

# **COMMUNITIES COMMITTEE**

Tuesday 13 February 2007

Session 2

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## **COMMUNITIES COMMITTEE**

### **5<sup>th</sup> Meeting 2007, Session 2**

#### **CONVENER**

\*Karen Whitefield (Airdrie and Shotts) (Lab)

#### **DEPUTY CONVENER**

\*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

#### **COMMITTEE MEMBERS**

\*Scott Barrie (Dunfermline West) (Lab)  
\*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)  
\*Christine Grahame (South of Scotland) (SNP)  
\*Patrick Harvie (Glasgow) (Green)  
\*John Home Robertson (East Lothian) (Lab)  
\*Tricia Marwick (Mid Scotland and Fife) (SNP)  
\*Dave Petrie (Highlands and Islands) (Con)

#### **COMMITTEE SUBSTITUTES**

Chris Ballance (South of Scotland) (Green)  
Alex Johnstone (North East Scotland) (Con)  
Christine May (Central Fife) (Lab)  
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
Ms Sandra White (Glasgow) (SNP)

\*attended

#### **THE FOLLOWING ALSO ATTENDED:**

Frances Curran (West of Scotland) (SSP)  
Hugh Henry (Minister for Education and Young People)  
Fiona Hyslop (Lothians) (SNP)

#### **CLERK TO THE COMMITTEE**

Steve Farrell

#### **SENIOR ASSISTANT CLERK**

Katy Orr

#### **ASSISTANT CLERK**

Catherine Fergusson

#### **LOCATION**

Committee Room 5



## Scottish Parliament

### Communities Committee

*Tuesday 13 February 2007*

[THE CONVENER *opened the meeting at 09:33*]

### Schools (Health Promotion and Nutrition) (Scotland) Bill: Stage 2

**The Convener (Karen Whitefield):** Welcome to the fifth meeting of the Communities Committee in 2007.

The only item on our agenda is stage 2 consideration of the Schools (Health Promotion and Nutrition) (Scotland) Bill.

I welcome Hugh Henry, Minister for Education and Young People, to the committee. He is accompanied by David Cowan, the bill team leader; Maria McCann, the branch head of the support for learning division of the Education Department; Gerry Bonnar, from the office of the solicitor to the Scottish Executive; and Terry Kowal, from the office of the Scottish parliamentary counsel.

It might be helpful to point out a few things before we commence. First, in order to speed things along, if a member does not wish to move their amendment, they should simply say, "Not moved." In that event, any other member can move the amendment, but I will not specifically invite anyone to do so. Assuming that no other member moves the amendment, I will simply go to the next amendment on the marshalled list. Secondly, if a member wishes to withdraw an amendment, I will ask whether any member objects to the amendment being withdrawn. If any member objects, I will immediately put the question on the amendment. Finally, if I am required to use my casting vote, I intend to vote for the status quo, which on this occasion will be the bill as it stands.

#### Section 1—Duties in relation to promotion of health

**The Convener:** Amendment 5, in the name of Patrick Harvie, is in a group on its own.

**Patrick Harvie (Glasgow) (Green):** The aspects of the bill that deal with health promotion duties are among those that have received the warmest welcome. There is broad support for the idea that schools should deal with health promotion issues, and it makes sense, as the bill suggests, for local authorities to have to report annually on the work that they have done in that regard.

Amendment 5 is an attempt to elicit from the minister an explanation of how that information will be used. I lodged the amendment after having conversations with people who work in the equality field. The promotion of equal opportunities is one of the issues that must be covered by the annual statements that local authorities already provide to the Executive. It has been suggested to me that there is a lack of awareness of how that information is used, whether a national picture is drawn up and published, and whether the Executive intends to put the information to new uses in the future.

In lodging an amendment that seeks to extend local authorities' annual reporting duty so that it covers health promotion, I want to find out whether the Executive intends to do something new with the information that local authorities provide. Amendment 5 would help with the production of a national picture, which I am not sure is drawn up from the annual statements that are currently provided. I am interested to hear what the minister has to say.

I move amendment 5.

**The Convener:** As no other committee members wish to speak, I invite the minister to respond.

**The Minister for Education and Young People (Hugh Henry):** Amendment 5 is unnecessary. We are amending the Standards in Scotland's Schools etc Act 2000 to require local authorities to cement the place of health promotion in their annual local improvement plans.

**John Home Robertson (East Lothian) (Lab):** Did you say "cement"?

**Hugh Henry:** Yes. It was just a turn of phrase.

We have a health-promoting schools unit. Local authorities will also have to report on progress on health promotion in their annual progress reports. The proposed mechanism will provide a seamless link with school development plans and progress reports, and will mean that reporting is aimed at local stakeholders, as it should be. By incorporating health promotion into existing planning and reporting mechanisms, we will minimise bureaucracy.

Her Majesty's Inspectorate of Education will inspect schools for compliance with the bill and we will be able to take action, if need be. I understand what Patrick Harvie says, but his proposal might increase bureaucracy without offering any tangible benefit. I hope that he accepts that we are moving in the direction in which he wants us to travel. As amendment 5 would add nothing to the bill, I invite him to withdraw it.

**Patrick Harvie:** The minister did not say much about whether the information that is provided is

being collated into a national picture. The lack of clarity about that is the main reason why I lodged amendment 5. However, I am happy to pursue the matter in correspondence with the minister, if that would be appropriate, so I seek to withdraw amendment 5.

*Amendment 5, by agreement, withdrawn.*

*Sections 1 and 2 agreed to.*

### **Section 3—Food and drink: nutritional requirements**

**The Convener:** Amendment 6, in the name of Patrick Harvie, is grouped with amendments 7 to 10.

**Patrick Harvie:** The amendments speak to an issue for which the committee had broad sympathy at stage 1. We saw work in places such as East Ayrshire, where the new procurement directives are being implemented properly and sustainability is being taken into account. I think that we would like—certainly I would like—that to become the norm rather than the exception. In the chamber debate on procurement the other week, several members spoke of existing islands of excellence. The hope is that that situation does not continue, because rather than having individual examples of good practice we want it to be implemented throughout the country.

I lodged the amendments to add social and environmental requirements to the nutritional requirements that the Executive will be able to specify in regulations. The minister has lodged amendment 17 to introduce a new section on guidance on sustainable development, and I am entirely open to persuasion that it represents the appropriate way to proceed. In speaking to my amendments 6 to 10, will the minister talk about what the social aspects might be? Sustainability combines social, environmental and economic issues. Sometimes—but not always—sustainability is seen merely as a proxy for environmental issues. What social aspects does the minister expect will be in the regulations if his amendment 17 is agreed to?

I move amendment 6.

**Christine Grahame (South of Scotland) (SNP):** I am sympathetic to Patrick Harvie's amendments, but I regret that their placement is a bit clumsy. I, too, have pressed for sustainability to be a requirement, particularly in contracts to source school food that meets nutritional requirements, which would involve the local community. I am sympathetic to Patrick Harvie's amendments, but the minister has dealt with the issue properly in amendment 17.

**John Home Robertson:** I will be brief, because we will return to the theme with a later grouping.

We could all do with clarification on the risk of challenge by commercial organisations that supply food and drink for local authority procurement. We will hear more about East Ayrshire Council this morning. One worry that strikes me is that, somewhere down the line, a major multinational or national company might challenge under European procurement and competition rules that council's practice, which every committee member and most members of the Parliament support. Probably all of us would like to protect from litigation by major suppliers local authorities that do the right thing on their carbon footprint and on social and nutritional considerations. Whether Patrick Harvie's amendments or the Executive's amendment 17 provides the way to do that is debatable. I hope that we will address the issue and reach a constructive conclusion, to protect local authorities that do the right thing.

09:45

**Hugh Henry:** I am entirely sympathetic to Patrick Harvie's proposal. However, it is important that I am careful in what I say because, notwithstanding what we are trying to do in the bill, the last thing that I want to do is give succour to those who might want to make a legal challenge for any reason and to misinterpret what ministers aspire to achieve. Like Patrick Harvie, I want the good practice that has been started not only in East Ayrshire but in North Lanarkshire and elsewhere to be developed throughout Scotland. People are using the rules imaginatively and their purchasing power appropriately, which leads to an improvement in the quality of what is provided.

I am advised that it would be difficult to define social and environmental factors in regulations in a way that would satisfy European procurement law, which demands that every producer within the European Union is treated fairly and equally. Any consideration of social and environmental issues has to relate directly to the subject of the contract and not to the social, geographical or other circumstances of the grower or supplier—although nutrition is slightly different, because it relates to the product, not the supplier. It would be difficult to come up with regulations that specified such factors without breaching the principle of treating all suppliers fairly. If we were able to come up with regulations that satisfied European procurement law, they would be overridden with so many ifs, buts, rules and conditions that they would have little or no impact.

It is possible to take forward our social and environmental objectives through guidance and yet stay within the parameters of European procurement law. In 2004, we issued guidance on how to incorporate sustainable development into the public procurement of food and catering

services, which gives advice on how to progress various social and environmental factors while staying within the law. There are well-established principles of sustainable development within our sustainable development strategy and we want to support them in guidance. I do not want to have a situation in which, by accepting Patrick Harvie's amendments, we face what John Home Robertson described, with member states objecting to the regulations, local authorities coming into conflict with the law or an aggrieved contractor challenging the whole bill.

We lodged amendment 17 to further our social and environmental policies. I will address that amendment when we consider it later.

