

improving the health and nutrition of scotland's children

consultation on the
schools (nutrition and health promotion) (scotland) bill

HEALTHY

SCHOOLS

NUTRITION

FOOD

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Ministerial Foreword

Scotland's continued success depends on the next generation. We are working hard to give our young people every possible advantage in education so that they have every opportunity to fulfil their potential. We need our children to be as healthy and active as they can be if they are to make the most of what education has to offer.



But we have a legacy of health that does not reflect our ambitions. We know young people are the key to turning this around. We need to make sure that our children have healthy diets and good exercise habits so that they can lead healthy productive lives.

Schools play a big part in this and progress is being made. We have already revolutionised school meals, leading the UK in the drive to get high quality, nutritionally-balanced lunches on school menus. This is already having a positive effect on the health of our young people.

Our proposals are for legislation that builds on our success so far and makes sure that all pupils get the nourishment they need to succeed throughout the school day. We want to extend this beyond school meals and include what's on offer at the tuck shop or in the vending machine and ensure that schools see it as a central part of their role to help children make healthy choices through a range of actions and activities.

We are determined to continue our drive to establish healthy eating habits as part of youngsters' daily lives, starting when they are in nursery, and to encourage our youngsters to adopt healthy lifestyles. We want to make Scotland a healthier nation and we need to have children, parents and schools behind us to achieve this. Our Health Promoting Schools Unit is already working with schools across the country to help instil the healthy living ideals that are so vital to the future health and welfare of our youngsters, and our proposals seek to take this initiative further and embed in law the culture we seek in schools.

We want to make things better. We must ensure that practice is brought up to a uniformly high standard across the country. This will benefit our children's health and our nation's future.

The plans outlined in this paper contribute to that ambition.

We look forward to hearing your views.

PETER J PEACOCK

Minister for Education and Young People

ANDY KERR

Minister for Health and Community Care





Introduction

1. This document invites your views about proposed new legislation, the Schools (Nutrition and Health Promotion) (Scotland) Bill¹. We plan to introduce this Bill to Parliament in Autumn 2006 and, before we draft it, we want any comments you may have on our proposals. We are inviting written responses to the consultation paper by 31 July 2006. We would be grateful if you would use the attached consultation questionnaire provided to tell us which questions or parts of the consultation paper you are responding to, as this will aid our analysis of the responses received.

Summary

2. Our ambition is for everyone in Scotland to enjoy a healthy diet, one which is rich in fruits and vegetables and starchy foods like potatoes and rice, with relatively low amounts of fat, sugar and salt. Based on the advice of the World Health Organisation, the Scottish Executive's health improvement policy aims to encourage everyone in Scotland to eat five portions of fruit and vegetables every day and to reduce their intake of fat, sugar and salt. Many people in Scotland face serious health risks because they do not eat a healthy diet and because they are not active enough. If we are to make a difference, and give our children the best possible start in life, we must provide them with opportunities and experiences that encourage them to adopt healthy lifestyles which can be carried over into adulthood and which, ultimately, they can pass on to their own children. Such a radical change will not be achieved overnight and will require action on a number of fronts. This proposed Bill is one important step that we can take to improve the health of the nation. This legislation will help to improve the health of young people in Scotland by ensuring that food and drinks supplied in schools are healthy and by ensuring that all local authority schools are health promoting environments. The proposed legislation will ensure that the importance of adopting a healthy lifestyle is embedded in the culture of our schools, and that health and well-being, generally, are valued highly by children, parents² and schools.

3. It is proposed that the Bill will:

- place a duty on local authorities to ensure that food and drinks supplied in local authority schools³ meet defined nutrient standards. It is proposed that children attending independent schools where their places are arranged, or funded, by a local authority are supplied with food and drinks which meet the same defined nutrient standards as they would receive were they attending a school managed by the local authority;

1 This is the Bill title that is proposed, although this could be changed.

2 Throughout this document, the term 'parents' also includes carers.

3 The eight grant-aided schools will also be required to ensure that food and drinks provided meet defined nutrient standards.



- place a duty on local authorities to promote uptake of school meals, in particular free school meals, and a duty to ensure that those receiving free school meals can do so anonymously, as far as is practicable;
- within defined nutrient standards, give local authorities the power to provide children, either free of charge or with a charge, with drinks, fruit, vegetables, bread or cereal based snacks, at any time of the day;
- place a duty on Scottish Ministers and local authorities to endeavour to ensure that all local authority schools are health promoting environments.

