put on the plate in front of us.”¹⁵⁶

235. Evidence provided by the Soil Association demonstrated how East Ayrshire had successfully used the procurement system to award contracts against criteria that included the “quality and range of foods”, “food handling arrangements and facilities” and “use of resources”.¹⁵⁷ Representatives of East Ayrshire Council further explained their approach, and the benefits to the wider community that had resulted from it, in the visit by the Committee to Hurlford Primary School.

236. The Policy Memorandum explains that the Scottish Executive established a policy in 2004 in order that public sector procurement could take account of sustainability and healthy eating objectives as criteria in the selection of contractors through the public procurement system.

237. The Minister for Education and Young People indicated that the guidance would be reissued when the provisions in the eventual Act were commenced and that this should again explain how the public sector could take account of relevant sustainability objectives when awarding contracts for food and catering services.

238. The Communities Committee is of the view that local authorities have the capacity to include criteria relating to sustainable development in the tendering process and is concerned that this is not widespread. It therefore calls on the Executive to be more proactive in encouraging such an approach and recommends that, when the guidance on public sector procurement is re-issued, it should be strengthened in this regard and strongly promoted. It also considers that information on the good practice in East Ayrshire and other areas should be promoted by the Executive.

Subordinate Legislation Committee Report

239. The provisions of the Bill that confer powers to make subordinate legislation were referred to the Subordinate Legislation Committee under Rule 9.6.2. The Subordinate Legislation Committee examined these provisions in detail at its

¹⁵⁶ Hugh Raven, The Soil Association, Communities Committee, Official Report, 8 November 2006, column 4249.

¹⁵⁷ Written evidence submitted by the Soil Association.

meetings on 19 September and 3 October 2006 and sought confirmation from the Scottish Executive on one issue.

240. The Subordinate Legislation Committee indicated that it was content with regulations made under new section 56A(1) being subject to the affirmative resolution procedure only the first time that the power was exercised. The Subordinated Legislation Committee sought confirmation from the Scottish Executive that the regulations made under this power would cover both public schools and grant-aided schools. The Executive confirmed that this would be the case and the Subordinate Legislation Committee ultimately considered that this was a proportionate approach.

241. At paragraph 148 above, the Communities Committee called for regulations and any subsequent amendments to regulations made under new section 56A(1) to be subject to the affirmative procedure.

242. The Communities Committee considers that regulations, as well as amendments to those regulations, made under new section 56A(1) be subject to the affirmative resolution procedure in any exercise of that power.

Finance Committee Report

243. Under Rule 9.6.3 the lead committee is obliged to report on the Bill's Financial Memorandum and to take into account any views submitted to it by the Finance Committee. The Finance Committee took evidence on the Financial Memorandum on 31 October and 7 November 2006 and reported to the Communities Committee.

244. In the Financial Memorandum, the Scottish Executive states that, "Given that local authorities should be complying with the recommendation of *Hungry for Success* and schools should have become, or will be close to becoming, health-promoting schools by the time the Bill commences, the financial costs associated with the Bill's implementation are expected to be minimal."¹⁵⁸ No additional costs are foreseen for either the Scottish Executive Education Department or for the Scottish Executive Health Department as a result of the proposals.

245. Local authorities will face additional costs if they choose to take up the powers to provide food and drink free of charge. The Financial Memorandum provides estimates of the unit costs of providing free breakfast, free fruit and free lunch. No additional costs are foreseen for local authorities as a result of the duties to meet nutritional requirement, promote school lunches or protect the identity of pupils receiving free school lunches.

246. The Financial Memorandum anticipates that, "Some food and drinks manufacturers and catering providers may receive reduced revenues in the short term as a result of vending machines stocking products that meet the nutritional requirements."¹⁵⁹

¹⁵⁸ Schools (Health Promotion and Nutrition) (Scotland) Bill, Financial Memorandum, paragraph 25.

¹⁵⁹ Schools (Health Promotion and Nutrition) (Scotland) Bill, Financial Memorandum, paragraph 25.

247. In its report to the Communities Committee, the Finance Committee raised a number of concerns. One of these was the issue of a potential requirement for additional capital investment if there was a significant uptake of school meals and whether sufficient funding would be made available. The Finance Committee noted the written evidence submitted by COSLA which called for a confirmation from the Executive that “local authorities will not be required by the duty to increase capacity beyond a school’s current limitations, as to do so would require additional capital investment.”¹⁶⁰

248. The Finance Committee also noted that it considered that estimates should have been made in the Financial Memorandum of the impact that a decline in the uptake of school meals could have on the income of catering services, rather than assuming that the Bill’s provisions would lead to an increase in the uptake of school meals.

249. The Finance Committee was also of the view that if local authorities used their powers to provide free food and drink then there could be significant cost implications and “a judgement would need to be made as to whether providing school lunches would provide value-for-money in terms of the objectives of changing eating habits.”¹⁶¹

250. The Committee notes the Financial Memorandum, but shares the concern of the Finance Committee that changing circumstances such as a significant increase or a significant decrease in the uptake of school meals have the potential to have a real impact on education authority resources. It calls on the Executive to monitor this issue closely.

Policy Memorandum

251. Under Rule 9.6.3 the Committee is required at Stage 1 to consider and report on the Policy Memorandum. The Scottish Executive prepared a Policy Memorandum, which accompanied the Bill when introduced.

252. The Committee agrees that the Policy Memorandum provided a comprehensive explanation of the policy objectives of the Bill and that alternative approaches were considered. It is content that that an inclusive and in-depth consultation process took place, and that there was an adequate consideration of the impact of the Bill on equal opportunities, human rights, island communities, local government, sustainable development and equal opportunities.

253. The Committee is content that the Scottish Executive consulted equalities bodies and took account of dietary needs – whether linked to health, ethnic, cultural or faith requirements – in the preparation of the proposals contained in the Bill. The Committee also commends the Executive for consulting children and young people on the proposed Bill.

¹⁶⁰ Written submission from COSLA to the Finance Committee.

¹⁶¹ The Scottish Parliament Finance committee, report on the Financial Memorandum of the Schools (Health Promotion and Nutrition) (Scotland) Bill and the Education (School Meals) (Scotland) Bill, paragraph 51.

254. The Committee also notes the race equality impact assessment was carried out by the Scottish Executive.

Conclusions

255. The Communities Committee welcomes the Schools (Health Promotion and Nutrition) (Scotland) Bill. The Communities Committee has made a number of recommendations in this report in response to the evidence that it has heard or received on the Bill. It urges the Scottish Executive to take these into account with a view to introducing amendments to improve the legislation at the later stages of the Parliamentary process or to develop further measures to promote health and nutrition for all children and young people in Scotland.

256. The Communities Committee recommends that the Parliament agree the general principles of the Schools (Health Promotion and Nutrition) (Scotland) Bill.



Finance Committee

Report on the Financial Memoranda of the Schools (Health Promotion and Nutrition) (Scotland) Bill and the Education (School Meals) (Scotland) Bill

The Committee reports to the Communities Committee as follows—

Introduction

1. Under Standing Orders, Rule 9.6, the lead Committee in relation to a Bill must consider and report on the Bill's financial memorandum at stage 1. In doing so, it is obliged to take account of any views submitted to it by the Finance Committee.
2. This report sets out the views of the Finance Committee on the Financial Memoranda of the Schools (Health Promotion and Nutrition) (Scotland) Bill ("the Executive Bill") and the Education (School Meals) (Scotland) Bill (the "Member's Bill"), for which the Communities Committee has been designated by the Parliamentary Bureau as the lead committee at Stage 1.
3. Given the crossover between these two Bills, the Committee agreed that it would scrutinise them simultaneously. It also agreed that it would produce one report covering both Bills. The Committee adopted level 3 scrutiny in considering the Bills, which involved seeking written evidence from organisations financially affected by them, then taking oral evidence from COSLA and from the Executive Bill Team and the Member in Charge of the Education (School Meals) (Scotland) Bill, Frances Curran MSP.
4. The Committee took evidence from COSLA on [31 October](#) and from Executive officials and Frances Curran on [7 November](#).
5. The Committee received submissions from COSLA, Her Majesty's Inspectorate of Education (HMIE), the Scottish Food and Drink Federation and the Scottish Health Promoting Schools Unit. The Committee also received supplementary correspondence from COSLA. All of this evidence is set out in the Annexe to this report.
6. The Committee would like to express its thanks to all those who submitted their views.
7. **Objectives and the Financial Memorandum**
8. "Hungry for Success" was launched in 2003 and introduced national, nutritional defined standards for school meals in Scotland a strategy for delivering the standards and improving the uptake of meals. The Executive Bill seeks to build on this and places the following duties on all local authority schools (including hostels and nurseries) and grant aided schools:
 9. to ensure that all schools are health-promoting;
 10. to ensure that all food and drink complies with nutritional requirements;
 11. to promote school lunches (in particular free school lunches); and

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12. the protect the identity of those receiving free school lunches

13. The Bill also gives powers to local authorities to provide food and drink at any time of the day either free or subject to a charge. However, this power does not apply to school lunches as the Bill states that these must be charged for unless a pupil is eligible for a free lunch.

