



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Proposed Healthy Eating in Schools Measure Committee

Proposed Healthy Eating in Schools (Wales) Measure 2008

Stage 1 Committee Report
October 2008

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Proposed Healthy Eating in Schools Measure Committee

Committee Membership

Kirsty Williams (Chair)	Welsh Liberal Democrats	Brecon and Radnorshire
Dai Lloyd	Plaid Cymru	South Wales West
Irene James	Labour	Islwyn
Angela Burns (11 June 08 -)	Welsh Conservative Party	Carmarthen West and South Pembrokeshire
Jeff Cuthbert	Labour	Caerphilly
Alun Cairns (30 April - 11 June 08)	Welsh Conservative Party	South Wales West

Summary

1. We welcome the strong support that exists for improving healthy eating generally and note that the overwhelming majority of those giving evidence recognised the significance of schools in moving forward this agenda.
2. We share the concern raised in evidence about the long term health effects of poor diet and nutrition. We accept the need to address the rising levels of obesity in Wales and believe that educating children about the benefits of healthy eating along with the provision of nutritious school meals will provide an effective starting point. In addition, we accept that good diet and nutrition have a positive effect on the behaviour of children, their ability to learn and to progress positively through school.
3. We acknowledge the broad support for the principles of the proposed Measure, and note the Minister's evidence that its overall objectives in no way conflict with those of the Assembly Government's *Appetite for Life*. We welcome the commitment demonstrated by many stakeholders thus far in improving healthy eating in schools. We support and endorse the positive work being taken forward through *Appetite for Life* and recognise that it will make an important contribution to taking forward the healthy eating agenda. However, while many schools have reportedly embraced this healthy eating agenda we share the concerns of some of those giving evidence that there is significant variability in arrangements for improving healthy eating across schools in Wales. We believe that all children and young people deserve a healthy start in life and that the proposed Measure will provide a suitable framework within which consistency and equity can be achieved.
4. On the basis of the above, we believe that a statutory approach to improving healthy eating in schools is warranted and we therefore support the general principles of the proposed Measure. Notwithstanding this, we acknowledge the concern raised in evidence about the timing of the legislation in relation to the *Appetite for Life* Research Project. However, we believe that the latter provides insufficient reason to delay bringing forward the proposed Measure, given that the Research Project focuses on nutritional standards, which is only one element of the legislation. In addition, we consider the absence of commencement dates in the proposed Measure will allow the Minister the flexibility to introduce the provisions at an appropriate time, e.g. to take account of outcomes of the Research Project before the introduction of regulations under Section 7. In view of this, we believe the proposed Measure should be progressed without delay.
5. We acknowledge that the duty to promote healthy eating in schools could lead to an increase in work loads for 'relevant authorities'. We concur with those giving evidence about the need to be mindful of the creation of additional burdens when implementing the provisions contained in Section 1. Notwithstanding this, we believe that the promotion element of the

proposed Measure is key to changing attitudes and behaviour towards healthy eating and, if successful, could bring about significant long-term educational and health benefits across Wales.

6. We note Jenny Randerson AM's comments regarding the level of detail provided for in Section 1(1) and are content that the most appropriate way to set minimum standards is through guidance issued by Welsh Ministers. We concur with witnesses that such guidance will be vital in ensuring consistency of approach and successful outcomes. To this end, **we recommend the proposed Measure should be strengthened to require Welsh Ministers to issue guidance under Section 1(3).**

7. We accept that the issue of food brought into school is outside the scope of the proposed Measure. However, we recognise the strong support in evidence for the need to tackle this, in particular the view that failure to do so could undermine the effectiveness of the proposed Measure. To this end, **we recommend that guidance issued by Welsh Ministers under Section 1 encourages all schools to develop and implement packed lunch policies in partnership with parents and carers.**

8. **We recommend that the proposed Measure should provide for Welsh Ministers rather than all 'relevant authorities' to 'have regard to relevant reputable scientific advice'. We further recommend that the meaning of 'relevant reputable scientific advice' be made clear in the proposed Measure to avoid misinterpretation.**

9. We are content with the further duty on Welsh Ministers provided for in Section 2.

10. We recognise that the overriding purpose and aim of the proposed Measure is to improve healthy eating in schools and, as such, believe that the meaning of 'healthy eating' provided for in Section 3 should fully reflect this. While we support the intention to incorporate the principles of sustainability in the proposed Measure we would not want this to be a barrier to its success. We remain unconvinced that Section 3 is the appropriate place within the proposed Measure to promote the principles of sustainability. In view of this, **we recommend consideration be given to including separate provision in the proposed Measure with the aim of promoting the principles of sustainability. We further recommend that adequate support is provided to those responsible for the planning and delivery of the school meals service to assist them in applying these principles.**