The need to improve the health of Scotland's children

4. An unhealthy diet and lack of exercise pose serious health risks for many young people in Scotland today. More than a quarter of boys and a third of girls fall short of the amount of activity required for their health. Latest figures show that over 65% of men and 59% of women are overweight or obese and that rates are rising rapidly in children. During school year 2004-05, 21.5% of children in Primary 1 (aged 4-5 years) were identified as being overweight, 9.0% obese and 4.4% severely obese. Older children had higher levels of obesity. Of those aged 11-12 years, 34.1% were overweight, 19.4% were obese and more than one in 10 (11.2%) were severely obese. Obesity is the major cause of increased levels of type 2 diabetes, coronary heart disease and stroke in later life. More than 150,000 of the Scottish population have diabetes and this is likely to double over the next 10-15 years. Some half a million people are thought to have coronary heart disease⁴.

Children's diet

5. Health experts recognise that diet and health are inextricably linked. In children, diet plays an essential role in growth, well-being and educational performance. Improving children's diet will, therefore, have a major impact on their health, in particular through the avoidance of diseases such as diabetes, coronary heart disease and cancer. It also has a part to play in reducing obesity and could pay dividends in terms of increased educational attainment and improved health in later life.

6. Low fruit and vegetable consumption is well-documented as a key risk factor in chronic diseases, such as cancers and cardiovascular disease and the 'five-a-day target' is now well known. However, the 2003 Scottish Health Survey showed that on average children aged 5-15 consumed only 2.6 portions of fruit and vegetables per day. Only 12% consumed the

⁴ SOURCES: Scottish Health Survey 2003; ISD Scotland Information Services (12 December 2005), NHS National Services Scotland

recommended amount of five a day or more, while the same proportion consumed none at all. It is of concern that as children get older fruit consumption decreases, with a significant drop around the age of 12.

Children's physical activity

7. Regular physical activity is vital for healthy growth. Being active from an early age can:
- reduce the risk factors for heart and circulatory disease;
 - help prevent weight gain;
 - promote positive mental health.

There is also evidence for the role of physical activity in improving social development. There are many positive links between physical activity and academic achievements – such as the ability to concentrate, lower levels of stress and anxiety and better classroom discipline.

8. For children, the World Health Organisation supports the guideline of at least one hour of cumulative moderate activity on most days of the week. One hour a day is considered the minimum needed to provide direct health benefits, learn and practise a wide range of activities and live actively as a daily habit. The 2003 Scottish Health Survey showed that at present 26% of boys and 37% of girls (aged 2-15) were not meeting these recommendations. There is also a particular problem with adolescent girls, whose activity levels tend to decline sharply from age 10 onwards.

The policy background

9. Life circumstances, as well as individual life styles, have a powerful impact on health, and life expectancy in the most deprived areas of Scotland can be as much as 10 years lower than in the most affluent. Tackling poor health is a priority for the Scottish Executive. In 2003, a wide-ranging programme of action to improve health and reduce health inequalities was set out in *Improving Scotland's Health: the Challenge*⁵. This contained an ongoing commitment to the 1996 Scottish Diet Action Plan, *Eating for Health – a diet action plan for Scotland*.

10. The Scottish Diet Action Plan had recommended that nutrient standards for school meals be considered and nutrient-defined standards for school meals in Scotland were introduced in 2002 with the publication of *Hungry for Success – a whole school approach to school meals in Scotland* which is discussed below. An updated delivery strategy, *Eating for Health: Meeting the Challenge*, was published in 2004.

⁵ Scottish Executive publications can be accessed on the website: <http://www.scotland.gov.uk/Home>



11. The positive role schools can play in promoting healthy lifestyles has been fully recognised. Policy in this area has focused on a number of key areas:

- the nutritional value and uptake of school meals;
- the extent to which school pupils can take part in physical activity;
- mental and emotional well-being;
- the extent to which schools promote healthy lifestyles across their full range of activities.

School meals

12. In 2001, Scottish Ministers announced plans to improve the provision, presentation and nutritional content of school meals for all Scotland's children as part of the Executive's drive to improve the health and well-being of children in Scotland. The drive for improvement included the establishment of a short-life expert panel to make recommendations that would form the framework of national strategy.

13. The expert panel produced its final report, *Hungry for Success*, in 2002. The report introduced national, nutrient-defined standards for school meals in Scotland and a strategy for delivering the standards, improving uptake of school meals and minimising any stigma associated with taking free school meals. The strategy set out in *Hungry for Success* is one of a partnership between children/young people, school, family and the community in offering access to attractively presented food of an appropriate nutrient composition within school and in developing a wider understanding of food, nutrition and healthy choices and eating habits within and outwith school and throughout life. It is a whole school approach to school meals. Guidelines to help implement the nutrient standards have been issued and local authorities, schools, suppliers, caterers and other stakeholders have responded positively to implementing them.

14. As an additional measure to add value to the implementation of *Hungry for Success* and to help educate and instil healthy eating habits at an early age, the Scottish Executive funded the provision of **free fruit in school** to all children in Primary 1 and 2. Provision of milk in schools by local authorities is also subsidised by the Scottish Executive through the School Milk Subsidy Scheme.