14. The Member's Bill also requires nutritional standards to be set and gives powers to regulate the sale and advertisement of consumable goods on school premises. Therefore, the main difference between the two Bills is that the Member's Bill places a duty on local authorities to provide free school lunches, including milk and water, to all pupils in primary schools in Scotland (although there is power in the Bill to extend this provision to secondary schools). As a result, there is no need to protect the identity of those receiving free lunches.

15. The Executive Bill does not anticipate significant additional costs as many local authorities will already have implemented the recommendations of "Hungry for Success". However, the total estimated costs of implementing these recommendations are updated in the Financial Memorandum (FM) as follows (note: these totals do not account for money currently being spent by local authorities on "Hungry for Success")

16.	17. Start-up Costs	18. Unit Costs	19. Total Costs ^{162 163}
20. Meeting nutrient standards for school meals 21. (Paragraphs: 26-28)	22. N/A	23. 12p per meal ¹⁶⁴	24. £6.9m per year
25. Promoting school meals 26. (Paragraph: 29)	27. Minimal	28. £0 - £0.50 per meal	29. £0 - £29m per year
30. Increased uptake 31. (Paragraphs: 30-36)	32. Minimal	33. £1.75 per primary meal and £1.76 per secondary meal	34. £0.68m - £9.7m per year for 0.7% - 10% increase in uptake
35. Eliminating Stigma 36. (Paragraphs: 37-41)	37. £20,000 per secondary school plus £18,000 per local authority	38. £3,000 per secondary school plus £2,800 per local authority	39. £8.2m start up and £1.2m ongoing costs for all secondary

40. The total estimated costs for local authorities, if they use the power to provide free food and drink (bar school lunches) are given as follows:

41.	42. Start-up Costs	43. Unit Costs	44. Total Costs ¹⁶⁵
45. Free Breakfast	46. Unknown	47. £1.00 - £1.26 per breakfast	48. £70m - £88m per year for primary
			49. £52m - £66m per year for secondary
50. Free Fruit	51. N/A	52. £0.17 per portion ¹⁶⁶	53. £12m per year for primary
			54. £9m per year for secondary

¹⁶² Total costs have been calculated for all meals consumed in all local authorities in 2004-05. The total costs column should not be summed to estimate the total cost of *Hungry for Success*.

¹⁶³ The total costs do not account for money currently being spent by local authorities on the provision of *Hungry for Success*.

¹⁶⁴ This figure is based on the average increase in the cost per primary school meal between 2003-04 and 2004-05, in real terms. This figure includes start-up costs of meeting the nutrient standards. This figure includes the cost of providing drinking water.

55. Free Milk	56. Minimal	57. £0.09 per serving ¹⁶⁷	58. £6m per year for primary
			59. £4.5m per year for secondary

60. The total cost of providing free school lunches under the Member's Bill is estimated to be between £66.3m and £72.8m (based on an average cost per meal of £1.77 and an uptake of between 65%-70%).

61. As with the Executive Bill, the FM does not anticipate additional cost implications for local authorities to meet nutritional standards. The FM acknowledges that capital costs may be incurred with regard to extending and refurbishing kitchens and dining rooms. But it states that as this would be required for "Hungry for Success" to achieve its aims, then there should be no costs over and above those relating to the implementation of that initiative.

62. Summary of evidence

63. Breakfasts

64. The total costs in the FM of the Executive Bill, assume that all local authorities will provide free breakfasts, fruit and milk to all pupils. However, the FM also says that as the Executive does not know the income and expenditure of the current provision of breakfast clubs, fruit and milk by local authority, it is unable to identify the net additional costs for extending current provision to cover all pupils. COSLA themselves were not able to provide the number of local authorities who currently provide breakfasts.¹⁶⁸ Although Glasgow Council reported all 173 primary schools in the local authority area operate free breakfast service.

65. The FM states that the total costs would be in the range of £70m - £88m per year per primary school and £52m - £66m per year per secondary school. While the Executive explained that these figures are based on information from local authorities (presumably regarding the cost per breakfast), it is not entirely clear how the total costs were calculated. According to Scottish Executive statistics¹⁶⁹, there were 390,725 pupils in primary schools and 305,148 pupils in secondary schools in 2006. If, using these numbers, the cost per day is multiplied by 190 statutory days of the school year (the figure given in the Member's Bill, although no figure is mentioned in the Executive Bill), the total costs would be higher.

66. Conversely, Fergus Chambers of Glasgow City Council thought that the total figures seemed excessive based on his own experience. However, Glasgow's actual figures reflect a 20% uptake in free breakfasts, whereas the Executive's figures assume a 100% uptake.

67. Although it is not immediately evident how the total costs of free breakfasts were arrived at, it seems safe to assume that the actual costs (should local authorities choose to use these powers) would be lower, given the strong likelihood that uptake will never be 100%. It is also presumed that local authorities would only offer this service if budgets allowed. However, as a central plank of the healthy eating agenda, the Committee hopes that the majority of local authorities would introduce breakfast services. Given that the assumptions underpinning the costs of free breakfasts are unclear, then Committee recommends that the lead Committee seek clarification from the Minister.

68. It is not clear whether the effect of the provisions of the Member's Bill would be that all meals could be provided free of charge (ie, that breakfasts could be provided as well as lunches). Frances Curran stated that her Bill was restricted to lunchtime meals in primary schools but that she had no problems with the concept of free breakfasts.¹⁷⁰

¹⁶⁵ The total costs do not account for money currently being spent by local authorities on the provision of breakfasts, fruit and milk.

¹⁶⁶ Start-up Costs for providing fruit are included in Unit Costs.

¹⁶⁷ The Unit Costs of milk do not include operational costs such as storing and serving milk.

¹⁶⁸ Gray, Official Report, 31 October 2006, Col 3968

¹⁶⁹ Scottish Executive: School Meals in Scotland, June 2006

¹⁷⁰ Curran, Official Report, 7 November 2006, Col 4078

69. *Lunches*

70. The Member's Bill states that the cost of providing free lunches is estimated to be between £66.3m and £72.8m. This is based on an average cost per meal of £1.77 and an uptake of between 65% - 70%. While uptake has decreased in recent months (detailed later in this report), Glasgow council reported that in primary schools, uptake of free meals is 87% and overall, the uptake is 61%.

71. Although the Member has specified that her Bill is restricted to free school lunches, as free breakfasts are seen as an important part of the healthy eating agenda for schools, COSLA was asked what the financial impact on local authorities would be if they were asked to offer both free breakfasts and free lunches. COSLA responded that it would be extremely difficult to cost universal free school meals and to forecast uptake.¹⁷¹ In supplementary evidence, COSLA suggested that costs could increase to over £100m (to include the cost of capital). The Committee does not necessarily concur with this, given that the figures quoted in the FM of the Member's Bill are based on current statistics, a cost per meal provided by local authorities¹⁷² and on a level of uptake for primary schools which is not out of line with that in Glasgow Council.

72. However, if the costs given in the Member's Bill and the costs in the Executive Bill are taken together (even assuming a lower figure for free breakfasts), then that is not insubstantial and a judgement would need to be made as to whether providing free school lunches would provide value-for-money in terms of achieving the objectives of changing eating habits.

73. *Eliminating stigma*

74. The typical start-up costs of measures to eliminate stigma (such as swipe card systems) is stated in the FM of the Executive Bill to be £20,000 per secondary school plus an additional £18,000 that covers items "that can be shared across all the schools in a local authority."¹⁷³

75. In evidence, COSLA estimated that in Glasgow the initial investment required for their debit card system was on average £15,000 per primary school and £30,000 per secondary school. When asked about the differences in these figures, Executive officials responded that their figures were based on those supplied by local authorities and that as Glasgow has slightly higher school rolls, this could account for the higher figure.