11. We recognise the importance of monitoring and evaluating progress made in taking forward the healthy eating agenda and accept the assertion of Jenny Randerson AM and others that it will help ensure sufficient priority is afforded to this issue on an ongoing basis. We acknowledge the concerns raised in evidence about the potential administrative and bureaucratic burden that these arrangements may place on authorities. However, we believe that the arrangements provided for in the proposed Measure will, in

practice, largely amount to an extension and change in focus of existing arrangements. On this basis, we support, in principle, the reporting and inspection arrangements provided for in Sections 4, 5 and 6.

12. Notwithstanding the above, we share the concerns raised in evidence about the way in which the impact of the duty to promote healthy eating (Section 1(1)) will be measured. In particular, we question whether it is appropriate for governing bodies and Estyn to report on the extent to which the duty 'appears to have resulted in an increase in healthy eating.' To this end, while we accept there is a need to measure the success and/or outcomes of the Section 1(1) duty, we recommend that further thought is given to how this can best be provided for in the proposed Measure.

13. We note the suggested thematic approach to the inspection of healthy eating put forward by Estyn. While we support this approach we believe that thematic survey work would best be used to compliment, as opposed to replace, the requirement provided for in Section 5.

14. Furthermore, in view of the apparent confusion regarding the role of Estyn in inspecting more stringent nutritional standards provided for in Section 7, we recommend that the Member in charge consider how greater clarity could be achieved.

15. We acknowledge the existing powers of Welsh Ministers in respect of nutritional standards for school meals and note that these powers are currently not being exercised. However, we recognise that the proposed Measure seeks to consolidate and strengthen existing legislation on healthy eating in schools and, to this end we are content with the inclusion of the Section 7 provision.

16. While we welcome the piloting of higher nutritional standards through *Appetite for Life*, we concur with witnesses that further work is required to improve nutritional standards of food in schools. We recognise that the Section 7(2) requirements are based on, and provide a logical progression of, the specifications being taken forward through *Appetite for Life*. We believe the inclusion of these requirements will help ensure consistent and equal provision of food in schools across Wales. On this basis, and in view of the strength of evidence, we recommend the proposed Measure should be strengthened to require Welsh Ministers to make regulations under Section 7 as opposed to enabling them to do so. While we accept that the exercise of these powers ultimately will be a decision for Welsh Ministers (as set out in the commencement provisions in Section 16), we believe that strengthening the provision will create an expectation for them to do so.

17. We note the strong support in evidence for the Section 8 provision and are content that the duty, which builds on existing legislation, is included in the proposed Measure. We acknowledge the evidence received regarding more detailed specifications relating to the availability and sourcing of drinking water and believe that these would be more

appropriately addressed through guidance issued by Welsh Ministers. To this end, we recommend that **guidance under Section 8(2) requires the supply of drinking water to be easily accessible, physically divorced from the toilets and, where possible sourced from the mains supply.**

18. We accept that the issue of toilet facilities is outside the scope of the proposed Measure. However, given the strength of the evidence that failure to tackle poor toilet facilities could undermine the effectiveness of the Section 8 provision, we would urge the Assembly Government to consider how best to address this issue.

19. We acknowledge the general support in evidence for the promotion of meals in schools and protection of identity of pupils receiving free school lunches. We accept the evidence regarding the complexity of factors affecting the take up of school meals. In view of this complexity, combined with the underlying need to provide adequate support to those responsible for implementing key provisions, **we recommend that the proposed Measure includes a requirement on Welsh Ministers to issue guidance in respect of Section 9.**

20. Linked to this, we recognise the importance of creating a positive 'dining experience' for pupils and the positive impact this has on improving healthy eating. We acknowledge that the proposed Measure makes no specific provision to address this issue. To this end, **we recommend that guidance issued by Welsh Ministers (either under Section 1(1) or, if provided for Section 9) encourages all schools to ensure that the quality of the dining experience is conducive to encouraging healthy eating.**

21. We acknowledge and accept the view that the protection of identity of those receiving school meals provided for in Section 10 would help address the stigma that prevents pupils taking up entitlement. We recognise the importance of guidance in ensuring consistency of approach and successful outcomes. To this end, **we recommend that the proposed Measure be strengthened to require Welsh Ministers to issue guidance under Section 10(6).**

22. We note the Finance Committee's conclusions. However, in view of the concerns raised in evidence received by this Committee, in particular about the indirect costs associated with delivering higher nutritional standards, we suggest the Assembly Government explore fully the financial implications of implementing regulations provided for in the proposed Measure before they are made.