15. HM Inspectorate of Education (HMIE) published an evaluation of the implementation of *Hungry for Success* in 2005. The report was mainly positive about progress made but further action was recommended to:

- extend the good practice identified within the report and establish consistently high quality provision of school lunches across all local authorities and schools;
- further improve school meal uptake and ensure that pupils make healthy choices;
- further develop partnerships with parents on matters relating to food in schools;
- maximise anonymity for recipients of free school meals;
- introduce rigorous self-evaluation of action to improve food in schools.

16. The rate of uptake for school meals is 47% of all pupils⁶. In 2005, 19% of all pupils were entitled to free school meals, and some 67% of those took a free school meal on the day of the survey. This means that about 12% of all pupils took free meals. There is considerable variation across local authorities in the uptake of free school meals. For example, at the secondary stages the percentage of those present and registered who took a free school meal on the day of the survey ranged from 56 to 100% across local authorities.

17. Building on the success of healthy eating initiatives in schools, the Executive has been developing a similar approach for our youngest children. *Nutritional Guidance for Early Years: Food Choices for Children aged 1-5 in Early Education and Childcare Settings* was published in January 2006 and provides advice on a range of issues including good eating habits, nutrition, menu planning and wider issues such as dental health and special diets. The *National Care Standards for Early Education and Childcare up to the Age of 16* include a requirement that children have access to a well-balanced and healthy diet and have opportunities to learn about healthy lifestyles. Pre-school providers and other early years settings are inspected against these standards by the Care Commission.

Physical activity in schools

18. Scotland is one of the few countries in the world to have put in place a national strategy to raise levels of physical activity. *Let's Make Scotland More Active* sets minimum targets for daily moderate physical activity in adults and children. Within the context of health promoting schools major initiatives have been introduced, including a review of physical education in schools and the introduction of **Active School Co-ordinators** in every school cluster in Scotland.

⁶ School Meals in Scotland, January 2005; Scottish Executive Statistical Bulletin ISSN 1479-7569



19. Active School Co-ordinators help schools to provide opportunities to pupils to be active every day either on the way to and from school, at break times or in after-school activities and clubs. In addition to these initiatives, schools and local authorities have a variety of tools at their disposal to promote physical activity. These include:

- an extensive network of active travel co-ordinators to encourage alternative modes of school transport from private car use;
- an extensive network of cultural coordinators to provide a range of programmes including those that can increase physical activity (e.g. dance and drama);
- before-school and after-school clubs that can offer a range of physical activity opportunities;
- support through the *Public Transport Fund* for cycling/walking projects or projects with a large cycling/walking element;
- support to implement cycling, walking and safer streets initiatives, including *Safer Routes to Schools* projects;
- support from the national development officer for physical activity based within the Scottish Health Promoting Schools Unit (described below);
- YDance in-school professional development programme for teachers;
- Playscotland training resources for playground supervisors.

20. In addition, there is a target of a minimum of 2 hours of physical education per week for schoolchildren, and action is underway to recruit more physical education teachers. The Scottish Executive has also funded Learning and Teaching Scotland to examine the approach to physical activity in early years and pre-school. This work will continue during 2006-07.

Mental and emotional well-being

21. Good mental and emotional health is a fundamental and underpinning component of positive health and well-being. There are strong links between the mental and emotional health of children and their personal and social development and academic performance. Approximately 10% of children and young people in Scotland experience mental health problems which are so substantial that they have difficulties with their thoughts, their feelings, their behaviour, their learning and their relationships, on a day-to-day basis. The Scottish Executive's *National Programme for Improving Mental Health and Wellbeing* has, as one of 6 priority areas for action, "improving mental health and well-being in children and young people".

Health promoting schools

22. In addition to the specific initiatives on school meals and physical activity discussed above, schools can play an important wider role in health promotion. Key national policies, outlined in *Improving Health in Scotland: The Challenge, the National Priorities in Education and Education for Excellence*, all give schools, working in close partnership with their communities and key services, an important role in securing the improvements in health and education that Scotland needs and deserves.

23. The Scottish Executive has been active in encouraging the development of holistic approaches to the education, health and care of Scotland's children and young people. To help create a focus for such development, we announced our aim early in 2002 that every Scottish school should become a **health promoting school** by 2007. The **Scottish Health Promoting Schools Unit** (SHPSU) was established to support schools in achieving this target. SHPSU is promoting the implementation of a whole school approach to improving the physical, social, spiritual, mental and emotional well-being of all pupils and staff. This ensures not only that health education is integral to the curriculum but also that school ethos, policies, services and extra-curricular activities foster mental, physical and social well-being and healthy development.

24. We now want to go further and state in law that a central purpose of schooling is health promotion in a wide sense and make this a clear legal duty on Scottish Ministers and local authorities. We will take powers to issue regulations to enable Scottish Ministers and the Scottish Parliament to take such steps as they consider necessary to direct action in response to changing circumstances.