76. In the Policy Memorandum of the Member's Bill, it is noted that consultation responses stated that the money spent on eliminating stigma could have been spent on providing free school meals. While the Committee appreciates the point that limited resources need to be targeted at specific policy areas (which is the point it makes in paragraph 24), this is perhaps a moot point as 71% of schools already have anonymised systems¹⁷⁴ and therefore, much of the money will already have been spent.

77. *Capital Investment*

78. The FM of the Member's Bill acknowledges that capital costs may be incurred with regard to extending and refurbishing kitchens and dining rooms, but it states that as this would be required for "Hungry for Success" to achieve its aims, then there should be no costs over and above those relating to the implementation of that initiative.

79. However, COSLA's evidence implied that little or no capital investment had been made and that the funding for "Hungry for Success" did not include capital funding. When questioned further about this, Fergus Chambers stated that:

80. "If the new proposals [of the Expert Working Group] are implemented in secondary schools, no investment in new equipment will be needed because there will not be such numbers of kids going through the facility. In primary schools, however, where service acceptability is high, there might be a strong argument for examining facilities."

¹⁷¹ Chambers, Official Report, 31 October 2006, Col 3969

¹⁷² Curran, Official Report, 7 November 2006, Col 4083

¹⁷³ Schools (Health Promotion and Nutrition) (Scotland) Bill: Explanatory Notes

¹⁷⁴ SPICe briefing: Education (School Meals etc.) (Scotland) Bill

81. COSLA also said in evidence that providing free school meals would mean huge investment in capital.

82. Executive officials were asked whether capital funding had been made available to local authorities. Officials responded that while no specific funding had been made available through “Hungry for Success”, capital funding was available through the Schools Fund and it had been hoped that some of that money would have been used to implement “Hungry for Success”. This fund provides capital grant funding to councils for the maintenance and refurbishment of school buildings and it is stated that this can include improving canteen facilities. According to the Executive, between 2003 and 2008 nearly £450m will have been made available for capital expenditure on the school estate.¹⁷⁵

83. Although the Committee notes the comment by Fergus Chambers that no investment in new equipment will be required in secondary schools, it is concerned by COSLA’s statement in its written evidence that “[it] would seek the Committee’s support in requesting clarification from the Minister for Education and Young People, that local authorities will not be required by the duty to increase capacity beyond a school’s current limitations, as to do so would require additional capital investment.”¹⁷⁶

84. The Committee would have thought that if uptake is increased (and that is one of the aims on the Bill) that there would need to be additional capital investment. It notes that capital funding is available through the Schools Fund and does not know what has or will prevent authorities from utilising such funding. **The Committee therefore recommends that the lead Committee seeks clarification from the Minister on the amount of funding available to local authorities to spend on capital investment; to determine the overall amount of capital investment that will be required; and whether, through existing funds, sufficient money will be made available.**

85. *Nutritional standards*

86. The main focus of the Executive Bill is on setting nutritional standards for meals and snacks and on promoting the healthy eating agenda. While the main focus of the Member’s Bill is on providing free school lunches, such lunches should still be subject to the same nutritional standards.

87. The Committee was concerned to hear that since the recommendations of “Hungry for Success” were rolled out, that uptake of school meals has decreased. Fergus Chambers stated that:

88. “the lesson that I draw is that we need to be extremely careful in developing the right balance between the health agenda and reality, if I can call it that. Nobody around the table would argue against improving health, diet and nutrition and reducing obesity. However, if we do that in a way that means that nobody wants to use the service, that defeats the purpose.”¹⁷⁷

89. He added that Glasgow Council has experienced a 15% downturn in cash income and 17% downturn in overall free meals uptake since August. On this basis, he is predicting a cash deficit of £750,000 by the end of this financial year. It was also stated that a decrease in uptake was more apparent in secondary schools, due to the attitude of pupils and the ability to purchase meals elsewhere.

90. These concerns were raised with Executive officials who responded that the impact was likely to vary between local authorities and that the situation in Glasgow would not necessarily be replicated in other areas. They went on to say that the 17% downturn in Glasgow as a projection and other local authority areas had experienced a downturn but not to this extent and cited an example of East Ayrshire where there was a downturn of 2.9% (but this was against a backdrop of a 1.1% drop in the school roll).¹⁷⁸ In a briefing produced by SPICe overall uptake in primary schools

¹⁷⁵ Cowan, Official Report, 7 November 2006, Col 4089

¹⁷⁶ Submission from COSLA

¹⁷⁷ Chambers, Official Report, 31 October 2006, Col 3973

¹⁷⁸ Cowan, Official Report, 7 November 2006, Col 4086

is actually shown to have risen in primary schools from 46.9% in 1999 to 47.3% in 2006 while overall in secondary schools, uptake has decreased from 44.7% in 1999 to 43.4% in 2006.¹⁷⁹

91. However, the Committee appreciates that as these statistics were published at the beginning of June 2006, the full effect of the “Hungry for Success” implementation may not have been captured. The Committee questioned whether the losses likely to be incurred by local authorities should have been reflected in the Bill’s FM. The FM in fact focuses on an increase in uptake and the likely financial implications. The Committee believes that the converse calculations should also have been shown.

92. The Executive admitted that more work probably needed to be done in assessing downturn. The Committee does appreciate that changing eating habits will take some considerable time and that, as shown by the experience in Hull, it is likely that a downturn will occur before the numbers stabilise or indeed, increase.

93. The Executive emphasised that health promotion is the most significant element of the Bill and the assumption is that if this part of the Bill is successful, then this will impact on uptake.

94. When describing the financial impact of “Hungry for Success” in Glasgow, Fergus Chambers pointed out that this was against a backdrop of authorities still being able to sell carbonated drinks, albeit fewer, and items of confectionery, snacks and crisps. He, and COSLA were concerned that the recommendations of the Executive’s Expert Panel on nutritional standards could have a further, financial impact. Fergus Chambers explained that a particular concern was that although banning confectionery, crisps or snacks would be a sensible approach to the nation’s diet, a complete ban on such items could further impact on the uptake of school meals. Councillor Gray of COSLA added that “we estimate that, in North Lanarkshire, banning the products that Fergus Chambers mentioned would cost a substantial six-figure sum”.¹⁸⁰

95. The recommendations of the Expert Panel have now been published. These state that no confectionery should be provided as part of the school lunch or available in any school food outlets; and that savoury snacks will not form part of the school lunch and that the only snacks which can be made available outwith the school lunch will be those which meet the “Nutrient Specifications for Manufactured Products”. Additionally, no sugary, carbonated drinks will be permitted as part of the school lunch and artificially sweetened drinks with a nil sugar content will only be permitted until 31 December 2009.¹⁸¹

96. Although when questioned about this, officials said they did not think there would be cost implications for local authorities¹⁸², given what has been said by COSLA, the Committee can only assume that there will be a financial impact, at least in the short-term, on local authorities as a result of these recommendations. The Committee concurs with COSLA’s view that “it would have been preferable that the standards had been prepared well in advance, to give everyone a chance to debate whether the legislation is practical, achievable and represents Best Value.”

97. Therefore, it is possible that the costs to local authorities outlined in the Bill could be further increased due to a downturn in income. This in turn adds to the concern, expressed earlier that providing free school lunches under the Member’s Bill could add to this financial burden and that questions needed to be asked as to whether it would be more beneficial to direct the money toward the successful implementation of the Expert Panel’s recommendations and the provisions of the Executive Bill.

98. The Committee appreciates that there could be an impact (at least in the short term) on uptake because healthier food is being served. However, evidence has consistently suggested that there are various other reasons for pupils (particularly in secondary schools) not wishing to take a

¹⁷⁹ SPICe briefing “Schools (Health Promotion and Nutrition) (Scotland) Bill, 15 September 2006

¹⁸⁰ Gray, Official Report, 31 October 2006, Col 3976

¹⁸¹ Proposal from the Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks outwith the School Lunch

¹⁸² Cowan, Official Report, 7 November 2006, Col 4087

school meal, in particular the environment in which they are served, the space available and having to wait in long queues.