23. We note the conclusions of the Subordinate Legislation Committee. While we are content with the extent of regulation making powers contained within the proposed Measure, we have recommended that Section 7 be strengthened to require Welsh Ministers to make regulations in relation to nutritional standards as opposed to enabling them to do so.

1. Introduction

1. In June 2007, Jenny Randerson AM was successful in the first ballot held by the Assembly for the right to seek leave to introduce a Member proposed Measure, in accordance with Standing Order 23.99.¹ In September 2007, the Assembly subsequently agreed that Jenny Randerson AM's proposed Assembly Measure on healthy eating in schools could be introduced for consideration by the Assembly.² On 14 March 2008, Jenny Randerson AM laid before the Assembly the proposed Healthy Eating in Schools (Wales) Measure 2008³ and accompanying Explanatory Memorandum.⁴

2. At its meeting on 8 April 2008, the Business Committee agreed to refer the proposed Measure to a committee for consideration of the general principles (Stage 1), in accordance with Standing Order 23.21.⁵ It also agreed that the Committee must report on the proposed Measure no later than 13 weeks from the date of establishment.

3. Following a resolution in plenary on 30 April 2008, the Proposed Healthy Eating in Schools Measure Committee was established, in accordance with Standing Order 21.⁶

Terms of scrutiny

4. At our first meeting on 13 May 2008, we agreed the following framework within which to scrutinise the general principles of the proposed Measure -

To consider:

- (i) the need for an Assembly Measure to promote healthy eating in schools;
- (ii) the key provisions set out in the proposed Assembly Measure;
- (iii) the practical implications of putting the provisions within the proposed Measure in place;
- (iv) the need for additional provisions in the proposed Measure;
- (v) whether the proposed Measure achieves its overall purpose and aim.

¹ RoP, 26 June 2007.

² RoP, 19 September 2007.

³ <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=79205&ds=3/2008>

⁴ <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=79208&ds=3/2008>

⁵ National Assembly for Wales, Business Committee, BC(3)-09-08, Committee Minutes, 8 April 2008.

⁶ RoP, 30 April 2008.

Committee's approach

5. We issued a general call for evidence and invited key stakeholders primarily from within the fields of local government, education and health to submit written evidence to inform our work. A list of consultation responses is attached at Annex 1.
6. We took oral evidence from a number of witnesses, details of which are attached at Annex 2.
7. We also felt it was important to consult with children and young people who would be affected by the legislation. To this end, questionnaires based on the key provisions within the proposed Measure were sent to a ten per cent sample of schools in Wales. In addition, work was undertaken by the Assembly's Education Service to seek the views of pupils. Over 700 responses were received, details of which can be found at Annex 3.
8. The following report and recommendations represent the conclusions we have reached on the evidence received during the course of our work. We would like to thank all those who have contributed to the report.

2. Background

9. The principal power enabling the Assembly to make a Measure in relation to healthy eating in schools is contained in Matter 5.9 of Schedule 5 to the Government of Wales Act 2006⁷ -

Matter 5.9

Provision about food and drink provided on school premises or provided for children at a place where they receive education or childcare.

10. In addition, Matter 5.4 is relevant to the promotion of healthy eating in schools more generally -

Matter 5.4

Provision about the curriculum in schools maintained by local education authorities.

11. The Explanatory Memorandum accompanying the proposed Measure states that the 'overarching purpose' of the legislation is to enable the development and subsequent implementation of 'a comprehensive "made-in-Wales" policy on nutrition in schools.'⁸ It emphasises the importance of a 'holistic' approach and the need to ensure not only that food provided in school is nutritious, but that healthy eating is an integral part of the education process.⁹

12. The policy context within which the proposed Measure is introduced, along with the key provisions it contains, are outlined in the Explanatory Memorandum.

⁷ The Government of Wales Act 2006, c.32

⁸ Proposed Healthy Eating in Schools (Wales) Measure 2008, Explanatory Memorandum, MPM-02-EM-S1, paragraph 3.1.

⁹ Ibid paragraph 3.1-3.2.