25. The SHPSU website⁷ contains a wide range of information and resources to help school practitioners to take positive steps towards better health and well-being for everyone in their schools.

26. The concept of the health promoting school is defined by the World Health Organisation as follows:

“A health promoting school is one in which all members of the school community work together to provide children and young people with integrated and positive experiences and structures, which promote and protect their health. This includes both the formal and the informal curriculum in health, the creation of a safe and healthy school environment, the provision of appropriate health services and the involvement of the family and wider community in efforts to promote health.”

⁷ www.healthpromotingschools.co.uk



27. This whole school approach to health promotion is reflected in a framework for health promoting schools, *Being Well Doing Well*, published by SHPSU in February 2004. The Educational Institute of Scotland has published a resource for teachers in schools, *Putting teachers at the heart of health promoting schools*⁸, which reinforces further the value of a whole school approach to health promotion. In addition, as part of HMIE's *How good is our school?*⁹ series, the document, *The Health Promoting School*, published in November 2004, provides schools with a self-evaluation tool for evaluating their effectiveness towards being a health promoting school, as a component of being an excellent school.

28. The HMIE document, *The Journey to Excellence*, published in March 2006, emphasises the importance of ensuring the physical, social, spiritual, mental and emotional health and well-being of all children, young people and staff and states that one aspect of an excellent school is one where:

“Healthy living is built into the school’s culture. The work of the school reflects in all that it does the health needs of the community and health issues which impact on the lives of young people. Staff perceive health education and promotion as a high priority.”

29. In order to support consistent approaches to health promotion in schools throughout Scotland, we have developed a national accreditation framework to endorse local accreditation arrangements which meet nationally-agreed core criteria. In order to receive national endorsement, local arrangements for accrediting health promoting schools need to consider the extent to which a school:

- has values and aims that are consistent with *Being Well – Doing Well*
- is committed to embedding good practice in all of the core criteria within the six characteristics of health promoting schools, namely:
 - curriculum, learning and teaching
 - personal, social and health education programmes
 - partnership working
 - ethos
 - environment, resources and facilities
 - leadership and management.

⁸ Available from www.eis.org.uk

⁹ HMIE documents can be accessed on the website: <http://www.hmie.gov.uk/>

The new statutory duty we propose will require schools to eliminate practice which is detrimental to good health; schools will be expected to consider how they can improve the short and long term health of their pupils.

30. The publication, *A Curriculum for Excellence*, sets out the Scottish Executive's vision for transforming Scottish education by 2007. It seeks to establish the values, purposes and principles of education in Scotland for children between the ages of 3 and 18. The aspiration is to enable all children to develop their capacities as successful learners, confident individuals, responsible citizens and effective contributors to society.

31. Children will not be able to develop these capacities to the full unless they are healthy. The paper from the Curriculum Review Programme Board, published in March 2006, *A Curriculum for Excellence: Progress and Proposals*, outlines proposals for curriculum areas, one of which includes, "health and well-being". When developed, this proposal for organising learning in schools will emphasise further the commitment to improving the health and well-being of Scotland's children and young people.

Legislative background

32. The Education (Scotland) Act 1980 gives local authorities the power to provide milk, meals and other refreshments to pupils at their schools. Local authorities must charge for these and must charge each pupil the same price for the same food and drinks. They must also provide appropriate facilities for pupils to eat food and drinks brought by them into the school (e.g. the dining hall being made available to pupils who bring packed lunches). Local authorities must provide, free of charge, sufficient milk, meals and other refreshments in the middle of the day according to the eligibility rules set out in Annex A.

33. The Standards in Scotland's Schools etc. Act 2000 creates a new statutory framework for school education that requires local authorities and schools to plan, monitor and report on improvement in education. In particular:

- Scottish Ministers and local authorities are required to **endeavour to secure improvement** in the quality of education in Scotland's schools;
- Scottish Ministers – following consultation – **give strategic direction** to the education system by publishing national priorities and measures of performance for education in Scotland;
- local authorities will publish annual statements of **local improvement objectives** which show how these national priorities will be implemented locally and will also be required to report each year on their success;



- each school will be required to have a **School Development Plan** – linked to the local authority's statement of objectives – which is prepared following local consultation and also prepare an annual report on progress against the plan.

This framework devolves responsibility for finding the best solutions to local level and empowers teachers and schools to meet their responsibility for achieving improvement.

Content of the Schools (Nutrition and Health Promotion) (Scotland) Bill

34. Strategies to improve the health of children and young people have been particularly well received and are being implemented across Scotland. Our policies to improve health have received endorsements from the World Health Organisation and the European Commission as the example for other countries to follow. The Executive is now ready to go further and to support these policies with legislation. This legislation will build on the momentum established already, will ensure that practice is brought up to a uniformly high standard across the country, and will reinforce our commitment to improving the health of the people of Scotland.