Patrick Harvie asked what might be covered in the guidance. We refer to fair trade and we will refer to local community issues. There are issues about transport and taking vehicles off the road to minimise the effect on the environment, which is a legitimate aspiration. We can also refer to the involvement of pupils in their local communities to gain an understanding of local economies, of how farming contributes to the local community and of the benefits of purchasing wholesome food from the local area. I hope that the guidance will result in pupils' educational development and their gaining a better understanding of those issues.

Our amendment 17 will achieve the same outcome as Patrick Harvie's amendments without putting the bill in jeopardy. Given those assurances, I hope that Patrick Harvie will agree to seek leave to withdraw amendment 6 and not to move amendments 7 to 10.

**Patrick Harvie:** The situation is rather unfortunate. I accept that amendment 17 is the more appropriate way to address the issue, but despite the minister's words today and previous statements by the Executive, I remain to be convinced that the Executive has any real intention of beefing up the guidance sufficiently for it to have the required impact. As the minister said, the guidance has been in place since 2004. Clearly, it has not achieved much more than a few good examples around the country. If we want the good examples to become the norm rather than the exception, something more is required. However, on this occasion, I accept that my amendments are not the appropriate way to deal with the issue, and I seek leave to withdraw amendment 6.

*Amendment 6, by agreement, withdrawn.*

**The Convener:** Amendment 24, in the name of Dave Petrie, is in a group on its own.

**Dave Petrie (Highlands and Islands) (Con):** At the outset, I say that I fully support the aims and objectives of the bill. I seek to amend only one aspect, which relates to children with special

needs. When we discussed the issue with the National Autistic Society, it expressed concerns not only about autistic children but about all children with special needs. The society seeks an assurance from the Executive that the diets of special needs children, in particular, will be taken into account in the bill.

I move amendment 24.

**Hugh Henry:** I assume that amendment 24 arises from a concern that pupils who require special diets on medical grounds would not be able to have them because of nutritional regulations. It may also arise from a concern that some children with additional support needs might refuse to eat food that complies with the regulations.

Amendment 24 is not only unnecessary but undesirable. The bill already provides for exceptions in which food and drink will not have to meet the nutritional requirements, including exemptions on medical grounds. The regulations will allow authorities to consider exemptions on a case-by-case basis. The bill will also give us the power to exempt pupils with additional support needs from the nutritional regulations if we want to do so. We could exempt all such pupils, but that is not something that I want to do.

Children and young people can require additional support in the short or long term for a variety of reasons. For example, they may be being bullied. Would we want to exempt from the provisions of the bill pupils who required additional support because of that? They may be particularly able or talented, which may place them in the category of requiring additional support. Would we want to exempt them because of that? They might have experienced a bereavement or some other trauma in their family. Would we want to exempt them because of that? They may be looked-after children. Surely, we would not want to exempt them just because of that, either. They may be living with parents who are substance abusers but, again, that would be no reason to exempt them. They may have motor or sensory impairments. I could go on—that is not an exhaustive list.

I do not see why we would want to disadvantage a whole class of pupils simply because they are included in a broad legal definition. We want as many pupils as possible to benefit from nutritious and healthy meals, and we have made allowances in the bill for pupils who require special diets on medical grounds. I hope that Dave Petrie will accept that, although he intends amendment 24 to be specific, its effect would be much broader.

**Dave Petrie:** I have listened to the minister and I am reassured that the matter is being taken into account. I will, therefore, happily withdraw the amendment.

*Amendment 24, by agreement, withdrawn.*

*Amendments 7 to 9 not moved.*

*Sections 3 and 4 agreed to.*

### **Section 5—Education authorities' arrangements with independent schools**

*Amendment 10 not moved.*

### **Section 6—School meals and snacks**

**The Convener:** Amendment 1, in the name of Tricia Marwick, is grouped with amendments 25, 15, 26 to 28, 2, 29, 3, 19 to 23, 30, 31, 4 and 16. I refer members to the notes on pre-emptions in the group, which are provided on the groupings list. In particular, I point out that, if amendment 1 is agreed to, I cannot call amendments 25 and 15, as they will have been pre-empted.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** I welcome the fact that the bill allows local authorities the flexibility either to provide snacks and breakfasts free of charge or to charge for them. It allows local authorities the flexibility to determine for themselves whether breakfasts or snacks should be provided free of charge. Therefore, I find it bizarre that the Executive is specifically not allowing local authorities the same flexibility with regard to school lunches.

Proposed new section 53(2A) of the Education (Scotland) Act 1980 is quite clear that

"where an education authority provide ... anything other than school lunches"

that can be done free of charge. However, proposed new section 53(2) says

"they must ... charge pupils for the lunches",

and proposed new section 53(2C)(b) states that the authority may make

"provision of food or drink at such times of the day (other than in the middle of the day) as they think fit."

In the bill, the Executive seems to rule out for ever the flexibility that local authorities might need, and should have, to determine what is right for their areas. Local authorities are being given flexibility to charge or not to charge for breakfasts and snacks, which sits uncomfortably with the lack of flexibility around school lunches. At this point, the argument is not about whether there should be universal free lunches; the argument is about whether local authorities are best placed to make judgments about what is right for their areas.

During stage 1, we heard evidence from several organisations that highlighted the experiment in Hull in which free school meals are provided. As things stand, no local authority in Scotland could introduce even a pilot to monitor and evaluate whether free school lunches in a particular

geographical area or for a particular age group would benefit children. There is no opportunity in Scotland to determine whether the introduction of free school meals would bring health benefits to a section of the school population or indeed the whole population. When one considers that such flexibility is built into the system in England and Wales, allowing the Hull experiment to go ahead, it seems strange that the Scottish Executive is ruling out the same flexibility for Scotland.

When we discussed the Hull experiment, members said, "The Hull experiment has never been evaluated independently." That is true. Although an evaluation is on-going, it has not been completed. The bill as it stands will never allow Scottish local authorities to propose such a pilot scheme for evaluation in Scotland.

Even if members are not in favour of free school meals, I see absolutely no reason for not accepting my amendments. If, however, members believe that there should be some free school meals, or even universal provision, we must build flexibility into the system to give local authorities the power to decide. That is why I lodged my amendments.

I move amendment 1.

**The Convener:** Before we move on to the debate on the amendments in this group, I note that most of the committee failed to notice my obvious error: we did not agree to section 5 earlier. I invite the committee to do so now.

*Section 5 agreed to.*

**Tricia Marwick:** Do you want me to repeat my comments?

**The Convener:** There is no need for you to do that; members may refer back to Ms Marwick's comments on proposed amendments to section 6.

10:00

**Frances Curran (West of Scotland) (SSP):** The bill is progressive, in that it will set nutritional standards for food in schools, but it is absolutely regressive in relation to the provision of free school meals. As Tricia Marwick outlined, that is because it will prevent local authorities from introducing free meals at lunch time. The bill states that, under proposed new section 53(2B)(a) of the 1980 act, local authorities will be able to provide free food or drink, or charge for it, as they think fit,

"other than in the middle of the day".

That is regressive and flies in the face of what is happening in England.

The Hull City Council pilot project required ministers to give a dispensation from the



Education Act 1996 to allow the authority to provide free school meals. Because of the success of that scheme, the law in England has been changed to allow all local authorities the same discretion. The bill will take us to the pre-Hull situation in England, which is not progressive. My amendments 25 and 27 to 29 would give local authorities discretion to introduce free school meals, should they wish to do so.

My amendments 30 and 31 relate to a different matter. They would amend section 53 of the Education (Scotland) Act 1980, which stipulates the groups of children who are entitled to free school meals in Scotland. At present, section 53(3) of the 1980 act specifies that children who are entitled to free school meals are those whose parents receive income support, an income-based jobseekers allowance or support under the Immigration and Asylum Act 1999. Amendment 30 would add to the list all children who are in primary school and, separately—as I know that there is a difference of opinion on whether secondary and primary pupils should receive free school meals—amendment 31 would add young people in secondary schools. The important point is that we would have a national policy built into the bill that would stipulate who would pay for the provision. The amendments would transfer the costs of providing free school meals from the local authorities—if they wanted to do that—to the Executive, given that it funds the free school meals for the children who fall into the existing categories in section 53(3) of the 1980 act.

I refer the committee to the briefing on free healthy school meals for primary school children that accompanies the amendments, which is a joint briefing from the Headteachers Association of Scotland, the Poverty Alliance, Save the Children and the Child Poverty Action Group and which gives all the arguments in support of my amendments that members need.

**Patrick Harvie:** The contradiction between the measure to increase the possibility of providing free school meals outwith the middle of day and the measure to prohibit the provision of free school meals in the middle of the day has been pointed out already. Even looking at the issue from the minister's point of view, I find it difficult to understand the rationale for the measures. The argument is often made that we should target resources at those who have a genuine need for them, rather than pay for free school lunches for the children of people such as ministers, architects and general practitioners. However, the same argument applies to breakfast, fruit and other food and drink that the Executive wants to allow local authorities to provide free of charge. It is difficult to understand the rationale, which may be one reason why so many members have proposed many variants on a theme, although it is good that

we can debate all the possible measures that we might introduce.

I am sympathetic to all the proposals and I look forward to hearing the minister's response. My variant, in amendments 15 and 16, would allow ministers the power to grant an exemption to local authorities if they asked for one. That would allow local authorities to be elected by their constituents on the promise that they would ask for and use that discretion. The minister would have the power to exempt local authorities, if they asked, from the requirement to charge for lunches. That is a minimal response to the contradiction that I set out although, as I said, I am sympathetic to the maximal response, too.