3. General principles

13. There was broad support for the general principles of the proposed Measure, i.e. the development and implementation of a holistic, comprehensive, made in Wales policy on nutrition in local authority maintained schools. However, for some this was because these principles were similar to those upon which the Welsh Assembly Government's *Appetite for Life* initiative was based. A number of those who supported the general aims of the proposed Measure argued that a statutory approach was not necessary and that improvements in healthy eating in schools could be achieved without recourse to legislation.

14. In scrutinising the general principles of the proposed Measure, and in recognising the existing work being taken forward by the Welsh Assembly Government through *Appetite for Life*, we gave detailed consideration to the need for, and timing of, legislation in the area of healthy eating in schools. We also looked in some detail at the key provisions contained within the proposed Measure to ascertain whether they were appropriate and workable.

15. We acknowledge that the legislation is a Member proposed Measure and that, as such, Jenny Randerson AM will have little control over any subsequent regulations made, and guidance issued, by Welsh Ministers. In view of this, where the Committee's recommendations relate specifically to regulations or guidance they are aimed at Welsh Ministers.

i. The need for legislation

Evidence from stakeholders

16. Many of those giving evidence specifically welcomed the proposed Measure and believed there was a definite, identified need for legislation in the area of healthy eating in schools. In contrast, there were those who felt that a statutory approach was not required, particularly in view of the introduction and ongoing implementation of the Welsh Assembly Government's *Appetite for Life* initiative.

17. A number of those giving evidence believed that the proposed Measure would bring about significant health benefits and help ameliorate the long-term negative effects of poor diet on the health of children and young people.¹⁰ In particular, there was recognition of the need to address poor nutrition and respond to the rising levels of obesity in children as a matter of urgency. Indeed, in its evidence to the Committee, the Association of Teachers and Lecturers stated:

¹⁰ Written evidence, HES11, 12, 13, 14 and 20.

'There is a definite need for an Assembly Measure in this area in light of the fact that 22% of boys and 17% of girls aged 13 are overweight or obese.'¹¹

18. In providing support for the proposed Measure, the British Heart Foundation highlighted the link between unhealthy diets and coronary heart disease (CHD) and suggested dietary changes, such as a lower intake of fat, sugar and salt, would help reduce rates of CHD.¹² It went on to emphasise the importance of establishing healthy dietary preferences in childhood.¹³

19. In addition, Diabetes UK Cymru felt that the proposed Measure would help reduce the risk of an increase in Type 2 diabetes.¹⁴

20. Further to this, it was suggested that improvements in pupils' diets were linked to behavioural improvements and increased engagement with schoolwork.¹⁵ In providing support for the proposed Measure, the British Heart Foundation stated:

'...nutritious lunches are an important step towards higher attainment among students. In addition, there is a wealth of anecdotal evidence suggesting that when children's diets improve, their behaviour does too. Children and young people who do well at school go on to lead healthier lives - helping to offset concerns about long-term effects of diet-related illness, and the cost of those illnesses to the NHS.'¹⁶

21. Some of those giving evidence suggested that existing arrangements, which were based predominantly on a voluntary approach and relied on co-operation, failed to ensure that all schools accorded healthy eating the priority it deserved. In contrast, the proposed Measure would ensure that all schools were required to take steps to improve healthy eating and that a consistent approach was achieved across Wales.

22. Professor Moore suggested there was 'an anecdotal feeling for the huge variability in practice' across schools in Wales. He went on to state:

'More systematically...a survey of schools' policies and curriculum action supporting healthy eating...has found variable practice across schools. So, we know that there is that huge variability and, by definition, that means that there is a lot of substandard practice and room for improvement.'¹⁷

¹¹ Written evidence, HES20.

¹² Written evidence, HES13.

¹³ Ibid.

¹⁴ Written evidence, HES14.

¹⁵ Written evidence, HES11 and 13.

¹⁶ Written evidence, HES13.

¹⁷ RoP, paragraph 8, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

23. In giving evidence to the Committee, Estyn explained that its 'Food and fitness' report¹⁸ found that progress had been made in healthy eating in schools in recent years. However, it went on to acknowledge that, while all schools were 'paying some attention to this [healthy eating] agenda', there was 'quite considerable' variability between schools regarding the importance it was afforded, the type of actions being taken; and their subsequent impact.¹⁹

24. Indeed, Estyn made clear that further, timely action was needed, which was exemplified by the recommendations contained in its 'Food and fitness' report. Despite this, in giving evidence to the Committee, the Chief Inspector of Education and Training in Wales was non-committal regarding the need for a statutory approach, and stated:

'Whether this legislation is strictly necessary in order to drive further progress is an open question from our point of view. It may be that producing stronger guidance, and giving that the sufficient backing and resource required would also be sufficient.'²⁰

25. Some of those giving evidence felt that the proposed Measure would complement and strengthen existing initiatives and that it provided a co-ordinated and holistic approach to improving healthy eating in schools.