99. The briefing produced by SPICe shows that there are significant differences in the level of uptake between individual local authorities but it also shows that in some authorities uptake has increased in secondary schools (eg, East Lothian where uptake rose from 22% in 1999 to 38.9% in 2006 and in Angus where it rose from 30.4% to 49.5%).¹⁸³ The reasons for these differences should be examined and where there is best practice in terms of increasing uptake, this should be rolled out across local authorities.

100. The Committee is concerned by the evidence presented about the decrease in uptake (at least in the short term) and the further financial implications of the recommendations of the Expert Panel and the impact this will have on local authority finances. The Committee also recognises that issues such as queuing can have a major impact on uptake and that further work needs to be undertaken in this area. The Committee therefore recommends that the lead Committee pursues these issues with the Minister.

101. *Alternative sources of food*

102. The objective of “Hungry for Success” and this Bill is to help in improving the nation’s health by introducing healthier options in schools. This is to be applauded, but as has been outlined above, there is a concern that pupils, particularly those in secondary schools, will simply refuse to eat in schools and will purchase unhealthy snacks outside thus defeating the object.

103. While the Committee recognises this is more a question of policy and raises issues not necessarily within the scope of the Executive Bill, it believes it is of such significance that it needs to be raised in this report. There is widespread evidence of vans sitting directly outside schools selling what is presumed to be “less-than-certified-healthy food”. If pupils choose not to eat in schools, then it is very easy to purchase food which would not be recommended by the Expert Panel. The question were therefore raised as to whether there should be a mechanism to license such vans or at least attempts made to move them further away from school buildings.

104. Councillor Gray of COSLA noted that local licensing committees are sometimes inclined to grant licenses to such vans unless the school objects and that although recently, “we have managed to distance such vans from some schools, especially high schools, it is difficult for us to remove some established vans that have been there for year. Our legal department tells us that there is not much that we can do about them.”¹⁸⁴

105. Councillor Gray went on to say that:

106. “The matter should be addressed, as there is not much point in investing heavily in the provision of good, wholesome and healthy meals for youngsters when they can visit a van that is parked outside and get a roll, a glass of lemonade and a bag of chips for £1.”¹⁸⁵

107. The Committee raised this issue with Executive officials. They replied that some local authorities have existing licensing powers to ensure that vans are not parking outside schools. However, there are also shops nearby schools and they cannot be moved through the licensing system. Officials did however outline that they are discussing with COSLA how to address the issues through the Community Planning agenda in order to give local communities a sense of ownership and responsibility regarding these problems. They pointed out the need to work with parents not only on this issue but on the healthy eating agenda as a whole, given the number of pupils who take a packed lunch to school and the Bill does not and cannot regulate what a parent puts in such a lunch.

108. Clearly, these are pertinent issues of policy which should be discussed further and the Committee recommends that the lead committee pursue these issues with the Minister.

¹⁸³ SPICe briefing: Schools (Health Promotion and Nutrition) (Scotland) Bill

¹⁸⁴ Gray, Official Report, 31 October 2006, Col 3982

¹⁸⁵ Gray, Official Report, 31 October 2006, Col 3982

109. **Conclusions**

110. **The Committee believes that if the costs given in the Member's Bill and the costs in the Executive Bill are taken together, then that is not an insubstantial sum and a judgement would need to be made as to whether providing school lunches would provide value-for-money in terms of achieving the objectives of changing eating habits.**

111. **The Committee is concerned that there is disagreement over the requirement for and the availability of capital investment and recommends that clarification is sought from the Minister on the amount of funding available to local authorities to spend on capital investment; to determine the overall amount of capital investment that will be required; and whether, through existing funds, sufficient money will be available.**

112. **The Committee is concerned about the decrease in the uptake of school meals, that this has not been reflected in the FM and that this issue, combined with the potential further financial implications of the recommendations of the Expert Panel could impact (at least in the short term) on local authority finances.**

113. **The Committee recognises that there are issues surrounding the licensing of vans outside school which need to be addressed.**

114. **The Committee recommends that these issues be raised with the Minister.**

Annex

SUBMISSION FROM COSLA

INTRODUCTION

COSLA welcomes the opportunity to provide evidence on the Financial Memorandums of the Schools (Health Promotion and Nutrition) (Scotland) and the Education (School Meals etc) Scotland Bills.

The evidence on the Schools (Health Promotion and Nutrition) (Scotland) reflects the issues raised by local authorities in their individual consultation responses, and by elected members during debate at COSLA's Education Executive Group.

COSLA recognises that the Scottish Executive has been working to a tight schedule, and while we would have welcomed additional time to consider the financial implications of the new nutritional standards, we have appreciated the Scottish Executive's openness and willingness to discuss the development of the Bill.

COSLA's position on the Education (School Meals etc) Scotland Bill will be debated by local authority Leaders on 27 October 2006. As a result this submission concentrates on the Scottish Executive's Bill. COSLA will be happy to discuss the Education (School Meals etc) Scotland on 31 October, and to expand on points made on the Scottish Executive's Bill

SUMMARY

We would like to make the following key points about the Schools (Health Promotion and Nutrition) (Scotland) Bill:

- COSLA supports the principle of high quality, nutritious meals and snack for children and young people, and the Scottish Executive's goal of encouraging healthy eating. We also fully support the new power to provide health food, snacks and drinks free to pupils;
- Local authorities are already working towards these principles under *Hungry for Success*; as a result we remain uncertain that the Bill will add value to the existing efforts by councils to improve diets. The need for new duties is also questionable, as the Bill seems largely to be based on existing policy and the continuing efforts of local authorities. That said COSLA understands the desire of the Scottish Executive to formalise standards and underline progress on nutrition to date;

- The cost of the Bill's proposals largely depends on the new nutritional standards, and the steps which councils will be expected to take to promote the uptake of meals. COSLA has argued since the Bill's initial consultation that it is not possible to accurately cost the Bill without first analysing the new standards;
- The success of implementing the new standards will vary between Primary and Secondary schools. Secondary pupils have access to a wider range of retail outlets, and pupils will readily leave the school to purchase lunch, snacks and drinks, potentially negating the Bill's positive health intentions.
- If the new standards do drive secondary pupils out of school to purchase lunch, snacks and drinks, then this will not only reduce local authority income, which can be considerable for snack and drink sales, but would increase the number of young people leaving the controlled environment of school during the day. This may be detrimental to pupil safety, health and well being;
- While these are not arguments against providing healthy snacks and drinks, they do highlight the need for a realistic approach to nutrition, which takes in account young people's attitudes and aspirations. We also urge the Scottish Executive to allow a phased introduction of new standards for snacks and drinks, giving pupils time to adjust to the new range of snacks and drinks, and thereby limiting any loss of income.
- Increasing the uptake of school meals will only be achieved if pupils actually want to eat the meals provided, and if the dining experience is positive and comparable with high street competitors. With the help of *Hungry for Success* local authorities have been attempting to make the school dining experience more attractive to pupils. However, it should be noted that meeting secondary pupils' increasingly sophisticated attitude to dining can require considerable investment by the local authority; and
- In complying with the duty to promote school meals, COSLA would seek the Committee's support in requesting clarification from the Minister for Education and Young People, that local authorities will not be required by the duty to increase capacity beyond a school's current limitations, as to do so would require additional capital investment;

QUESTIONS

Consultation

1. *Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?*

COSLA took part in the Scottish Executive's consultation on the Schools (Health Promotion and Nutrition) Bill. A copy of COSLA's submission is available at:

www.cosla.gov.uk/attachments/publications/Schoolnutrition.doc

As part of this consultation exercise COSLA did comment on the assumptions made in the draft financial memorandum. These comments were of a general nature, and were intended to raise points of principle as well as issues which required clarification. Since the consultation closed COSLA has worked closely with the Scottish Executive to try resolve the issues raised in our response.

COSLA did not respond to the consultation on the Education (School Meals etc) Scotland Bill

2. *Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

The central point which we made in our consultation submission on the Scottish Executive's Bill is that the full cost implications of the Bill cannot be quantified until the new nutritional standards have been published. We understand from the Scottish Executive that the standards will be available shortly, but at the time of writing we have not seen the independent nutrition panel's proposals.