We can at least provide for such an exemption. Members who are not yet convinced that a universal approach is appropriate may be convinced that it is unreasonable for not just national policy but legislation to prohibit an authority from saying, "We have a specific problem with take-up in our schools and we think we should address it by going down the free provision route", and using its resources in that way.

I hope that members will be sympathetic to at least one of the proposed variants.

**Christine Grahame:** Amendments 19 to 23, which are probing amendments, would amend the Education (Scotland) Act 1980 to extend eligibility for free school lunches. In paragraph 172 of its stage 1 report on the bill, the committee said:

"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.'"

In paragraph 173, we said:

"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."

Amendments 19 to 23 would therefore extend the catchment area by including children whose parents are in receipt of benefits other than the passported benefits that are set out in the 1980 act, which I understand are income support, income-based job seekers allowance and support for asylum seekers. Amendments 19 to 23 would extend eligibility to children whose parents are in receipt of working tax credit, which is for families on low incomes who are getting back into the jobs market, lone parents benefit run-on, council tax benefit, housing benefit and local housing allowance, which I understand applies instead of housing benefit in some areas, such as Argyll. We would therefore begin to extend eligibility to children who are currently unable to receive free school meals. The benefits system is complex and

by casting the net wider we might capture some of the 38,000 children who probably do not receive one decent meal per day.

I intend to lodge amendments at stage 3 that will address the matter in more detail, subject to the Presiding Officer's selection of amendments. I look forward to hearing the minister's comments.

I support amendment 1, in Tricia Marwick's name, which would allow local authorities flexibility. I am sympathetic to Frances Curran's amendments, but it is necessary to test an approach before we commit public expenditure to it. Given comments on the Hull experiment and action elsewhere, we should pilot and evaluate a scheme in Scotland. If the approach proves right, it might offer a way forward. That is how we should proceed when we deal with public money. However, I am sympathetic to Frances Curran's arguments, particularly given that children who are living in poverty are not currently receiving free school meals.

**Fiona Hyslop (Lothians) (SNP):** Much of the bill's content is good, but eligibility for free school meals is the nub of the debate. We should consider whether legislation should be prescriptive or enabling.

We have heard variations on a theme from the members who lodged amendments in the group. Amendment 4 would give ministers the power to vary the eligibility criteria for free school meals, so that ministers could create pilot schemes in specified areas or for specified groups of pupils. That approach would allow free school meal provision to be extended as far as ministers wanted, and ministers could do that by statutory instrument rather than by introducing new primary legislation. In lodging amendment 4, I am arguing that there is a case for free school meals. A Scottish National Party Administration would certainly want to pilot free school meals for pupils in primary 1 to primary 3. However, we are not prepared to bind the hands of any Administration.

We have heard different variations: first, from Christine Grahame and Frances Curran, a specification of how far eligibility should extend; secondly, from Tricia Marwick, the idea that local authorities should have discretion in this area; and thirdly, from Patrick Harvie, the suggestion that ministers should have powers of exemption.

My amendment 4 would allow ministers to exercise discretion by statutory instrument. It would not be a case of locking out what can be done under law for ever and a day. It is about providing enabling legislation, rather than prescriptive legislation that prevents things from happening. Legislation should help things to happen. Amendment 4 would also make the question whether to have a pilot or to extend free

school meals a question of policy and funding rather than law. We do not want to find ourselves, several years down the line, wanting to do something but being prevented from doing it by law. I am not suggesting that ministers should be compelled to do anything at this stage; amendment 4 would just enable them to do something in the future.

I want to pick up on some specific points. The minister was right about Dave Petrie's amendment 24—the additional support for learning legislation that we dealt with in the Education Committee is very broad. However, there may be a strong case for ministers considering free school meals to tackle issues related to behaviour and diet, for example. Similarly, rurality may mean that it makes sense to introduce free school meals in specific areas.

I believe that, from a nutritional point of view, we should consider free school meals for P1 to P3, but let us give ministers the discretion to decide. There is a debate about whether such discretion should be exercised by local authorities or ministers, but we should ensure that the legislation is enabling rather than prescriptive. That is the intention behind amendment 4.

**John Home Robertson:** I do not want to say a lot, but I would like to press Scottish National Party colleagues. As a member who is not standing at the coming election, I could perhaps even describe myself as a floating voter, and I would like to understand what is going on.

I know that there is political posturing on who is for or against a statutory right to free school meals, but I got the impression that Fiona Hyslop was back-pedalling a wee bit. Whatever is done, the key question is surely: how will free school meals be paid for? For politicians, the easiest thing in the world is to say that they will give something free to everybody, but there is no such thing as a free lunch, whether it is in a school or anywhere else. Surely the big point is that, if Opposition parties undertake to provide a universal right to free school meals—although Fiona Hyslop stepped a long way back from that during her comments—it is incumbent on them to say how they are going to pay for it. What is it going to cost? I presume that the money would come out of the education budget, but which part of that budget would it come out of? Those questions need to be addressed.

**Dave Petrie:** Having witnessed limited resources in schools fairly recently—tattered textbooks, lack of information technology facilities and so on—I know that local authorities are struggling financially. I still remain to be persuaded that parents who can afford to pay for their children's school meals should be relieved of that expense, thereby penalising local authorities that

are extremely stretched. I understand the principles behind the proposal, and I recognise that we have to consider the children who are entitled to but not taking free school lunches and that we could consider the limits of provision. However, our schools are struggling, particularly in comparison with schools south of the border. In IT resources, for example, we are not on a level playing field because of limited financial resources.

**Patrick Harvie:** Will the member take an intervention?

**Dave Petrie:** Is that permissible, convener?

**The Convener:** No, it is not.

**Dave Petrie:** All that I am saying is that there are people who can afford to pay for school lunches, and it would put unnecessary pressure on local authorities to relieve them of that.

10:15

**Scott Barrie (Dunfermline West) (Lab):** I do not want to say too much either, because the arguments have been well rehearsed both in our stage 1 deliberations and on other occasions when the Parliament has discussed the matter.

I want to reflect on the fact that we heard evidence at the @Home Centre in Airdrie from young people who were not in favour of extending provision to universal provision. I was even more struck by the informal evidence that we took from young people in Glasgow. They were already entitled to free meals but sought to go outwith the school to the local shops or wherever to get snacks or meals. We really need to address that point. A number of people who are entitled to free school meals do not take them. By extending provision, there is no guarantee that the very people we want to reach are the ones who would actually take up free meals.

We need to be clear that, unless we are going to force all children to remain in school during lunch time and take school meals, there is nothing that we can do except—perhaps through some of the provisions in the bill—make meals more attractive and promote them. That is where we should be concentrating our efforts, certainly at the start. We should see whether that makes a difference before we spend resources in a way that might not achieve what we all want to achieve.

**The Convener:** Mr Harvie, you were keen to intervene earlier. Do you want to come into the debate at this point?

**Patrick Harvie:** The moment has passed, but thanks anyway.

**Frances Curran:** I would like clarification. Scott Barrie mentioned “informal evidence”. Was that from secondary school or primary school pupils?

**Scott Barrie:** Secondary. I can name the school if Frances Curran wishes.

**Frances Curran:** No—I was just wondering which age group Scott Barrie was referring to.

**Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** At the risk of being boring, I will reiterate a point that I have made before at this committee and elsewhere—this also picks up on what Scott Barrie has been saying. I cannot for the life of me see why children from well-off families should get free school meals. It is a bit like the local income tax—one thing that the Scottish National Party and my party could unite on—which would be fairer.

**Christine Grahame:** Well done, Jamie.

**Mr Stone:** That is for another committee.

I argue that targeting resources and charging those who can afford to pay for their school meals is fair.

Christine Grahame and I might argue about how big the pot is. We would have different views on that—whether there are black holes and how much money is available. In the end, however, whatever size the pot is, the amount in it is finite. Morally, I want the maximum amount of resources to be targeted at the most needy.

**Fiona Hyslop:** Am I allowed to come back in?

**The Convener:** No, you are not.

I now invite the minister to respond to the points that have been made on this group of amendments.

**Hugh Henry:** Patrick Harvie has attracted some comments in the press over the past few days over a claim for a cement mixer. I suspect that the press and the public should be more worried about the printing presses that the SNP and the Scottish Socialist Party will need to churn out the £20 notes that they will require to pay for all the promises that they are making to the electorate in the run-up to the forthcoming election, not just in relation to the bill before us but right across the board. They want to spend money without giving any thought to where it comes from. It appears to me that those parties have embraced the financial planning of the Weimar republic when it comes to thinking about resources.

The Schools (Health Promotion and Nutrition) (Scotland) Bill is not about free school meals; it is about healthy school meals and health promotion. Even if it was about free school meals, we have made our position perfectly clear. We do not support universally free school meals. Members have made comments about how money should be used. We want to target resources where they are needed most, and we stand four-square against the coalition that is campaigning to help

better-off people at the expense of those who are more disadvantaged and deprived. We do not agree with that coalition. We do not think that its proposal is an effective use of resources. Many families can afford to pay for school meals, and subsidising them would mean using money that could otherwise be used to help those who are most in need.

Patrick Harvie asked about the difference with the approach to breakfasts. There is a specific and significant cost issue. The cost of providing breakfasts would be entirely different from the scale of costs for providing free school meals. In any case, we are not mandating that there should be free breakfasts for all; we are giving local authorities a discretionary power about what they might do.