35. The proposed Bill reflects the importance that the Executive places upon the role of schools in providing a health promoting environment for pupils and staff and the benefits of healthy eating to pupils. The Bill covers four overlapping health related areas. It aims to:

- place a duty on local authorities to ensure that food and drinks provided by them in local authority schools¹⁰ meet defined nutrient standards. It is proposed that children attending independent schools where their places are arranged, or funded, by a local authority are supplied in their schools with food and drinks which meet the same defined nutrient standards as they would receive were they attending a school managed by the local authority;
- place a duty on local authorities to promote uptake of school meals, in particular free school meals, and a duty to ensure that those receiving free school meals can do so anonymously, as far as is practicable;
- within defined nutrient standards, give local authorities the power to provide children, either free of charge or with a charge, with drinks, fruit, vegetables, bread or cereal based snacks, at any time of the day;
- place a duty on Scottish Ministers and local authorities to endeavour to ensure that all local authority schools are health promoting environments.

Each of these provisions is described in more detail below.

¹⁰ The eight grant-aided schools will also be required to ensure that food and drinks provided meet defined nutrient standards.

Setting wider nutrient standards

36. We propose that the Bill will place a duty on local authorities to ensure that food and drinks provided by them in local authority schools meet **defined nutrient standards. A short-life expert working group will be established to set nutrient standards for all food and drinks provided in schools.** The legislation will also apply to the eight grant-aided schools. Local authorities will also be required to ensure that children for whose school education they are responsible and who attend an independent school where the placement is arranged, or funded, by the local authority, are supplied with food and drinks which meet the same nutrient standards which apply to schools under the management of the local authority.

37. Defined nutrient standards for food and drinks provided by schools will go beyond those in place at present. The pre-school sector is included in the scope of the Bill because we recognise the importance of encouraging young children to adopt healthy eating habits at an early age. Helping young children to make healthy choices should make it easier for them to adopt healthy eating patterns when they go to primary school. The majority of pre-school children who attend local authority centres do so on a part-time basis and do not receive lunch. However, we believe it is important that the small number who do receive meals should be given food and drinks of high nutrient standards. We therefore propose that the duty will apply to food and drinks (including snacks) provided in local authority centres. The duty will extend to pre-school partner providers where food and drinks are part of the contract with the local authority.

38. Children and young people should not be disadvantaged nutritionally where an education authority arranges for the child or young person to be educated in a school not under the management of the authority and, therefore, the legislation will ensure that they are supplied with food and drinks which meet defined nutrient standards.

39. We know that some parents prefer that their children have packed lunches, and that some children themselves may prefer packed lunches. We intend to issue advice to parents and pupils about how they can ensure that packed lunches are healthy and nutritious.

Promoting uptake of school meals

40. As noted in paragraph 16, the rate of uptake for school meals is 47% of all pupils¹¹. In 2005, 19% of all pupils were entitled to free school meals, and some 67% of those took a free school meal on the day of the survey. This means that about 12% of all pupils took free meals. The proposed legislation will, in line with the *Hungry for Success* recommendations, require local authorities to promote an increase in uptake where this is needed.

¹¹ School Meals in Scotland, January 2005; Scottish Executive Statistical Bulletin ISSN 1479-7569



41. We are aware that one of the reasons why there is not a greater uptake of free school meal entitlement is that some pupils and parents may feel uncomfortable about being seen to be taking free school meals. 33% of mainstream schools had an anonymised system for providing free school meals in January 2005. We intend to improve on this by requiring local authorities to ensure that the identities of those taking free school meals are not divulged, particularly to other pupils, and that those taking free school meals cannot be identified through the arrangements schools make for free school meals. In effect, we wish to build on the good practice that exists already to ensure that those children taking free school meals and their families remain anonymous in the system, as far as practicable. We are also keen to ensure that access to free school meals is straightforward for all families who are entitled to them.

Power to provide snacks and drinks

42. We propose to introduce through the legislation a new power to enable local authorities, if they wish, to provide children in schools, either free of charge or with a charge, with drinks, fruit, vegetables, bread or cereal based snacks, at any time of the day. These food and drinks will be required to meet defined nutrient standards.

43. This power will, for example, enable local authorities to offer all children in their schools free breakfasts or snacks, or to target certain children for free breakfasts or snacks, or to offer breakfasts and snacks and to charge for them. The purpose of this power is to increase the flexibility that local authorities have to provide children with food and drinks in addition to lunches. However, what is provided should be part of a nutritionally healthy package.

Health promoting environments

44. Our proposed Bill will also go beyond nutrition in schools by placing a new duty on Scottish Ministers and local authorities to endeavour to ensure that all local authority schools are health promoting environments, actively contributing to the physical and emotional health and well-being of school pupils and staff. For example, this will build on the good practice already established in promoting physical activity in schools and help to maintain the pace of progress. Grant-aided schools will also be required to be health promoting environments. This duty will affirm our commitment to ensuring that schools play their part in improving the health of children and, ultimately, the people of Scotland.