26. Notwithstanding the support for the proposed Measure as detailed above, it was felt that guidance and support, both practical and financial, would be vital to ensure effective implementation of the legislation. In addition, it would be important to be mindful of additional burdens placed on 'relevant authorities', in particular, head teachers, and to avoid duplication of existing practices. These issues are dealt with later in the report under the Sections of the proposed Measure to which they specifically relate.

27. In written evidence to the Committee, the Minister for Children, Education, Lifelong Learning and Skills ('the Minister') provided a detailed account of the Welsh Assembly Government's ('the Assembly Government') approach to improving healthy eating in schools.²¹ Throughout her written evidence, the Minister explained the Assembly Government was 'encouraging' various healthy eating initiatives and emphasised the importance of engaging stakeholders, including children and young people through 'persuasion, participation and partnership'.²² She asserted:

'Appetite for Life is our holistic, comprehensive 'made in Wales' policy on nutrition in schools. Whilst the proposed Measure would bring together existing legislation and provide for several of the

¹⁸ Estyn, *Food and fitness: a report on how well schools in Wales support children and young people to be healthy and active*, May 2008

¹⁹ Written evidence, HES19.

²⁰ RoP, paragraph 60, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

²¹ Written evidence, HES 42.

²² Ibid.

actions in *Appetite for Life* to be given a statutory basis it may not be necessary to deliver this agenda across schools in Wales.’²³

28. When questioned by the Committee about the need for the proposed Measure, the Minister maintained that she remained ‘open’ as to whether it was ‘the most effective way’ of improving healthy eating in schools.²⁴ Despite this, she went on to state:

‘...it is fair to say that I remain to be convinced that a Measure is necessary to take this agenda forward effectively...’²⁵

And

‘...we have not considered that ‘Appetite for Life’ needs to be underpinned by legislation at the moment. We have decided to take a different approach, but we intended to keep under review whether we would need to make regulations under the powers that we have.’²⁶

29. When asked whether the proposed Measure conflicted with the *Appetite for Life* Action Plan, the Minister stated:

‘...there are no conflicts in terms of overall objectives...’²⁷

30. A number of those who supported the principles of the proposed Measure highlighted the need to give careful consideration to the timing of the legislation given the work being taken forward through *Appetite for Life*. Some suggested that the proposed Measure may be premature and that the planned *Appetite for Life* Research Project would help further inform legislative proposals and give a clear indication of financial implications. In view of this, some felt it would be more prudent to delay the proposed Measure until after the results of the Research Project, which will conclude in September 2010. The issue of the timing of the proposed Measure is addressed in more detail in section 1(ii).

31. Some of those giving evidence, in particular those from within local government, did not believe there was a need for the proposed Measure. A number of local authorities reported the existing ‘commitment’ to the principle of healthy eating in schools and that the *Education (Nutritional Standards for School Lunches) (Wales) Regulations 2001*, already provided a requirement to meet statutory nutritional standards.²⁸ Similarly, the Local Authority Caterers Association stated:

²³ Written evidence, HES 42.

²⁴ RoP, paragraph 5, 3 June 2008, Proposed Healthy Eating in Schools Measure Committee

²⁵ Ibid.

²⁶ RoP, paragraph 10, 3 June meeting, Proposed Healthy Eating in Schools Measure Committee.

²⁷ Ibid, paragraph 11.

²⁸ Written evidence, HES27, 30, 31 and 39.