Frances Harvie—I am sorry; I mean Frances Curran—

**Christine Grahame:** That is a strange image.

**Hugh Henry:** Yes, it is.

**Frances Curran:** Don't even go there.

**Hugh Henry:** I will not sleep at nights now.

Frances Curran said that the bill was regressive. I do not particularly want to get into an argument about semantics, but my understanding is that "regressive" means something that takes back, reduces or takes away.

**Frances Curran:** The bill does that, in relation to provision.

**Hugh Henry:** It does no such thing. It is progressive. It introduces new powers and takes no powers away whatsoever. It leaves the local authorities with many of the powers that they currently have. How can it be regressive? It is progressive.

**The Convener:** I remind all members of the committee that they were listened to with respect. I ask visitors to the committee and members of the committee to show the minister the same respect, whether they agree or disagree with his comments.

**Hugh Henry:** The bill is progressive because it introduces new powers in relation to breakfasts and snacks. Although I do not want to argue about the semantics, I must say that Frances Curran is absolutely wrong: the bill is not regressive; it is progressive.

We made our position on free school meals absolutely clear during the consultation process and stage 1 of the bill; we are doing so again at stage 2. Further, Parliament has already debated the issue twice and has rejected the arguments in favour of universal provision of free school meals. I will not go back over them.

In relation to Christine Grahame's amendments, ministers already have powers to extend eligibility for free school meals. However, I repeat that the bill is not about free school meals; it is about health promotion and nutrition. It aims to ensure that food and drink in schools meet defined nutritional standards and that schools encourage pupils to take those healthy meals, educate them about the benefits of a healthy lifestyle and make sure that they can participate in a healthy lifestyle. Therefore, I hope that the committee will endorse the views that were previously expressed in Parliament.

**The Convener:** I invite Tricia Marwick to wind up the debate.

**Tricia Marwick:** Convener, you warned us to respect the minister when he was speaking. However, I must say that the minister's response was one of the poorest and most ill tempered that I have heard from a minister at any meeting of the Parliament. He should think seriously about his conduct today.

I will now move on to the substance—

**Hugh Henry:** Convener, can I come in on that?

**Tricia Marwick:** No, you cannot.

**The Convener:** Excuse me, Ms Marwick. I remind you that, as the convener of the committee, I will decide who speaks and when. However, I do not think that it would be appropriate for the minister to respond to you at this point. I ask you to move on to the debate on the amendments.

**Tricia Marwick:** I am more than happy to sum up the debate.

Scott Barrie said that there was no guarantee that school children would eat meals even though they were free, and he quite rightly spoke about some of the evidence that was given to the committee by young people. However, we also have a responsibility to promote school lunches, and I am quite sure that children who are entitled to free school meals but who do not take them are exactly the same as any other children. The fact that their lunch is free does not mean that they will take it.

We need to promote school lunches, as the bill says we should do. However, that does not address the argument that local authorities should be given greater flexibility. That is all that we are arguing about. I am not arguing that the bill should be amended to provide for free school lunches; I am arguing that, just as local authorities are allowed to provide breakfasts and snacks for free if they wish, they should be allowed to provide lunches for free as well. I cannot for the life of me see why that should not be the case. Nothing that has been said today or in previous committee

meetings has explained to me why local authorities should have the flexibility to decide to provide free school breakfasts and snacks but not to decide to provide free school lunches.

That is the purpose of my amendments. I simply cannot understand why Labour and Liberal Democrat members are so opposed to local democracy that they would deny local authorities, elected councillors and communities the right to make such decisions. Fiona Hyslop is right to say that we need to ensure that the legislation is enabling, so that we and ministers are not locked into a situation. I support amendment 4.

I turn to amendments 19 to 23, in the name of Christine Grahame. I am paraphrasing, but the gist of what the minister said was that ministers already have powers to extend the eligibility criteria to children in poverty who are not currently eligible for free school meals. If that is the case—I do not accept that it is—why has the minister not extended those criteria already? According to the Child Poverty Action Group, 38,000 children in Scotland are officially recognised as living in poverty and yet are not eligible for free school meals. Those children are not from middle-class families, who can well afford to pay. By not extending the eligibility criteria for free school meals, the minister and Labour and Liberal Democrat members are denying the very poorest people. That is disgraceful.

Labour and Liberal Democrat members have asked why we should have universal free school meals when all that would do is ensure that those who could afford them got them for nothing. That is precisely the argument that could be used against free breakfasts or free snacks, but that is not what those members are arguing. Amendments 1 to 3 would simply allow local authorities the discretion to make up their own minds whether to introduce free school meals. That is what is locked out of the legislation. What is also locked out is the ability of councils to introduce a pilot scheme in order to monitor it and evaluate cost and the effects on health, as Hull has done. A pilot would be entirely reasonable.

I am surprised and disappointed by the minister's intransigence today in refusing to accept measures that could improve the health and well-being of some of the poorest children in Scotland.

**The Convener:** The question is, that amendment 1 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 1 disagreed to.*

**The Convener:** Amendment 25, in the name of Frances Curran, was debated with amendment 1. If amendment 25 is agreed to, amendment 15 will be pre-empted.

*Amendment 25 moved—[Frances Curran].*

**The Convener:** The question is, that amendment 25 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Harvie, Patrick (Glasgow) (Green)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 2.

*Amendment 25 disagreed to.*

**The Convener:** Amendment 15, in the name of Patrick Harvie, was debated with amendment 1.

*Amendment 15 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 15 be agreed to. Are we all agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 15 disagreed to.*

10:30

*Amendment 26 moved—[Tricia Marwick].*

**The Convener:** The question is, that amendment 26 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 26 disagreed to.*

*Amendment 27 moved—[Frances Curran].*

**The Convener:** The question is, that amendment 27 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**ABSTENTIONS**

Grahame, Christine (South of Scotland) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 2.

*Amendment 27 disagreed to.*

*Amendment 28 not moved.*

*Amendment 2 moved—[Tricia Marwick].*

**The Convener:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Marwick, Tricia (Mid Scotland and Fife) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Grahame, Christine (South of Scotland) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 2 disagreed to.*

*Amendment 29 not moved.*

*Amendment 3 moved—[Tricia Marwick].*

**The Convener:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 3 disagreed to.*

*Amendment 19 moved—[Scott Barrie].*

**The Convener:** The question is, that amendment 19 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 19 disagreed to.*

*Amendment 20 moved—[Christine Grahame].*

**The Convener:** The question is, that amendment 20 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 20 disagreed to.*

*Amendment 21 moved—[Christine Grahame].*

**The Convener:** The question is, that amendment 21 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 21 disagreed to.*

*Amendment 22 moved—[Christine Grahame].*

**The Convener:** The question is, that amendment 22 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 22 disagreed to.*

*Amendment 23 moved—[Christine Grahame].*

**The Convener:** The question is, that amendment 23 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 23 disagreed to.*

*Amendment 30 moved—[Frances Curran].*

**The Convener:** The question is, that amendment 30 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Harvie, Patrick (Glasgow) (Green)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

#### ABSTENTIONS

Grahame, Christine (South of Scotland) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 2.

*Amendment 30 disagreed to.*

*Amendment 31 moved—[Frances Curran].*

**The Convener:** The question is, that amendment 31 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)

Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

Whitefield, Karen (Airdrie and Shotts) (Lab)

**ABSTENTIONS**

Grahame, Christine (South of Scotland) (SNP)

Marwick, Tricia (Mid Scotland and Fife) (SNP)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 2.

*Amendment 31 disagreed to.*

*Amendment 4 moved—[Fiona Hyslop].*

**The Convener:** The question is, that amendment 4 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)

Harvie, Patrick (Glasgow) (Green)

Marwick, Tricia (Mid Scotland and Fife) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Home Robertson, John (East Lothian) (Lab)

Petrie, Dave (Highlands and Islands) (Con)

Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 4 disagreed to.*

*Amendment 16 not moved.*

*Section 6 agreed to.*

### After section 6

**The Convener:** Amendment 11, in the name of Patrick Harvie, is in a group on its own.

**Patrick Harvie:** We move from heated debate to reheated food. One of the issues that we agreed is important but which is, perhaps, difficult to address without being prescriptive is the provision of catering facilities and the ability to cook food on site. That agreement was partly a response to the impact of our visit to a school in East Ayrshire, at

which not only the school staff and pupils but the catering staff spoke positively about the fact that a large amount of the food is cooked freshly from real ingredients instead of pre-processed products that are simply reheated or assembled on site. In an ideal world, we would all like that to happen everywhere, but this is not an ideal world and, as we acknowledged in our stage 1 report, it would be wrong to imagine that full catering facilities can be provided in all circumstances everywhere.

I have slightly less sympathy with the argument that small schools cannot cook. If the priority is set, we can ensure that the facilities exist, although I accept that there are constraints under which local authorities work. Amendment 11 calls for education authorities to

“have regard to the desirability of providing facilities for the preparation of food on the premises at which it will be consumed.”

I do not think that that is too prescriptive. It emphasises what we all agreed in our stage 1 report is an important factor. I hope that the minister will be open minded in considering the amendment.

I move amendment 11.

**Christine Grahame:** Members will not be surprised to hear that I support amendment 11, as the whole committee supported the principle behind the amendment in paragraphs 208 and 209 of our stage 1 report. Paragraph 208 states:

“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.”