45. There is a solid foundation of work on which to build and develop and the proposed new duty will affirm our intention and commitment to improving, in the broadest sense, the health of Scotland's children and young people. This further action will also help to sustain and develop opportunities for local food sectors. National guidance on food procurement for local authorities was revised in 2004 and as a result, more local and Scottish food suppliers can compete effectively for contracts to provide local authorities with high quality, fresh healthy food for

schools. A number of local authorities are benefiting from these arrangements and engaging in highly effective partnerships with local food suppliers. By establishing food standards for schools in legislation, we are embarking on a long-term commitment to food quality in schools. This should encourage local businesses to consider how they might best respond to what will be a continuing demand for fresh healthy food within the public sector.

Financial implications of the Bill

Setting wider nutrient standards

46. Significant funding has been provided via the National Priorities Action Fund to aid the implementation of the *Hungry for Success* guidelines, including the adoption of the Scottish Nutrient Standards for School Lunches by all local authority schools. £63.5m was provided for *Hungry for Success* in 2002-05, and funding of over £70m will be made available for *Hungry for Success* through 2006-08.

47. The HMIE report, *Monitoring the Implementation of Hungry for Success*, published in 2005, found that local authorities are already making good progress towards achieving the nutrient standards in primary and special schools. The target implementation date for the implementation of *Hungry for Success* recommendations in secondary schools is December 2006.

48. Given that *Hungry for Success* funding is already in place up to 2008, we do not expect that placing a duty on local authorities to ensure that food supplied in schools meets the nutrient standards will require additional funding.

49. In the pre-school sector, all providers are already required to meet the requirements of the *National Care Standards for Early Education and Childcare* up to the age of 16 and the additional cost of meeting statutory standards should be negligible in terms of the cost of food and drinks provided. In partner providers the costs of food and drink are normally passed on to parents. The Executive is currently considering how pre-school centres providing meals can be supported through the provision of training for staff with responsibility for meals and menu planning.

Promoting uptake of school meals

50. The total net expenditure by local authorities on all school meals in 2004-05 was £59.5m, with free school meal provision costing in the region of £30.6m of that. The average cost per meal in 2004-05 was £1.77, though large variations in costs exist across local authorities.

51. By encouraging uptake, the overall cost for free school meals may increase. However, there may be scope for these additional meals to be absorbed within the current provision of school meals which would therefore not result in an increase in total cost (i.e. meals prepared by caterers which were not actually consumed).



52. The capacity of school catering facilities to cope with increased numbers is not fully quantified. In many cases local authorities will be unable to meet increasing demand for meals without further investment being made into expanding catering facilities or by holding more than one sitting for lunch each day. The Executive is currently supporting the largest ever investment in school buildings and that investment will help accommodate any extra demands arising from these measures.

53. Whilst the Executive ensured that anonymous delivery of free school meal provision was included in the *Hungry for Success* recommendations, not all schools have chosen to use the funding for this purpose. The latest School Meals Census highlights that around 28% of primary schools and 63% of secondary schools currently had anonymised systems for free school meals in January 2005. It is unclear whether local authorities have extended this provision since the survey was undertaken.

54. The cost of implementing anonymised systems for the delivery of free school meals will vary according to the system local authorities choose to implement. However, these costs should be met from existing funding available through *Hungry for Success*, as many have already done, and the *Modernising Government Fund*. Local authorities may also consider seeking a contribution to these costs from caterers as evidence suggests that these systems lead to an increase in the uptake of meals, thereby generating additional revenue.

Free school meal eligibility

55. Powers are already in place to deal with entitlement issues and Scottish Ministers may choose to use these powers as and when appropriate. We have explored the option to provide universal school meals at length, but we do not consider this an effective way in which to achieve our goals of improvements in diet and health and at the same time target inequalities. The cost of extension of free school meals to all would be in the range of £177m-£222m and that is only for the provision of the meals, without taking account of any additional capital investment that would be required to extend services to this extent.

56. Instead, resources can be used much more effectively by targeting the children and families most in need, and to this end Ministers are currently looking at what options exist to extend free school meal provision. We are in dialogue with various organisations about the options and priorities that Scottish Ministers may choose to support in due course.

Power to provide snacks and drinks

57. We propose that the Bill will enable local authorities to provide children, either free of charge or with a charge, with drinks, fruit, vegetables, bread or cereal based snacks, at any time of the day at their discretion using funding already available.

Schools as health promoting environments

58. A health promoting school is one which adopts an overall ethos of health promotion as well as taking forward key national policies such as *Hungry For Success* and *Active Schools*. Schools become health promoting by a process of continuous improvement and so there is no additional cost to becoming a health promoting environment.