The assumption in the financial memorandum that local authorities' costs will not increase significantly as councils are already complying with *Hungry for Success*, only holds if the new standards are not significantly different to those set in *Hungry for Success*. Moreover, the duty to maintain standards applies not just to school lunches, but to all food and snacks prepared for schools and nurseries etc. The new standards are therefore crucial in determining the true cost of the Bill.

The Scottish Executive acknowledges our concerns on this issue, and has agreed to share the new standards with us as soon as possible. They have also indicated that the new standards will form part of secondary legislation which will be published next year. We will certainly scrutinise carefully the draft regulations. Nevertheless, given the principles of the Bill are being debated at stage 1 it would have been preferable that the standards had been prepared well in advance, to give everyone a chance to debate whether the legislation, is practical, achievable and represents Best Value

3 Did you have sufficient time to contribute to the consultation exercise?

The consultation exercise was shorter than perhaps would normally be expected for a Bill. This has not proved to be a significant problem for COSLA, although as stated above we would have welcomed time to consider the potential impact of the new nutritional standards before presenting evidence to the Committee.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

In general the financial memorandum does correctly highlight the possible cost implication for local authorities. We have listed below the main issues and their associated financial implications.

Nutritional Standards

COSLA fully supports the principle of high quality, nutritious meals and snacks. While we share the health improvement objectives of the Scottish Executive, COSLA is aware of the limitation that a legal duty can have in encouraging health eating. This is why we have urged the Scottish Executive to take a pragmatic approach to setting new standards, which recognises that young people at secondary school can freely choose not to eat lunch or purchase snacks in school.

If the new nutritional standards do not change significantly from those set under *Hungry for Success*, then we expect the cost of preparing lunches for pupils at primary and secondary schools not to increase substantially. If standards do change radically then this will have implications for the way food is prepared and on the ingredients used. This could in turn affect staff training, and could even mean catering contracts having to be re-negotiated. The costs of revisiting contracts in PPP schools could be considerable. We are highlighting these as potential issues which the Committee should be aware of, but they are not possible to quantify at this stage.

The new standards will also apply to all snacks and drinks sold in schools. If as expected the new standards mean popular snacks and drinks will no longer be sold in vending machines and tuck shops, it is to be expected that there will some impact on income. One local authority indicated that vending machines contribute 13% (£500,000) of the income generated by the school catering service. An officer from Glasgow City Council will provide evidence on COSLA's behalf on 31 October, and will be able to expand on this issue. Glasgow City Council has considerable experience of introducing healthy food and snacks, and was an early adopter of *Hungry for Success*.

It must be emphasised that health promotion measures which work well in Primary Schools will not necessarily be as successful in Secondary Schools. Primary pupils do not have the option of leaving school to buy food, snacks and drinks, while secondary pupils are free to buy snacks and drinks from local outlets.

There is some evidence that a phased approach to introducing health snacks can limit income loss, and reduce the risk of pupils shifting their buying power to outside the school. While supporting the principle of introducing health drinks and snack, COSLA urges the Scottish Executive to take a considered approach to the sale of snack and drinks, giving pupils time to adjust to the new range of snacks and drinks. If this does not happen, pupils are likely to leave the school and buy unhealthy snacks anyway, completely negating the positive aims of the Bill.

Promotion of school lunches

The financial memorandum of the Bill states that no additional costs are anticipated for local authorities in promoting the uptake of free school meals, beyond the cost of implementing *Hungry for Success*.

The accuracy of this statement depends on the steps that local authorities will be expected to take to increase uptake. We would therefore seek the Committee's help in requesting clarification from the Minister for Education and Children that, in complying with the duty, local authorities will not be required to increase school dining capacity beyond the current, locally determined limit. Local authorities will continue to implement innovative ways of incentivising, promoting, encouraging school meals, but compliance with the duty must stop short of additional capital investment in the school estate.

We remain to be convinced that placing a legal duty on local authorities will directly lead to pupils actually choosing to eat in school. To draw a parallel with waste recycling, local authorities can provide the facilities required for householders to recycle, but cannot actually make people recycle. Pupils will only choose school meals over the many other alternatives available if they like the food served, the dining facilities are attractive and the level of service is comparable or better than high street providers.

Meeting pupil aspirations requires considerable investment by the local authority. The branding of school dining, and the continuing need to refresh promotional material all add to local authority costs. This is another area which Glasgow City Council will be able to provide the Committee with additional evidence on 31 October.

Protection of identity

An initial survey of selected local authorities suggested that the Scottish Executive's estimated costs for introducing anonymous or cashless systems are accurate. We believe that the start-up and running costs for swipe card systems are in line with local authority experience in implementing *Hungry for Success*.

It is important that local authorities are able to implement anonymous systems that are appropriate to each school. Swipe card systems will not be appropriate in all schools, especially smaller primary schools, so we therefore welcome the Bill's intention to give local authorities the flexibility to implement systems which meet their needs.

However, on a general point COSLA believes that anonymous systems do not tackle the underlying causes of the stigma associated with free school meals. This stigma is partially caused by the perception that school meals are a 'last resort' and only for those that cannot afford alternatives. This can be tackled by making school meals a more attractive option for secondary school pupils. While we accept the need to protect the identity of pupils who receive free school meals, we do question the need for a legal duty when 71% of all secondary schools already have anonymous systems in places.

5. *Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?*

As stated previously the full costs cannot be quantified until the new nutritional standards are known, and we have had a chance to analyse their full implications. We have highlighted in this submission potential issues which could arise if the standards are significantly different from those set in *Hungry for Success*.

The funding provided by the Scottish Executive for *Hungry for Success* has been very welcome, however, the formalisation of *Hungry for Success* in new statutory duties, equally requires a commitment by the Scottish Executive to fully fund implementation in the future. As *Hungry for Success* is only funded up until the end of this spending review period, and the aim of the Bill is to mainstream health promotion in schools, we would expect that future funding for the Bill's duties to be maintained at least at current levels, plus inflation, and merged into GAE.

In addition, investment in branding, promotion and new dining hall equipment (e.g. flat screen TVs for display purposes), coupled at least initially to a possible reduction in income, has the potential to add up to spending pressure on local authorities, even taking into account Scottish Executive funding. COSLA will provide an indication of the practical costs of implementing *Hungry for Success* on 31 October 2006.

6. *Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?*

This submission highlights some of the potential issues which could contribute to uncertainty in the total cost of the implementing the Bill.

Wider Issues

7. *If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

COSLA has nothing more to add in answering this question.

8. *Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

As stated throughout this submission the actual cost of the Bill will depend largely on the regulations, which will contain the new nutritional standards.

CONCLUSION

Although all local authorities work within the framework of *Hungry for Success*, the consequences of implementing the Bill and therefore its costs will depend largely on local factors, such as the school estate and the community served. It is therefore difficult to build a national picture of the Bill's true costs.

What we have attempted to do is highlight to the Committee some of the general issues and areas of financial concern. To help illustrate these general issues and concerns, COSLA will provide practical examples of the costs arising from implementing *Hungry for Success* in oral evidence.

Although we believe that the Bill will be largely funded from *Hungry for Success*, there is significant uncertainty on the impact of the new nutritional standards, and the extent to which councils will be expected to promote school meal uptake. COSLA is happy to provide supplementary evidence on the financial implications of the Bill once we have analysed the impact of the new nutritional standards.

SUBMISSION FROM HMIE

Schools (Health Promotion and Nutrition) (Scotland) Bill

Consultation

1. HMIE do not take part in formal consultations of this kind. We provided professional advice to policy colleagues in discussions about the Bill and were consulted about possible financial implications for HMIE.
2. Yes. HMIE attended a meeting with policy colleagues and stakeholders to consider the financial implications of the Bill. This meeting informed the estimates used in the financial memorandum.

3. Not applicable.

Costs

4. The memorandum indicates that no additional costs will be incurred as a result of the Bill. HMIE will adapt its arrangements for inspection and reporting associated with the *Hungry for Success* initiative to take account of the new legislation.
5. Yes. As part of *Hungry for Success*, HMIE undertook to absorb half of the costs of employing three Nutrition Associate Assessors (NAAs). The remaining costs are met by SEED. In the light of increased emphasis on nutrition and health education and promotion, SEED agreed to meet the full costs of a fourth NAA who has now been appointed to strengthen the team.
6. Given that we anticipate no additional costs this question is not really applicable.