I will not pursue a party-political line on the matter—there has been enough heat about this in the committee—but for a while there was in some areas of Scotland a policy of closing school kitchens and bringing in frozen food as an economic measure, not necessarily to meet hygiene standards or whatever. I understand why local authorities looked at the matter that way, but it was short sighted and displayed very narrow vision. Some schools—small ones as well as large ones—could reopen their kitchens. It is an important issue.

With regard to new-build schools, we should consider the pupils’ eating experience. It is not just about sticking food in front of them; it is about the whole experience of the food being cooked on the premises and the smell of the food being prepared. I always remember that, when mum put on the Sunday chicken, we could smell it and wondered when it would be ready. There is an issue about the smell of the food permeating the school.



Also, although I accept that there are issues about European Union procurement rules, if we are going to go down the road—as the minister has, for which I commend him—of providing guidance to local authorities to the effect that they must have regard to the sustainability of communities by buying locally, there will be a requirement for schools to have somewhere to cook the food on the premises. I therefore welcome amendment 11 for that reason.

In the Borders, the closure of local school kitchens also removed the delivery of meals on wheels to elderly people, who were getting freshly prepared food from them. That was just one of the ramifications of school kitchens being closed. The elderly people ended up having frozen meals delivered once a fortnight, which had to be microwaved. They lost out as a consequence of the fact that schools' food was no longer being prepared on the premises. The same thing happened in the local care homes, and so on.

Although it is a small practical issue, it is very important. I congratulate Patrick Harvie on lodging amendment 11.

**Scott Barrie:** I have some sympathy with amendment 11. Nonetheless, in answer to Christine Grahame, I do not think that the aroma of steamed cabbage permeating a school would do anything for the uptake of school meals.

**Christine Grahame:** I like cabbage.

**Scott Barrie:** We must be very careful. I know that Patrick Harvie is not suggesting that all schools should have a kitchen and cook meals on the premises: I am pleased about that, because we have moved on a bit from what was said when we first discussed the issue in committee. It is not just new schools that do not have kitchens—some schools in my constituency that are more than 100 years old never had a school kitchen because school meals were, when they were introduced, cooked centrally and delivered by van to all the schools. That happened in my primary school.

We must accept that schools that do not have kitchens are not necessarily getting frozen food to be reheated. Often, they get food that has been cooked in another school kitchen and transported to the school. We must be aware that there are different issues in different authorities and that the situation that has been described is not the same throughout Scotland. That said, I have some sympathy with amendment 11 and believe that it would be preferable for meals to be cooked on school premises.

10:45

**Tricia Marwick:** Amendment 11, in the name of Patrick Harvie, is entirely reasonable. It does not seek to prescribe that each school should have its

own catering facilities, but seeks instead to ensure that education authorities

“have regard to the desirability of providing facilities for the preparation of food on the premises”.

If a school has catering facilities, they should be used. That is the message.

We accept that not all parts of the school estate in Scotland are currently equipped to provide school meals on the premises, and such provision may not always be desirable because of particular circumstances. However, amendment 11 is reasonable because it simply points out to local authorities the desirability of making such provision. I think that amendment 11 should be supported.

**Mr Stone:** I remake the point—I seem to be reiterating everything today—that I have made previously about local produce. If a producer of, say, potatoes is required to deliver to multiple schools, the producer will incur a cost add-on that would not be incurred if delivery were more centralised. Local producers would be helped rather more by centralised delivery than by a requirement to deliver wee bags of tatties here and there. That is a fact, if you think about it. We cannot say simply that requiring every school to cook its own food would help local producers. The issue is not quite as straightforward as that.

I acknowledge the sentiment behind amendment 11, but I want to probe further the issue of distance. Because of the rurality of my constituency, schools there do not have much choice other than to cook on campus. However, my colleagues have much more urban constituencies, where schools may not be far from each other geographically; they may be only a matter of streets away. What balance would be struck in those locations? That is a question for Patrick Harvie.

**Hugh Henry:** I do not disagree with Patrick Harvie's intention. To be fair to him, he is not suggesting that every school would be required to have a kitchen. However, his amendment 11 is unnecessary. Under existing legislation, education authorities already have a general responsibility to provide adequate facilities to discharge their duties. Specifically, section 19 of the Education (Scotland) Act 1980 gives ministers powers to prescribe standards for the educational premises. The relevant regulations under that section include provisions that require that kitchens be provided in schools except where authorities have arranged for preparation and cooking of meals to be carried out elsewhere. In that case, the school must have a place where the meals can be served.

If you think about it, that means that the authorities are already required to make appropriate arrangements for meals. Authorities

already have responsibility for considering what is appropriate. Arguably, in considering what is desirable for a particular school, the authority is required to decide whether a proposal would be the best arrangement for the area.

Our priority is to ensure that healthy and desirable meals are provided. Guidance on the bill will encourage authorities to consider whether a school kitchen or centrally provided catering would be appropriate for meeting our aims. All of that will be done in a way that ensures that—as Patrick Harvie has suggested—decisions on what is appropriate and desirable remain within the locus of the education authority. That is what happens already.

I do not believe that amendment 11 is necessary. The issue is already covered by guidance and existing legislation.

**Patrick Harvie:** The need for local flexibility and local decision making is an issue that runs through amendments in several of the groupings that we are considering. It would be a shame if local flexibility applied up to the counter but not as far as the till. However, we have already dealt with that issue at some length.

I will deal with some of the specific points that have been made. Scott Barrie mentioned the possibility of food being cooked in another school, which might be close by, and said that it is not always the case that food is frozen and reheated. That is true, but I wonder how many ministers and officials in the Scottish Executive would be happy if their food was cooked in St Andrew's House and then taken to Victoria Quay.

**Mr Stone:** Smoked salmon and foie gras.

**Patrick Harvie:** It is clear that we are talking about a process that would remove freshness. If we want children to eat top-quality food that enthruses them and which does not make them begrudge the fact that it is healthy, putting food in a van and driving it around town for a bit is not likely to lead to that end being met. Some of the school meals that members of the committee have sampled over recent times have been excellent, but some have not been particularly fresh and have not been particularly well cooked, although that may simply be to do with the structure—the facilities that are available—rather than to do with the people who prepared it.

Jamie Stone mentioned differences between schools in urban and rural settings. Those arguments would be strong if I was suggesting a prescriptive approach, but I am not. As regards the potential impact on small producers, local authorities are more than capable of working with producers in the local business environment. If they want to procure their food from local suppliers and then to distribute it to schools, is that much

more difficult than driving food around after it has been cooked? I am not convinced that it is. Amendment 11 provides for only one aspect to which local authorities would have to have regard—it would not be the only or the overriding issue.

The minister mentioned the regulations under which adequate facilities must be provided, except when food is provided in another way. That exemption takes no account of the fact that it is preferable for food to be cooked on site, when that is practical and possible, for the good reason that it leads to better quality, tastier meals.

I still think that amendment 11 would improve the bill, in that it would require local authorities to bear in mind the desirability of cooking on site when they put money into refurbishing their school estates or into new build, so I will press it.

**The Convener:** The question is, that amendment 11 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Grahame, Christine (South of Scotland) (SNP)  
Harvie, Patrick (Glasgow) (Green)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)

#### AGAINST

Barrie, Scott (Dunfermline West) (Lab)  
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Petrie, Dave (Highlands and Islands) (Con)  
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 11 disagreed to.*

### Section 7—Promotion of school lunches

**The Convener:** Amendment 32, in the name of Scott Barrie, is in a group on its own.

**Scott Barrie:** I will not take up too much of the committee's time, because I am not sure that amendment 32 is strictly necessary. I ask members to bear with me.

Members may remember that during the passage of the Standards in Scotland's Schools etc Act 2000 I lodged an amendment at stage 3 that enshrined the right of young people to be involved in decisions that are made in schools and which affect them. Nothing is as important as the uptake of school meals and what those school meals will consist of. The 2000 act could well cover the point that I am concerned about.

If we are serious about increasing the uptake of healthy school meals, it is vital that we involve

young people in the process of deciding what should be in those meals rather than dictate to them what we think. Amendment 32, which is straightforward, seeks to ensure that young people are fully involved in decisions on the meals that are provided for them at school.

I move amendment 32.

**Hugh Henry:** I agree with Scott Barrie—although he may have been posing a question—that amendment 32 is unnecessary. The bill requires education authorities to promote school lunches and to encourage pupils to consume them. Involving pupils will be a key part of that.

The bill will amend part of the Standards in Scotland's Schools etc Act 2000 to ensure that a school development plan takes account of the authority's strategy for health promotion. Improvement objectives for the school will include objectives on health promotion. I argue that promoting school meals is part of the wider aim of health promotion. The school development plan is drawn up after pupils who are in attendance at the school have been given an opportunity to make their views known. That means that pupils will have an opportunity, via the school development plan, to make their voice heard.

As Scott Barrie indicated, the right of children to express their views is already covered in legislation, so there is no need to repeat that in the bill. Under the 2000 act, an education authority must have regard to the views of children and young people in decisions that significantly affect their education. Pupil involvement is an important and basic element of the whole-school approach of a health-promoting school. I assure members that the health promotion guidance that will be produced to accompany the bill will emphasise that pupils need to be involved in all elements of health promotion relating to their physical, social, mental and emotional well-being, including issues surrounding and the content of school meals.

The point is already covered by legislation, which will be reinforced by the guidance to which I have referred. I hope that that is sufficient assurance for Scott Barrie.