Consultation

59. We welcome your views on this proposed new legislation. A consultation response form is provided below setting out the particular questions we would like to hear views about. Any other comments made are also welcome.

60. The consultation period will run from 3 May to 31 July, 2006. Following this, Scottish Ministers will have a Bill prepared for introduction into the Scottish Parliament, most likely in autumn 2006.

61. Please send your response to the following address or by email to: schoolnutrition@scotland.gsi.gov.uk by 1 August 2006.

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Fax: 0131 244 7943

Confidentiality

62. Copies of all responses received will be placed in the Executive library and will be available to the general public. Responses will also be made available to the public on the Scottish Executive website. The view expressed by respondents may also be quoted or referred to in any future review of responses. If you do not wish your responses to be made public, please indicate clearly that all or part of your response is to be treated as confidential. As a public body however, the Scottish Executive is subject to Freedom of Information legislation and so any responses submitted will be subject to that legislation. We will count confidential responses in any statistical analysis and your views will of course be taken into account in the same way as for non-confidential responses.



Electronic publication and additional copies

63. This publication is available via the Internet at: www.scotland.gov.uk. Additional paper copies of this consultation paper are available from the address above.



RESPONDENT INFORMATION FORM: A CONSULTATION ON THE SCHOOLS (NUTRITION AND HEALTH PROMOTION) (SCOTLAND) BILL

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: _____

Postal Address: _____

1. Are you responding: (please tick one box)

(a) as an individual? go to Q2a/b and then Q4

(b) **on behalf of** a group/organisation? go to Q3 and then Q4

INDIVIDUALS

2a. Do you agree to your response being made available to the public (in the Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address



ON BEHALF OF GROUPS OR ORGANISATIONS:

3. The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

CONSULTATION QUESTIONS

1. Do you agree that local authorities should be under a duty to ensure that food and drinks which they provide in their schools, including nurseries, meet defined nutrient standards?

Yes No

Comment (add separately if required)

2. Where children are attending independent schools, and where the provision of food and drinks are arranged or funded, by a local authority, should the food and drinks meet defined nutrient standards?

Yes No

Comment (add separately if required)

3. Should local authorities be under a duty to promote uptake of school meals in their schools, including free school meals?

Yes No

Comment (add separately if required)

4. Should local authorities be under a duty to ensure that those taking free school meals can do so anonymously, as far as is practicable?

Yes No

Comment (add separately if required)

5. Should local authorities have the power to provide children in local authority schools with free drinks, fruit, vegetables, bread or cereal based snacks, which meet defined nutrient standards?

Yes No

Comment (add separately if required)



6. Should there be a duty on Scottish Ministers and local authorities to endeavour to ensure that all local authority schools are health promoting schools?

Yes No

Comment (add separately if required)

7. Any other comments? (add separately if required)



THE SCOTTISH EXECUTIVE CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general, Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Executive encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same. Typically, Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Executive website enabling a wider audience to access the paper and submit their responses.

Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD, telephone 0131 244 4565).

All Scottish Executive consultation papers and related publications (e.g. analysis of response reports) can be accessed at our website: <http://www.scotland.gov.uk/consultations>

The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decisions to be made between alternative policy proposals;
- be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.



While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments which should be directed to the relevant public body.



ANNEX A

Eligibility Criteria for Free School Meal Entitlement

Scottish school children's entitlement to free school meals is currently linked to the benefits system. Until 2003 free school meal eligibility was mainly linked to income support. In 2003, a system of tax credits was introduced and benefits such as income support are being phased out gradually. It was therefore necessary to change the eligibility criteria for free school meals to reflect this change. The School Meals (Scotland) Act 2003 was introduced to ensure that Scottish children were not disadvantaged by the tax credit changes and ensure that, as far as possible, the status quo was maintained in relation to free school meals entitlement. This was done by linking entitlement to receipt of maximum Child Tax Credit (subject to an income threshold) **but not** Working Tax Credit. The income threshold is updated annually.

Last year's annual income threshold determining entitlement to maximum Child Tax Credit was £13,910. Since 6 April 2006 the annual income threshold has been £14,155. This means that the eligibility criteria for free school meals during 2006-07 are as follows:

From 6 April 2006, children are eligible for free school meals if they or their parents are in receipt of one of the following:

- Income support (IS)
- Income-based Job Seeker's Allowance (JSA)
- Child Tax Credit (CTC), but not Working Tax Credit (WTC), with an income of less than £14,155.

Children will also be eligible if their parents receive the following:

- Support under Part VI of the Immigration and Asylum Act 1999.

The Education (School Meals) (Scotland) Act 2003 was designed to maintain existing eligibility for free school meals as far as possible. Parents who were eligible for free school meals before 2003 should still be entitled to free school meals under the new criteria, unless their circumstances have changed.