Wider issues

7. The Bill is part of a wider policy initiative on health education and promotion. The many strands of activity in this area make it difficult for HMIE to comment on costs. HMIE's own activities in this area include inspection and reporting, the dissemination of good practice, the provision of policy advice and partnership work with other agencies involved in health promotion. This is a well-established part of the work of HMIE and will continue to be funded as part of our core business unless there is a significant increase in the scale of work required.
8. As indicated in the Financial Memorandum, some modest costs may be incurred in providing additional advice. If uptake of meals increases, there could be capital costs for some education authorities.

Education (School meals etc) Scotland) Bill

Consultation

1. HMIE do not take part in formal consultations of this kind. We provide professional advice to policy colleagues on matters relating to school meals
2. HMIE has not been involved in discussions relating to this Financial Memorandum.
3. Not applicable.

Costs

4. The Financial Memorandum does not indicate any additional work for HMIE or costs for HMIE. The Policy Memorandum indicates a possible role for HMIE in responding to complaints from pupils or parents about nutritional standards but no cost implications are included.
5. The only additional cost would be if HMIE were involved in responding to complaints about nutrition (as in 4 above). There would be no other additional costs to those already incurred by HMIE in supporting its work on health education and promotion and in supporting the *Hungry for Success* initiative through its team of Nutrition Associate Assessors.
6. We do not have expertise in estimating margins of uncertainty in financial costs.

Wider issues

7. The Bill is part of a wider policy initiative on health education and promotion. The many strands of activity in this area make it difficult for HMIE to comment on costs. HMIE's own activities in this area include inspection and reporting, the dissemination of good practice, the provision of policy advice and partnership work with other agencies involved in health promotion. This is a well-established part of the work of HMIE and will continue to be funded as part of our core business unless there is a significant increase in the scale of work required.

8. If uptake of meals increases, there could be capital costs for some education authorities.

SUBMISSION FROM SCOTTISH FOOD AND DRINK ASSOCIATION

Schools (Health Promotion and Nutrition) (Scotland) Bill

Consultation

1. *Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?*

Yes. The SFDF response considered a wide range of issues addressed by the consultation including the potential financial impact of this Bill. In addition, two SFDF member companies provided written and oral evidence to a stakeholder session convened by the Executive on 29 June 2006 to discuss the financial implications of the Bill.

2. *Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

Paragraphs 61 and 62 of the Financial Memorandum relate to Costs on Other Bodies, Individuals and Businesses and cite some of the feedback provided by industry during the consultation exercise. However, the comments made regarding the product development cycle have only been partially reproduced and as such, do not give an accurate reflection of what was said and so does not fully reflect what we regard to be the potential impact of the Bill.

“The costs associated with product development (such as factory trials and redesigning packaging) have been absorbed by some manufacturers and have not resulted in higher prices for school catering services. It is not anticipated that the Bill will have any significant financial implications for food manufacturers as changes to nutritional requirements can be built into the product development cycle” (Paragraph 62)

Whilst it is true that food manufacturers can absorb some of the costs associated with reformulation into a product development cycle, the manufacturer has to be given sufficient time - a minimum of 2 years. This point was clearly made in SFDF's response to the consultation and was also specifically referred to by an industry representative at the stakeholder session with time being described as a 'key cost driver'. The company stressed - *“If we do not keep them [the costs] within the normal development cycle they can have a serious impact on the business.*

SFDF believes that these comments and the importance of allowing sufficient time to undertake product reformulation were not fully reflected in the Financial Memorandum.

“Some food manufacturers have reacted positively to Hungry for Success and see it as a good business opportunity. They have already developed and are in the process of developing new products that meet the nutritional requirements for vending machines as well as catering services” (Paragraph 62)

Whilst manufacturers continue to reformulate products and develop new products, the “nutritional requirements for vending machines” as proposed in the consultation are, as yet, unknown and therefore SFDF would question the basis upon which this assertion has been made.

“One food manufacturer has commented that healthy products are potentially viable and therefore there is not expected to be a substantial loss of revenue associated with the Bill”. (Paragraph 61)

The commercial viability of products which have been reformulated ultimately depends on consumer acceptance and this includes school children. Nutritional standards and reformulated products will only make a difference if people actually eat these products.

The viability of supplying food and drink products into schools will depend on how achievable the defined nutrition requirements are and also whether or not manufacturers are given sufficient time to undertake reformulation and absorb the costs that this work generates.

“It is expected that overall there will be no material loss of earnings from vending machines and tuck shops as a result of the Bill. However, evidence suggests that the impact of changing products to healthier options may vary across local authorities. One catering provider has reported losses as a result of removing certain products, whereas a local authority has not experienced any loss of earnings as healthier options were phased in to vending machines and tuck shops” (Paragraph 51)

SFDF recollects from the stakeholder session that one local authority noted that following the removal of certain products from its vending machines had resulted in a decrease in revenue of £100,000 p.a – a significant loss of revenue.

3 *Did you have sufficient time to contribute to the consultation exercise?*

Yes

Costs

4. *If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.*

The Bill does not have financial implications for SFDF as an organisation, rather it will potentially have an impact on our members – food and drink manufacturers who supply products into schools.

Until further details of the nutrient requirements are known and the impact these will have in terms of what products can and cannot be sold in schools, which products need to be reformulated further in order to be offered in schools and in what timescale these changes need to happen it is difficult to accurately gauge the potential costs of the Bill on industry.

SUBMISSION FROM SCOTTISH HEALTH PROMOTING SCHOOLS UNIT

Schools (Health Promotion and Nutrition) (Scotland) Bill

Consultation

1. *Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?*

Yes The Scottish Health Promoting School Unit (SHPSU) participated in the consultation process in a number of ways:

Providing a response on behalf of the SHPSU

Encouraging and supporting widespread engagement of national and local partners in the consultation process (not directly considering the financial implications of the Bill)

Participating in a facilitated discussion, organised by SEED and involving a wide range of key national and local partners, specifically to consider and comment on the financial implications of the Bill

2. *Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

Yes

3. *Did you have sufficient time to contribute to the consultation exercise?*

Yes

Costs

4. *If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.*

Yes

5. *Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?*

Yes. The Unit's priorities are established on an annual basis to concord with the needs of national and local partners in respect of implementing HPS related policy. As the Bill directly extends current policy and practice it is anticipated the existing allocation of finance would be re-aligned to support its implementation.

6. *Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?*

Yes

Wider Issues

7. *If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

In addition to the explicit reference made connecting the Bill to education and health improvement policy, the cross cutting nature of health promoting schools presents an opportunity to link with and extend other key policy areas e.g. Additional Support for Learning, Parental Involvement, School Estates, etc. I would anticipate no additional funding being required in respect of these connections being established: instead I suggest the Bill would be enhanced by developing coherence across these policy areas

8. *Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

It has been recognised additional guidance will be required in support of the Bill Progress has already been made in this respect. Costs associated with the development of guidance are indicated within the memorandum.

At present, in addition to the contribution made currently by SEED and SEHD in support of the HPS agenda, several national agencies have agreed to forward key areas of work incorporating aspects of the health promoting school approach to April 2008. It would be beneficial to maintain the co-ordinated strategic partnership in order to collectively identify priorities, pool resources and jointly enhance capacity and further support implementation at local level.

Education (School Meals etc) (Scotland) Bill

Consultation

1. *Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?*

Yes The Scottish Health Promoting School Unit (SHPSU) participated in the consultation through providing a written response on behalf of SHPSU. This was informed by discussion with key partners such as the National HPS Network and NHS Health Scotland

2. *Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?*

No in two ways

The wider health promotion aspects offered within the approach to Hungry for Success are not fully referenced in the financial memorandum

Communities Committee, 2nd Report 2007 (Session 2) – Annex A

The costs associated with ongoing support to Early years and Secondary sectors are not fully represented in the memorandum

3. *Did you have sufficient time to contribute to the consultation exercise?*

Yes

Costs

4. *If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.*

No an element of SHPSU is to support healthy eating through an integrated approach to health promotion, as highlighted about the financial implications of this, in order that it might continue are not represented in the memorandum

5. *Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?*

No, this Bill proposes the reallocation of the resource currently in support of hungry for success which would have implications for the allocation to SHPSU however as the SHPSU has been established to support the implementation of policy in respect of health promotion in schools. The work of the SHPSU in respect of supporting the Bill would require to be renegotiated through the Strategic Policy partners and resources realigned to accommodate the outcome of this discussion

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes

Wider Issues

7. *If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

In addition to the explicit reference made connecting the Bill to social inclusion, social justice, education and health improvement policy. More could be done to connect this Bill to the wider educational context and policy. One of the strengths of Hungry for Success has been the approach to have school meal provision supported by a wider approach permeating all aspects of the school. It would be beneficial to continue this work and there would be additional requirement of resource to take this forward

8. *Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

I would anticipate additional guidance would be required to support local partners with this policy change. The costs associated with this are difficult to determine

SUPPLEMENTARY EVIDENCE FROM COSLA

COSLA BRIEFING ON EDUCATION (SCHOOL MEALS ETC) SCOTLAND BILL

INTRODUCTION

COSLA provided oral evidence to the Finance Committee on both the School (Health Promotion and Nutrition) (Scotland) Bill and the Education (School Meals etc) Bill on the 31 October 2006.