**Scott Barrie:** The minister has answered the question that I posed. The issue appears to be covered by the 2000 act.

*Amendment 32, by agreement, withdrawn.*

*Section 7 agreed to.*

### **Section 8—Protection of identity of pupils receiving free school lunches**

**The Convener:** Amendment 12, in the name of Patrick Harvie, is grouped with amendments 33 and 14.

**Patrick Harvie:** Members will recall that I have expressed an interest in section 8 throughout the bill's progress. I am not convinced that there is a need for the duty for which it provides to be imposed on all local authorities. From the evidence that we have heard and the visits that we have made, I am not convinced that the issue of stigma genuinely impacts on pupils. There is a perception among some parents that it is an issue, but that is all. I am not sure that we need impose everywhere a new duty to have anonymous systems.

Having said that, I am prepared to go along with the provision if people make the case for it and are willing to ensure that there are safeguards in the bill to avoid any potential harmful consequences. The harmful consequences to which I refer relate specifically to highly technological systems, especially biometric systems such as fingerprint and palm-print systems. I understand that members of the committee have a range of views on the issue. I come from one end of the spectrum, but I hope that I have lodged amendments that address concerns that are shared more widely and which we noted in paragraph 220 of our stage 1 report.

The cost of the systems is an issue for local authorities to consider. There is potential for data to be misused or to fall into the wrong hands. The collection of biometric data could have harmful consequences for individuals later in life—a fingerprint that is taken in childhood is still relevant biometric data much later in life.

11:00

There is an issue around swipe cards. Some of the people to whom I spoke during our stage 1 consideration agreed that creating a culture that increases the acceptability and habit of using plastic to pay for things is not the most sensible approach. It can work, as long as there are constraints. We do not want to end up paying the cost of that system in increased consumer debt in 20 or 30 years' time.

The increasing acceptance of biometrics is, of course, controversial. I do not imagine that we would all share the same view on an issue such as biometric identity cards; we have a range of views on that. Whether we view it as a civil liberties issue or whether we think that we should encourage young people to understand that identity theft is real and that they need to be aware of it, we have to be careful about having primary school children grow up in the habit of surrendering biometric data without considering the implications for the way that their identity is managed—the issue has been cast in terms of teaching children about identity management and theft. We have a responsibility to use the technologies carefully, rather than

simply moving headlong towards their widespread use.

In the past few months to a year, we have heard calls from various sources for ID cards, increased use of closed-circuit television, airport-style security scanners and random drug tests in schools. Such things are not in widespread use and we should be careful and consider the long-term implications before we use any of the technologies of which biometric systems are part. There is a danger that we will create an environment—accidentally, little by little, a small step at a time—that feels more like a corrective institution than a school, in which young people feel that they are under suspicion every day of their lives.

South of the border, United Kingdom ministers have recently agreed to introduce regulations. They have accepted that a completely unregulated free-for-all around the technologies is not appropriate, but that they might have some appropriate uses. If members and the minister were willing to go as far as to say that there was a need for regulation of the systems, I could probably live with that. The decision by UK ministers followed a cross-party campaign. Last week, I circulated to members a copy of the Westminster early-day motion, which was tabled by a Liberal Democrat member and supported by many of his colleagues, as well as by Conservative and Labour members. I am sure that the only reason that the SNP members have not added their names to it is that it applies only to schools south of the border.

The issue cuts across party lines and I hope that members will agree to amendments 12, 33 and 14. They stand alone, but I hope that they will all gain some support. Amendment 12 would provide local flexibility. It would provide that local authorities were not all required to introduce anonymous systems, but that they were required to consult on them and, if there was a feeling locally that they were necessary, they could go for them.

Amendment 33 is on parental consent, on which I have questioned the Executive in the past. The first answer that I got was that parental consent for children to be fingerprinted was an essential prerequisite. Over the course of a few written answers, the opinion has become that it is not an essential prerequisite but a matter of good practice. There is no legal requirement for parental consent and no enforced national policy on it; it is simply a matter of good practice. Amendment 33 would require parental consent and, in the case of children aged 12 or more, their own consent too.

Amendment 14 would provide for ministers to produce regulations on how the systems should operate.

Taken together, the three amendments represent a balanced and reasonable way forward. When parents and pupils—the whole school community—feel that it is appropriate and decide to go down this route, they would allow the systems to be used, but with some boundaries. I am not saying that the technologies should be prohibited, only that they should operate within reasonable and well-considered boundaries and limits.

I move amendment 12.

**Dave Petrie:** I see exactly where Patrick Harvie is coming from and I understand his concerns, but one or two points arise from the amendments in the group. My experience of the anonymised systems in schools, particularly the card system, is that it is used widely and works very well. It is not a credit card; it is a debit card. There is always money on the card. Children are not being forced into spending money that they do not have.

Schools already consult parents and pupils widely on changes in policy. I think that many of Patrick Harvie's fears may be covered under the European convention on human rights. Surely all the measures that we are discussing would have to be ECHR compliant.

**Christine Grahame:** I will address certain aspects of Patrick Harvie's amendments and my colleague Tricia Marwick will address their substance.

I see what amendment 12 is about, but I agree with the provision in the bill. Although it is mandatory for an education authority to ensure that a pupil cannot be identified, we should note that the bill says that authorities should "take reasonable steps". That point is terribly important. I assume that that would be done by authorities taking parents and schools along with them. Authorities are hardly going to do something that gets them front-page headlines in *The Sun*, or whatever.

I have sympathy with Patrick Harvie's amendment 33. It is about informed consent, which is also terribly important. That said, I am concerned about the drafting. For example, the amendment says that

"where the pupil is aged 12 or over",

they can withhold consent. What about pupils with a learning disability who do not have the capacity to give their informed consent?

My second point is that, where it is not up to the pupil to give consent, it is up to the parent. Many pupils are looked after not by a parent, but by a grandparent or by someone who has care and control of the child. Patrick Harvie should return to the issue at stage 3, having redrafted the amendment. We cannot insert a provision into the

bill only to find that it leads to legislative problems. I am concerned about those technical issues. As I said, I will not go into the substance of the amendments. My colleague Tricia Marwick will do that.

My final point is on amendment 14. If substantive legislative impact is going to be encased—I know that my verbs are all wrong—in regulations, I want the regulations to come before the Parliament. Primary legislation often serves as the framework but, in this case, the regulations are the meat; if we are to go down this road, I want the Parliament to look at them. I will listen to what the minister says.

**Scott Barrie:** I find myself agreeing almost totally with Christine Grahame—certainly, on her first two points. In subsections (2) and (3) of proposed new section 53B of the 1980 act, it is important that the Executive has said that reasonable steps must be taken. It has not specified how that should be done.

We are in danger of condemning the Executive for not doing something, and then condemning it again for doing something. In the debate on universal free school meals, one of the most common refrains from those who advocate that provision concerned the stigma that somehow becomes attached to those who receive free school meals. They said that we had to find a way of overcoming that. It appears that the Executive has taken that on board and is saying clearly that reasonable steps have to be taken to ensure that the identity of any young person who receives free school meals is protected. The Executive has done that and yet we are complaining about the fact that it is to be done. We cannot have it both ways. We have to take in good faith the fact that the Executive has taken on board the matter and has chosen to enshrine it in the bill.

I agree that issues arise, but we should go ahead because the provision will be implemented only by way of some sort of partnership—it will not work if it is done in any other way. We could legislate to prohibit an approach that we do not want, but advances in technology during the next 10 or 15 years might make redundant the arguments that Patrick Harvie makes—I accept that he makes them in good faith. We must be careful about what we include in the bill.

**Tricia Marwick:** I will not support Patrick Harvie's amendment 12, because the approach in the bill is tougher than the approach in amendment 12. I agree with Scott Barrie that we have repeatedly heard evidence that stigma might be a problem and that we need anonymised systems. It would not be helpful to water down the commitment to anonymised systems.

My colleague Christine Grahame pointed out difficulties to do with the drafting of amendments

33 and 14. However, we are in danger of losing sight of the principle of whether we need fingerprinting, palm printing and other biometric data systems. During the stage 1 debate in the Parliament, I said that we cannot allow such technology to be introduced by the back door, via a bill that deals with meals for schoolchildren. We have not had a debate about whether biometric techniques are acceptable for use in the wider population, so their use among children, as a result of a bill that has nothing to do with that debate, is wholly unacceptable. We seem to be going down the road of accepting that taking biometric data from our children is okay provided that there is informed or parental consent, but we need a wider debate. Therefore, I will not support amendment 33.

I have yet to hear what the minister will say about amendment 14, but we are in difficult and dangerous moral and ethical territory, which generates dilemmas that should not be resolved in a bill that deals with meals for schoolchildren.

**Hugh Henry:** I agree with the comments of a number of members on amendment 12 and Christine Grahame was right to point out the drafting problems in amendment 33.

Patrick Harvie put himself at a disadvantage when, after making a reasoned and well-constructed argument—although I did not agree with everything he said—he said that the use of biometric systems would make a school more like a corrective institution. That remark misrepresented the atmosphere in our schools. I have detected no indication that pupils or staff in schools in which anonymised systems are in place feel as though they are in a corrective institution. Our schools are happy, relaxed environments and what Patrick Harvie suggested is patently not the case. The member diminished his argument by making such a suggestion.

11:15

Patrick Harvie and I disagree about the principle behind his amendments. I have very clearly stated in debate the benefits of, for example, the palm reader system that has been introduced in Todholm primary school in my constituency and which, as I have seen for myself, has been well received by the staff, is enjoyed by the pupils and has wider benefits than simply reducing stigma and making it easier to collect money. That said, I recognise that, in lodging amendment 12, Patrick Harvie is not seeking to resolve the debate on this principle, which can wait until another day.