ANNEX B

List of consultees

All Education Authority Schools
 Aberlour Child Care Trust
 Action of Churches Together in Scotland
 Association of Directors of Education
 in Scotland
 Association of Directors of Social Work
 Association of Head Teachers in Scotland
 Barnardo's Scotland
 Beaconhurst
 Black Community Development Project
 Black and Minority Ethnic Elders Group
 Blackford Brae Project, Edinburgh
 British Council Scotland
 British Deaf Association Scotland
 British Dietetic Association
 British Heart Foundation
 Capability Scotland
 CARE for Education
 Care Commission
 Careers Scotland
 Catholic Education Commission
 Catholic Headteachers Association of Scotland
 Catholic Parliamentary Office
 CBI Scotland
 Central Scotland Racial Equality Council
 CERES
 Centre for Race Equality in Scotland
 Child Poverty Action Group
 Childline Scotland
 Children First
 Children in Scotland
 Church of Scotland Committee on Education
 Citizen Advice Scotland
 Clerk of the Committee (Education)
 Commission for Racial Equality
 Community Health Partnerships
 Copyright Libraries' Agency
 Corporate Director of Education and
 Community Services
 COSLA
 Deaf Blind Scotland
 Directors of Education
 Directors of Public Health
 Disability Rights Commission
 Edinburgh and Lothians Racial Equality Council
 Education Otherwise
 Educational Institute of Scotland
 ENABLE
 Equal Opportunities Commission
 Equality Network
 Evangelical Alliance (Scotland)
 Fitness Scotland
 Forestry Commission
 Forum on Scottish Education
 General Teaching Council for Scotland (GTC)
 Gingerbread
 Grampian Racial Equality Council
 Govan Law Centre
 GTC Scotland
 Headteachers' Association of Scotland
 Health Councils
 Health Promotion Managers
 Health Scotland
 Help the Aged
 Highland Home Educators
 HM Inspectorate of Education
 Home Education Advisory Service
 Human Rights Centre
 Inclusion Scotland
 Independent Schools
 Information Commissioner
 Institute of Leisure Management
 Jordanhill School Board of Managers
 Learning and Teaching Scotland

Living Streets	Scottish Children's Reporter
Local Authority Catering Managers	Scottish Civic Forum
LGBT Youth Scotland	Scottish Consumer Council
MEP Alliance of Liberals and Democrats for Europe	Scottish Council on Deafness
MEP European People's Party (Christian Democrats) & European Democrats	Scottish Council of Independent Schools
MEP Greens/European Free Alliance	Scottish Council of Jewish Communities
MEP Party of the European Socialists	Scottish Council for Research in Education
MEP SNP	Scottish Disability Equality Form
NASUWT Scotland	Scottish Dyslexia Trust
National Autistic Society Scotland	Scottish Enterprise (Food and Drink)
NCH Action for Children Scotland	Scottish Food and Drink Federation
NHS Board Chief Executives	Scottish Gypsy/Travellers' Association
One Parent Families Scotland	Scottish Health Promoting Schools Unit
One Plus	Scottish Inter Faith Council
Out of School Hours Childcare and Learning	Scottish Natural Heritage
Outright Scotland	Scottish Network for Parental Involvement
Parent Network Scotland	Scottish Out of School Care Network
Parent to Parent Tayside	Scottish Parent Teacher Council
Parentline Scotland	Scottish Qualifications Agency
Play Scotland	Scottish Refugee Council
Professional Association of Teachers	Scottish Retail Consortium
Ramblers Association of Scotland	Scottish School Board Association
RNIB	Scottish Schools Ethos Network, University of Edinburgh
RNID	Scottish Secondary Teachers' Association
Save The Children	Scottish Social Services Council
School Board Officers Network	Scottish Society for Autism
Schoolhouse HEA	Scottish Support for Learning
Scotland's Commissioner for Children and Young People	Scottish Swimming
Scotland's Health at Work	Scottish Youth Parliament
Scottish Athletics	SCVO
Scottish Arts Council	St. Vincent's School Board
Scottish Association for Mental Health	Scottish Youth Parliament
Scottish Association for Sign Language Interpreters	Sense Scotland
Scottish Catholic Education Service	SPICe
Scottish Child Law Centre	Sportscotland
	STEP
	STUC
	Tayside Racial Equality Council



The Anti-Bullying Network
The British Library
The Paths for All Partnership
The Prince's Trust
Voluntary Health Scotland
West of Scotland Racial Equality Council
West of Scotland Seniors' Forum
Young People Speak Out
Young Scot
Youth Scotland
Youthlink Scotland



SCOTTISH EXECUTIVE

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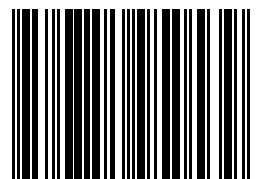
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