At the time of writing of the evidence submission, it was not possible for COSLA to state a position on the Education (School meals etc) Bill, as this was still to be debated and agreed at the Leaders meeting on 27 October 2006.

While COSLA did provide the Committee with information on the Education (School meals etc) Bill at the 31 October meeting, we also felt it important to provide the Committee with a written summary of our position on free school meal provision.

We hope that the Committee finds this helpful in its continued consideration of the Bill

THE COSLA POSITION

COSLA opposes the principle of universal free school meals, and as a result we do not support the Education (School Meal etc) Bill as it is currently drafted. As stated above this position was agreed by local authority Leaders at the end of October. The reasoning behind this position is set out below:

- Universal provision would not be an efficient use of public money, as by definition it would also apply to those who are currently able and willing to pay;
- As an alternative, COSLA supports extending free school meal provision by targeting resources at families on low incomes, although this is conditional of full funding from the Scottish Executive;
- One approach currently being considered by COSLA is to use of tax credit system to target groups who would genuinely benefit from a free meal.
- If resource were correctly targets, we could be successful in closing the gap between those pupils eligible for free school meals and actual child poverty levels;
- Targeting resources could reduce the overall cost of extending free meals from the Bill's projected £73 million per year, to around £20 to 30 million, while at the same time helping those most in need;
- The Committee should be aware that the Bill's projected costs are also severely underestimated. If uptake was to rise then the cost could increase to over £100 million. As the financial memorandum states this would not include the cost of staff training or capital improvements to school dining facilities, which would not be funded through *Hungry for Success*;
- One of the often stated justifications for universal provision is that it tackles the stigma of free school meals. COSLA believes that the stigma associated with free meals could be lessened if school meals generally are considered popular, and are not a meal of 'last resort'. Anonymous systems will help, which is why 71% of all secondary schools already have systems in place to protect the identity of pupils taking free meals;
- Finally, the Education (School Meal etc) Bill would seem unnecessary as Ministers already have the powers to extend free school meal provision. COSLA is happy to work with the Scottish Executive and child poverty groups to come up with a fully funded proposal that would actually make a genuine contribution to tackling the health divide in society.

Subordinate Legislation Committee

Schools (Health Promotion and Nutrition) (Scotland) Bill at Stage 1

The Committee reports to the lead committee as follows—

Introduction

1. At its meetings on 19 September and 3 October, the Subordinate Legislation Committee considered the delegated powers provisions in the Schools (Health promotion and Nutrition) (Scotland) Bill at stage 1. The Committee submits this report to the Communities Committee, as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.

2. The Executive provided the Parliament with a memorandum on the delegated powers provisions in the Bill¹⁸⁶.

3. The Committee's correspondence with the Executive is reproduced in Annexes 1 and 2.

4. Delegated Powers Provisions

5. The Committee considered both of the delegated powers provisions in the Bill and approves section 10 without further comment.

6. Section 3(1) Food and drink: nutritional requirements

7. The Committee was content, in principle, with the delegation of the power in this subsection but questioned the Executive in relation to the choice of procedure attached to this.

8. Firstly, the Committee noted that only the first exercise of the power to make regulations under new section 56A(1) will be subject to affirmative resolution procedure. While acknowledging that the Executive's *intention* is to make regulations applying to public schools and grant aided schools together, the Committee noted that it would be open to the Executive not to do so. In these circumstances, only the first set of regulations would be subject to affirmative procedure by virtue of section 4 of the Bill. The Committee accepted, however, that in practice it was very likely that if separate regulations were made for the 2 types of schools, they would contain the same nutritional requirements and that this might weaken the case for insisting on affirmative procedure in relation to the second set of regulations. Nevertheless, the Committee asked the Executive for its comments on the desirability of amending the laying power to clarify that, where, 2 "first sets of regulation" applying to the 2 different types of schools are made, both would be subject to affirmative procedure.

9. The Executive, in its response at Annex 2, confirmed that it has no intention of making separate "first sets of regulations". It also confirmed that if, for whatever reason, two sets of regulations were required for the two types of schools, then the same general nutritional requirements would apply given that the proposed regulations will be based on the recommendations of an expert group.

10. Secondly, in relation to subsequent exercises of the power, the Committee noted that amending Regulations could competently include substantial changes to the system of nutritional requirements (accepting that this is not the current Executive's intention). While the Committee accepted that it would not be appropriate to subject all subsequent exercises of the power to affirmative procedure, the Executive was invited to consider providing for an "open procedure", whereby Ministers could utilise the most appropriate procedure on a case by case basis.

11. In its response, the Executive indicated that as a matter of policy it was reluctant to extend the use of the open procedure, pointing out that it is rarely used. It remained of the view that

¹⁸⁶ [Delegated Powers Memorandum](#)

affirmative procedure on the first exercise of the power and negative thereafter provided an appropriate balance. The Executive added that any changes to the first set of regulations would only arise from publicly available scientific advice thus providing the Parliament with the information to challenge any amendments made under the negative procedure.

12. The Committee considers that the Executive's response is not unreasonable. It accepts that the power to specify nutritional requirements is a relatively narrow one and therefore not of the same character as other powers presently subject to a form of open procedure. The Committee considers that to recommend affirmative procedure for all exercises of the power would be unduly onerous in terms of parliamentary time, given the relatively minor amendments which could be made. **The Committee accepts the Executive's response and is content with the power. It is also content that the first set of regulations should be subject to affirmative procedure and negative procedure thereafter.**

ANNEX 1

Letter from the Subordinate Legislation Committee to the Scottish Executive

Section 3(1) Food and drink: nutritional requirements

1. The Committee was content, in principle, with the delegation of this power. However, it considered in more detail the Parliamentary procedure to which it will be subject. The Committee noted that only the first exercise of the power to make regulations under new section 56A(1) will be subject to affirmative resolution procedure, and negative procedure thereafter. While acknowledging that the Executive's *intention* is to make regulations applying to public schools and grant aided schools together, the Committee noted that it would be open to the Executive not to do so. In these circumstances, only the first set of Regulations would be subject to affirmative procedure by virtue of section 4 of the Bill.

2. The Committee noted that this would mean that if regulations relating to grant-aided schools, for example, were made *after* those relating to public schools, the scheme establishing nutritional requirements in grant aided schools would be subject to lesser Parliamentary scrutiny. The Committee accepted, however, that in practice it was very likely that if separate regulations were in fact made for the 2 types of schools, then they would contain the same nutritional requirements.

3. **Against that background, the Committee asks the Executive for its comments on the desirability of amending the laying power to clarify that, where 2 "first sets of regulation" applying to the 2 different types of schools are made, both would be subject to affirmative procedure.**

4. Secondly, in relation to subsequent exercises of the power, the Committee noted that amending Regulations could competently include substantial changes to the system of nutritional requirements (albeit this is not the current Executive's intention). In those circumstances, while the Committee does not suggest that it would be appropriate to subject all subsequent exercises of the power to affirmative procedure, the Executive is invited to consider providing for an "open procedure", whereby Ministers could utilise the most appropriate procedure on a case by case basis. **The Executive is asked to comment.**

5. You might wish to note that the Official Report of the Committee's discussion of this issue will be available from Thursday 21 September.

ANNEX 2

Response from the Scottish Executive

Section 3(1) Food and drink: nutritional requirements

1. The Committee asked the Executive for its comments on the desirability of amending the laying power to clarify that, where 2 “first sets of regulation” applying to the 2 different types of schools are made, both would be subject to affirmative procedure.