As I said, I agree with other members' comments on amendment 12, which if agreed would significantly weaken our intention to remove a barrier to the uptake of free school meals. We

want authorities to introduce anonymised systems to ensure that pupils who are entitled to free school meals get the benefit of them. If, as Scott Barrie suggested, stigma is a barrier, we want to remove it.

Much of the discussion has centred on biometric systems, which are, in fact, not even mentioned in the bill. Instead, we are talking about anonymised systems, some of the advantages of which were highlighted by Dave Petrie. It is something of a leap to suggest that with this bill we are requiring anyone to introduce biometric systems, much as I might find favour with some of what I have seen. This bill simply requires authorities to introduce a suitable anonymised system.

It is up to schools and authorities to decide what anonymised system is used. However, no matter what they do, one important safeguard is already in place: they must comply with data protection law. No one can infringe people's rights under the Data Protection Act 1998. To repeat, we are not requiring authorities to introduce any particular system and any anonymised system that is introduced must comply with data protection legislation.

Patrick Harvie proposes that we issue regulations that I assume would tell local authorities about the kind of information they can collect, how they can collect it and what they can use it for. That is simply a leap away from our current position. Amendment 12 is completely unnecessary as the normal rules of data protection apply; indeed, it would set up another layer of law over and above the 1998 act.

I know that the bill is not concerned with biometric systems, but I have written separately to Patrick Harvie to explain the Executive's view on biometric systems and parental consent. Our position is that if an authority decided to use a biometric system, seeking parental consent would, as a matter of good practice, be an essential prerequisite before schools collected any biometric information. However, we are not insisting that schools introduce a biometric—or, indeed, any other—system. Children who do not use the system because either they or their parents do not give consent should not be disadvantaged.

Patrick Harvie is, to a certain extent, trying to take us into a different debate. I disagree with him on these issues and can argue my case in that respect. However, it is wrong to portray the provision as a requirement on local authorities and schools to introduce biometric systems. Anonymised systems are an entirely different matter. In any case, it is up to the local authority to determine the best way of introducing such systems. As Scott Barrie pointed out, given how much has been said about stigma over the years,

it is absolutely right that we do something about this issue.

**Patrick Harvie:** I cannot help but feel a little disappointed by some of the minister's response. I hold to my argument that it is up to local authorities to decide whether a biometric system—or any other system—is necessary. Having carefully considered all the evidence, I am not fully convinced that stigma is really an issue for pupils or, indeed, for schools. Some parents might perceive it to be an issue, but I am not sure whether changing the existing systems in schools is the necessary response to their concerns.

I had hoped that, whether or not he felt that my amendments were proper, the minister would at least agree with me on the issue of consent. He again described parental consent as an essential prerequisite, but clearly it is not. I might agree that it would be a good idea for parental consent to be sought—we can all agree that it is good practice—but it is not always sought and it is not considered essential. If parental consent is considered to be essential, that means that there is a consequence to its not being sought. Amendment 33 intends to deal with that.

The minister says that we are talking not just about biometric systems. I agree entirely. If schools and local authorities wanted to introduce other anonymised systems that do not raise these concerns, I would be happy for them to do that. However, it is clear to me that section 8 will lead to increased use of technological systems, especially given the amount of money that the largely United States-based security firms that produce the systems are throwing into marketing them.

The minister pulled me up on my use of the phrase "corrective institution" and said that I was wrong to suggest that that is the reality. I did not suggest that that is the reality; I suggested that, if we take the attitude that, when these novel technologies come along, we will just use them without thinking and without having the kind of wider debate that Tricia Marwick spoke of, we are in danger of creating such an environment. We are in danger of doing that if we do not think carefully.

The minister also described the palm-print systems as having been well received and enjoyed. That worries me. The issue is not that people should not have fun, but that the fact that the systems are fun for children to use is not a good enough reason to use them. That is not a good enough reason to ignore the wider, longer-term concerns that have been raised.

I am disappointed that the minister has not accepted the need for some form of greater regulation and that he has not acknowledged that the principle of consent needs to be made a

prerequisite, which it clearly is not at the moment. I therefore press amendment 12.

**The Convener:** The question is, that amendment 12 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Home Robertson, John (East Lothian) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 1, Against 8, Abstentions 0.

*Amendment 12 disagreed to.*

*Amendment 33 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 33 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**ABSTENTIONS**

Grahame, Christine (South of Scotland) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

**The Convener:** The result of the division is: For 1, Against 6, Abstentions 2.

*Amendment 33 disagreed to.*

*Amendment 14 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

**AGAINST**

Barrie, Scott (Dunfermline West) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)

**The Convener:** The result of the division is: For 3, Against 6, Abstentions 0.

*Amendment 14 disagreed to.*

*Section 8 agreed to.*

### After section 8

**The Convener:** Amendment 17 is grouped with amendments 17D, 17E and 17C. I will put the questions on those amendments before I put the question on amendment 17.

**Hugh Henry:** The Scottish Executive is committed to sustainable development and I want to ensure that my department contributes to the strategy. The hungry for success programme has already made an important contribution. WWF research in North Lanarkshire showed that the ecological footprint of the school meals service was about 40 per cent smaller after the introduction of hungry for success. That is very significant.

In 2004, the Executive issued guidance on integrating sustainable development into the procurement of food and catering services. The guidance includes advice on objectives such as local sourcing, waste and packaging issues, organic food, fair trade food, and sustainability assurance schemes. It explains how to pursue those various sustainable development objectives within the parameters of European Union procurement law. We now want to go further and tie that guidance firmly to the bill. We will review and reissue the guidance. Amendment 17 will mean that local authorities have a statutory duty to have regard to the guidance when procuring food and drink, or catering services, for schools.

Some organisations—such as WWF and the Soil Association—are keen for us to introduce sustainability standards or to set targets for local, organic and unprocessed food. Patrick Harvie has already proposed that we take powers in the bill to make regulations specifying social and environmental requirements. I would argue that doing so would create difficulties under EU procurement rules. Our preferred approach is guidance, through which it will be easier to stay within EU procurement rules. Guidance can be flexible and relatively easy to revise if procurement rules change.

The guidance will allow authorities the flexibility to include the principles of sustainable

development in all that they do in this regard, but it will not risk the bill as a whole facing a challenge in court for being in breach of EU procurement law.

Our overarching priority is to ensure that healthy food is provided. Currently the market has limited capacity to provide food that meets sustainability standards. Our bill will ensure that, first and foremost, healthy food is provided by local authorities in schools. Amendment 17 will ensure that, in doing so, authorities also take account of relevant sustainability objectives.

I hope that what I have said allays the concerns the committee expressed at stage 1, and I turn now to the amendments lodged by John Home Robertson and Scott Barrie.

The main issue is the need to stay within EU procurement rules. I have already set out why I could not support amendments 6 to 10—for fear that such regulations could lead to legal and practical difficulties. Ultimately, the whole bill could be challenged and could fall.

Amendment 17C would require ministers to set guidance on specific matters, although I do not think that the first part of the amendment would have a tangible effect. We already intend to issue guidance on the nutritional aspects of food provision. More important, we will make and lay before Parliament regulations about those aspects.

Amendment 17C mentions the “economic and ecological benefit” of food and drink, but such benefits already form part of sustainable development—the Executive already acknowledges that, and I hope that John Home Robertson will accept it. Such elements will fall under the guidance issued as a result of Executive amendment 17. With that in mind, I do not see what amendment 17C would add. However, I know what is driving John Home Robertson. I have already referred to the significant improvements in North Lanarkshire, and a number of members have mentioned what has been happening in East Ayrshire. Hurlford primary school has been widely praised, and rightly so. I am keen that the work done in Hurlford primary school and other schools can continue elsewhere.

If we can get the guidance right, we can encourage people to buy good products locally. There can be huge benefits for the local economy and the local community, there can be environmental benefits, and I would argue that there can be significant nutritional benefits if children are able to consume food that has been recently harvested—food that is fresh rather than packaged and processed and transported for long distances. We accept all such points and fully support them.

Our problem is the need to stay within EU procurement rules. The guidance gives us the flexibility that would allow that to happen, but I agree entirely with what John Home Robertson seeks to do by encouraging, supporting and affirming those principles. Scott Barrie’s suggestion is entirely consistent with that approach. There is nothing in amendments 17D and 17E that would infringe EU procurement laws. Those amendments could add to what we are doing, and I am prepared to support them because they clarify what is included in the term “sustainable development” without excluding anything from the definition.

I move amendment 17.

11:30

**Scott Barrie:** In light of what the minister said, I am tempted to quit while I am ahead, because he indicated that the amendments are worthy of support. If we are serious about sustainable development and fair and ethical trading, it is important that we say that and are clear about it. I heard what the minister said in support of amendment 17. The simple amendments in my name—amendments 17D and 17E—would add to amendment 17 and ensure that future guidance includes the direction that fair and ethical trading should be taken into account. I hope that the committee will support amendments 17D and 17E.

**John Home Robertson:** I will speak to amendment 17C and will decide whether to move it in light of what the minister says when he winds up the debate.

I refer to the declaration, in my entry in the register of members’ interests, that I am a sleeping partner in a family farming business. Whatever else may happen at the dissolution of Parliament, I do not plan to wake up again as a farmer.

I welcome Executive amendment 17, which would require schools to have regard to sustainability. Like the minister, I support the principle of amendments 17D and 17E, which would add specific references to fair and ethical trading to the guidance. That is an important step forward but I suggest that, in addition to that, the committee should consider amendment 17C, which would add a reference to

“consideration of any nutritional, economic or ecological benefit”

of locally produced food. That brings into the picture consideration of the carbon footprint of food procurement, which is appropriate and timely.

As the minister said, amendment 17C is largely inspired by what I saw when a number of committee members visited East Ayrshire. I was immensely impressed by East Ayrshire Council’s



initiative, the positive engagement of staff and the enthusiasm of pupils at Hurlford primary school.

In many areas, there has been a weary acceptance that large-scale, integrated procurement is an inevitable, if depressing, consequence of EU competition rules for the public sector. To many of us, it seemed barmy that patients' meals for the new Edinburgh royal infirmary had to be prepared in Wales, but we were advised that that was the best value for money. We seem doomed to have the same sort of desiccated and unpalatable fare for schools, but East Ayrshire Council, North Lanarkshire Council and other local authorities have demonstrated that that does not need to be the case. There are ways of procuring locally produced food and drink, although we gather that there may still be some anxieties about compliance with EU competition rules.

It stands to reason that locally produced food should be fresher and healthier. It should also help children to understand and appreciate the produce of their local market gardens, dairies, fisheries and farms. There could be a significant saving in CO<sub>2</sub> emissions if we get out of the habit of trucking supplies from centralised distribution systems. It makes sense to encourage local Scottish suppliers to promote local economies and we should not forget the importance of appetising and healthy food and drinks in schools.

At Hurlford primary school, we have seen what can be done. The kids there enjoy locally produced food and engage with local producers.

There are a lot of good reasons actively to promote the local procurement of competitively priced, high-quality food and drink for schools. It is healthy, children like it, it is good for local economies, and it helps to reduce carbon dioxide emissions. That is an important point.

I anticipated that the minister would find fault with the drafting of my amendment. Ministers and officials always find fault with amendments drafted by back benchers—that has always been the case. Regardless of that, I ask colleagues to consider my suggestion. The minister has already said that he is concerned about the prescriptive nature of my amendment and that the words “must in particular” could give rise to difficulties with European law, so I invite him to consider a hypothetical question. If those words were replaced with “may” in a similar amendment at stage 3, would he be less uncomfortable with it? I will be interested to hear what he has to say before I decide whether to press amendment 17C.

**The Convener:** John Home Robertson will get an appropriate opportunity to make that decision when we reach his amendment.

**Christine Grahame:** I have gone on about EU procurement rules for a long time in relation to this place and others. Local authorities seem to see them as some kind of straitjacket. They are frightened of litigation and take far too narrow an interpretation of contracting.

John Home Robertson mentioned Wales. As I understand it, the Welsh national health service procures Welsh produce so far as is possible. It has managed to do that on a national scale. East Ayrshire has been commended, and Orkney Islands Council also follows local procurement. We are talking not just about food but about lots of different areas. As far as possible, national health service boards and local authorities should give contracts out locally and support sustainable development. That is the key expression.

I commend Hugh Henry for amendment 17, particularly proposed new section 56E(2) of the 1980 act, which refers to

“the application of the principles of sustainable development.”

It ties in with amendment 17C, to which I am sympathetic, which refers to economic as well as ecological benefit. I will wait to hear what the minister has to say about that.

I will give an example of where the system seems crazy: it is not just the Edinburgh royal infirmary. Scottish Borders Council—and the NHS—had a stationery contract with a local company for years, until it interpreted the EU procurement rules so narrowly that the business went to Paris, with the result that 36 local jobs were lost. There was value for money, but what was the cost of losing 36 skilled jobs to a small community like that? We must consider the situation in the broad—not just food and drink. We need a more energetic response to local procurement from local authorities and NHS boards.

I am pleased that the minister has picked up on paragraph 238 of our stage 1 report, which refers to the good model in East Ayrshire. The minister rightly said that there is guidance. I think that a lot of local authorities did not know about it or how to use it. Frankly, I think that a political decision needs to be taken by local authorities. I would like to see some of the large multinationals take a local authority or NHS board to court because they think it has breached EU rules in some way when, in fact, it has interpreted them in a way that sustains local jobs and stops people transporting goods and increasing carbon footprints. It is time the issue was tackled head on and someone with a proper contract in place was brave enough to take on a challenge by a multinational. I think that, if the contracts were properly drafted, any challenge would fail.

**Tricia Marwick:** I, too, welcome amendment 17, particularly proposed new section 56E(4) of the 1980 act, which provides that

“The managers must have regard to any guidance issued by the Scottish Ministers about the application of the principles of sustainable development.”

That is what we are talking about—ensuring that we have sustainable communities.

It is certainly true that food that is produced locally will be a lot fresher, and it is important, in talking about health-promoting schools, that people know where their food is coming from. For all those reasons, I support the local sourcing of produce; it is good for the children and healthier.

Several committee members have not supported amendment 11, in which Patrick Harvie modestly proposes that local authorities should

“have regard to the desirability of providing facilities for the preparation of food on the premises at which it will be consumed.”

It seems that people around this table are talking about trying to source the food locally so that it is as fresh as possible but are rejecting an amendment that would encourage the cooking of the food on the premises, which must be an awful lot healthier.

I support amendment 17 and I look forward to hearing what Hugh Henry has to say about amendment 17C.

**Patrick Harvie:** I do not want to retread ground that has been gone over, but I echo a lot of the comments that have been made. The outstanding issue on which I hope to hear something more from the minister is the extent to which amendment 17 will lead to greater progress than we have seen. As we discussed when we debated amendments 6 to 10, the Executive has issued guidance on sustainable development for a couple of years, but that guidance has not had the impact it needs to have if the practice that it advocates is to become the norm.

I would like to hear from the minister what exactly we are looking at. Are we looking at a statutory basis for existing guidance? Or are we looking at new guidance? If so, how will it be different and take things forward? How long will we have to wait for that? Will it be another two years before most local authorities start to adopt those practices? When can we judge the measure a success or a failure?

I would like a committee in the next session of Parliament to return to school meals and see that examples such as we saw in East Ayrshire are widespread rather than just a handful of examples. I do not think that we will get there by simply restating existing guidance or referring to existing guidance in new legislation. The minister must convince us that the guidance under the proposed

new section will be stronger and more proactive and that the Executive will have some involvement with local authorities in ensuring that it is put into practice.

**The Convener:** As no other member wishes to speak, I invite the minister to respond to the debate.

**Hugh Henry:** I will deal with Patrick Harvie's comments first. There will be new statutory guidance. We will reflect the current debate and be able to respond to any new initiatives. Will that make a difference? I think it will, but I cannot give a specific guarantee.

The question that Patrick Harvie poses comes down to whether the committee will accept the amendment as having the potential to make a positive contribution, or whether the committee will reject the amendment because it thinks it will make no difference. My clear view is that accepting the amendment will enable us to move forward with new regulations and the ability to respond to developments as they happen. I think that we would be cutting off our nose to spite our face if we decided to reject the amendment simply because we could not get a specific guarantee of exactly what it would do in any one area at any one time.

11:45

The removal of “must” from amendment 17C and its substitution with a less prescriptive word would make a difference. I will need to reflect on the overall context before I come to any conclusion about such an amendment, but I point out to John Home Robertson that all the benefits that are mentioned in amendment 17C will be covered in the guidance, so I am not sure what his amendment would add.

Christine Grahame and others mentioned that the ERI's food is prepared in Wales, I can confirm that the guidance will contain references to freshness. Clearly, by definition, freshness will have a local context.

I cannot give specific answers on the wider aspects of sustainability such as energy use, which is a major issue. Although local purchase might reduce the carbon footprint because it involves shorter transportation distances, many environmentalists express worries about the energy that is expended in growing food in greenhouses. I do not have sufficient expert information to be able to say which, on balance, has less of an impact on the environment. We can perhaps return to that issue at another time.

We will issue guidance, not regulations, on sustainable development, but the guidance will have the force of the bill and local authorities will

be required to have regard to it. One way or another, we are moving forward with the bill and we are addressing the key issues. Despite Patrick Harvie's reservations, I think that we will be further forward than we would be if the committee were to reject our proposals.

**The Convener:** I invite Mr Barrie to wind up the debate.

**Scott Barrie:** I do not have much more to say on sustainable development and fair trade. I will press amendment 17D.

*Amendment 17D agreed to.*

*Amendment 17E moved—[Scott Barrie]—and agreed to.*

**The Convener:** Does John Home Robertson want to move amendment 17C?

**John Home Robertson:** I will return to the issue with an amendment in a slightly different format, so I will not move amendment 17C at this stage.

*Amendment 17C not moved.*

*Amendment 17, as amended, agreed to.*

*Section 9 agreed to.*

## **Section 10—Short title and commencement**

**The Convener:** Amendment 18 is in a group on its own.

**Hugh Henry:** Amendment 18 is a minor technical amendment that has been suggested by drafting counsel. It will not make any substantive changes to the powers given or duties placed by the bill; its purpose is to remove

“or for different cases or classes of case”

from section 10(3), as that wording is unnecessary.

I move amendment 18.

*Amendment 18 agreed to.*

*Section 10, as amended, agreed to.*

*Long title agreed to.*

**The Convener:** That ends stage 2 consideration of the bill.

*Meeting closed at 11:49.*



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