2. We note the Committee is content with the delegation of this power in principle. We can confirm that we have no intention of making separate “first sets of regulations” as described in your letter and the Official Report. Our intention is that the regulations for food in schools will apply to both public schools and grant-aided schools. But if, for whatever reason, two sets of regulations are required for the two types of schools, then the same general nutritional requirements would apply. The proposed regulations will be based on the recommendations of an expert group.

3. Although we have not been asked directly it may assist the Committee to confirm that there are currently 8 grant aided schools, seven of which are special schools.

“Open Procedure”

4. The Committee’s letter of 19th September goes on in paragraph 5 to state:

“.....in relation to subsequent exercises of the power, the Committee noted that amending Regulations could competently include substantial changes to the system of nutritional requirements (albeit this is not the current Executive’s intention). In those circumstances, while the Committee does not suggest that it would be appropriate to subject all subsequent exercises of the power to affirmative procedure, the Executive is invited to consider providing for an “open procedure”, whereby Ministers could utilise the most appropriate procedure on a case by case basis. **The Executive is asked to comment.**

5. We recognise that some instruments require a greater degree of scrutiny by the Parliament than others and recognise the need to make best use of valuable Parliamentary time. We would submit that the selection of negative procedure for regulations after the first set strikes an appropriate balance between the need for speed and flexibility and the need for parliamentary accountability. Any such instrument will be subject to scrutiny and members will have the opportunity to oppose an instrument, when it is laid before Parliament, if they deem fit. Changes after the first set of regulations will arise from scientific advice as to the most appropriate standards. Such advice will be publicly available and will be likely to attract comment and publicity. The Executive, itself, will be anxious to publicise any such changes.

6. The “open procedure” referred to by the Committee has been rarely used. It tends to be available in relation to very widely drawn powers which cover a variety of subject matters and which may be used to make anything from relatively minor provision to provision which could reasonably be contained in primary legislation in other circumstances.

7. Section 2(2) of the European Communities Act 1972 is an example of such a very wide power. It is subject to open procedure by virtue of paragraph 2(2) of Schedule 2 to that Act. That power is used in relation to a multitude of different areas and may be used to do things that could be done in an Act (see subsection (4) of section 2).

8. We think that the power contained in this Bill to specify nutritional requirements is comparatively narrowly drawn and deals with a very specific subject matter. It is suggested that further use of affirmative procedure beyond the first set of regulations would not be an appropriate use of Parliament’s time and that, having regard to the scope of the power, negative procedure is appropriate and proportional to the substance of the provisions

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

24th Meeting, 2006 (Session 2)

Wednesday 20 September 2006

Present:

Scott Barrie
Christine Grahame
John Home Robertson
Dave Petrie
Karen Whitefield (Convener)

Cathie Craigie
Patrick Harvie
Tricia Marwick
Euan Robson

Also Present: Jackie Baillie, Donald Gorrie, Alex Neil and Johann Lamont (Deputy Minister for Communities).

Item in private: The Committee agreed to consider agenda item 3 in private.

Schools (Health Promotion and Nutrition) (Scotland) Bill (in private): The Committee agreed it approach to the Bill at Stage 1.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

27th Meeting, 2006 (Session 2)

Tuesday 24 October 2006

Present:

Scott Barrie

Christine Grahame

John Home Robertson

Dave Petrie

Cathie Craigie

Patrick Harvie

Tricia Marwick

Karen Whitefield (Convener)

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence at Stage 1 from—

David Cowan, Scottish Executive, Maria McCann, Scottish Executive and Gerry Bonnar, Office of the Solicitor to the Scottish Executive.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

28th Meeting, 2006 (Session 2)

Wednesday 1 November 2006

Present:

Scott Barrie
Christine Grahame
John Home Robertson
Dave Petrie

Cathie Craigie
Patrick Harvie
Tricia Marwick
Mr Jamie Stone (Deputy Convener)

Apologies: Karen Whitefield.

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence on the Bill from—

Martyn Evans, Scottish Consumer Council, Judith Gillespie, Scottish Parent Teacher Council, James Ewens, Scottish School Boards Association and John Dickie, Child Poverty Action Group in Scotland

and then from—

Gillian Kynoch, Scottish Food and Health Coordinator, Scottish Executive, Marjory Robertson, Her Majesty's Inspectorate of Education and Wendy Halliday, Learning and Teaching Scotland.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

29th Meeting, 2006 (Session 2)

Wednesday 8 November 2006

Present:

Scott Barrie
Patrick Harvie
Tricia Marwick
Jamie Stone

Cathie Craigie
John Home Robertson
Dave Petrie
Karen Whitefield (Convener)

Apologies were received from Christine Grahame.

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence on the Bill from—

Cathy Higginson, Chair and Heather Peace, Member, Expert Working Group on Nutritional Standards for the Regulation of School Lunches, and Standards for the Regulation of Food and Drinks Outwith the School Lunch,

and then from—

Gaynor Bussell, Scottish Food and Drink Federation, Len Braid, Automatic Vending Association and Jill Ardagh, British Soft Drinks Association,

and then from—

Audrey Birt, Diabetes UK, David McCall, British Dental Association, Mary Allison, NHS Health Scotland and Hugh Raven, Soil Association.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

30th Meeting, 2006 (Session 2)

Wednesday 15 November 2006

Present:

Scott Barrie
Christine Grahame
John Home Robertson
Dave Petrie
Karen Whitefield (Convener)

Cathie Craigie
Patrick Harvie
Tricia Marwick
Jamie Stone

Also present: Frances Curran.

Scott Barrie and Dave Petrie declared interests in relation to agenda item 2.

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence on the Bill from—

George MacBride, Educational Institute of Scotland and Dave Watson, UNISON,

and then from—

Councillor Charlie Gray, COSLA, Councillor John McGinty, COSLA, Michael O'Neill, COSLA and Robert Nicol, COSLA.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

31st Meeting, 2006 (Session 2)

Wednesday 22 November 2006

Present:

Scott Barrie

John Home Robertson

Dave Petrie

Karen Whitefield (Convener)

Cathie Craigie

Tricia Marwick

Jamie Stone

Apologies were received from Christine Grahame and Patrick Harvie.

Also present: Frances Curran.

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence on the Bill from—

John Watson, Barnardo's, Paula Evans, Children in Scotland, Marion Davis, One Plus and Douglas Hamilton, Save the Children

and then from—

Lynsey Currie, @Home Centre, Annisha Davie, Rosehall High School and Greig Walker, Rosehall High School.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

33rd Meeting, 2006 (Session 2)

Wednesday 6 December 2006

Present:

Cathie Craigie
Patrick Harvie
Tricia Marwick
Mr Jamie Stone

Christine Grahame
John Home Robertson
Dave Petrie
Karen Whitefield (Convener)

Apologies were received from Scott Barrie

Decision on taking business in private: The Committee agreed to take item 3 in private and to consider its draft Stage 1 report on the Schools (Health Promotion and Nutrition) (Scotland) Bill in private at future meetings.

Schools (Health Promotion and Nutrition) (Scotland) Bill: The Committee took evidence on the Bill from—

Hugh Henry MSP, Minister for Education and Young People, David Cowan, Scottish Executive and Maria McCann, Scottish Executive.

Schools (Health Promotion and Nutrition) (Scotland) Bill (in private): The Committee agreed its approach to its Stage 1 report.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

35th Meeting, 2006 (Session 2)

Tuesday 19th December 2006

Present:

Scott Barrie

Christine Grahame

John Home Robertson

Dave Petrie

Karen Whitefield (Convener)

Cathie Craigie

Patrick Harvie

Tricia Marwick

Mr Jamie Stone

Schools (Health Promotion and Nutrition) (Scotland) Bill (in private): The Committee considered its draft stage 1 report.

COMMUNITIES COMMITTEE

EXTRACT FROM MINUTES

1st Meeting, 2007 (Session 2)

Wednesday 10 January 2007

Present:

Scott Barrie
Christine Grahame
John Home Robertson
Dave Petrie
Karen Whitefield (Convener)

Cathie Craigie
Patrick Harvie
Tricia Marwick
Mr Jamie Stone

Schools (Health Promotion and Nutrition) (Scotland) Bill (in private): The Committee considered its draft stage 1 report.

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