'Local authority caterers in Wales are totally committed to the healthy eating principles and are already providing healthy and nutritious meals within the financial constraints and budgets within their authorities.'²⁹

32. Those who felt the proposed Measure was not necessary generally believed that the healthy eating agenda was moving forward successfully and that existing initiatives were having a positive impact. Indeed, the National Association of Head Teachers Cymru (NAHT Cymru) asserted:

'The majority of schools, if not all schools, are involved in existing and effective programmes...and working closely with organisations...We do not feel that legislative powers are the way forward.'³⁰

33. The NAHT Cymru went on to raise concern that the proposed Measure conflicted with the Assembly Government's *Appetite for Life* initiative. It was suggested that movement to a statutory approach would 'damage existing good will' and undermine the work being taken forward through *Appetite for Life*.³¹

34. Of particular concern to those within local government were any additional bureaucratic and financial burdens that would be placed on local authorities as a result of the implementation of the proposed Measure. The Chief Executive of the Vale of Glamorgan Council stated that the proposed Measure:

'...would not be in line with the agenda for 'reducing the burdens' on local government...'³²

35. He went on to suggest that the legislation would 'detract' from 'more pressing concerns' and that:

'...the priorities for local authorities should continue to be focused on improving educational outcomes for pupils and on the quality of the school buildings.'³³

36. A number of those giving evidence implied that local authorities were currently facing financial pressures, which could be exacerbated if the proposed Measure were to be implemented. In addition, concern was raised that the 'indirect costs' of the proposed Measure, i.e. the potential costs resulting from future regulations by Welsh Minister, had been underestimated. It was suggested that the outcomes of *Appetite for Life* Research Project would provide a clearer indication of the costs associated

²⁹ Written evidence, HES22.

³⁰ Written evidence, HES36.

³¹ Written evidence, HES8.

³² Written evidence, HES3..

³³ Ibid.

with the implementation of the proposed Measure. These issues were not explored in any detail by the Committee given that the Finance Committee considered, and subsequently reported on, the financial implications of the proposed Measure in accordance with Standing Order 14.2. The Committee's view of the Finance Committee's report is dealt with in Chapter 5 of our report.

37. Some of those within the education sector opposed the proposed Measure on the grounds that it would lead to an increase in workload for, and place an unfair burden on, teachers and, in particular, head teachers. In addition, it was suggested that it was unreasonable to place so much emphasis on the role of schools in improving healthy eating among children and young people. Again, these issues are covered in more detail later in the report.

Evidence from the Member in charge

38. In her Explanatory Memorandum, Jenny Randerson AM stated:

'To fail to take any action to improve healthy eating in schools would impact adversely on the health and well-being of our children and young people; is likely to adversely affect their concentration levels and their ability to learn and is also likely to result in increased costs for the health service.'³⁴

39. She went on to assert that the proposed Measure was the 'only option' which would bring together existing legislation and provide a 'holistic approach' to encourage and enable healthy eating in schools. In her view:

'This [proposed Measure] is the most effective way to improve healthy eating and to foster an understanding of the importance of healthy eating in all local authority maintained schools.'

40. Jenny Randerson AM also highlighted the concerns of the Chief Medical Officer about the 'rising tide of obesity' and went on to suggest that 'a more decisive approach' was required to tackle obesity and diabetes among children and young people.

41. She recognised and acknowledged existing legislation in the area of healthy eating and the positive work being undertaken by the Assembly Government, most notably in *Appetite for Life*. However, she believed that:

'The principle of healthy eating in schools is already established in many schools, but not universally throughout Wales.'³⁵

³⁴ Proposed Healthy Eating in Schools (Wales) Measure 2008, Explanatory Memorandum, MPM-02-EM-S1, paragraph 7.8.

³⁵ RoP, paragraph 9, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

42. In further evidence to the Committee, Jenny Randerson AM emphasised the variability in practices across schools in Wales and the lack of consistency in approach. This was exemplified by the findings of the National Foundation for Educational Research (NFER) in its report *Evaluation of Food and Nutrition Education Provision in Wales*³⁶. She explained that the NFER had ‘found significant gaps’ in provision and that much depended on ‘the interest of those at the top’ in schools.³⁷ Jenny Randerson AM maintained that the proposed Measure would address existing variability and bring about consistency by ensuring that all schools in Wales gave sufficient priority to improving healthy eating in schools.

43. In taking a broader view, she compared the healthy eating ‘revolution’ with other ‘social revolutions’ e.g. drink driving, and the anti-smoking campaign.³⁸ She argued that, in order to bring about cultural and societal change in attitude towards healthy eating a ‘two pronged approach’, which combined ‘social marketing’ (or promotion) and legislation was required.³⁹

44. Finally, Jenny Randerson AM strongly refuted the belief that the proposed Measure would in any way undermine or conflict with *Appetite for Life*.⁴⁰ She explained that it had always been her intention for the legislation to ‘build on’ the Assembly Government’s initiative and had discussed this issue with the Minister before drafting the Measure.⁴¹ Indeed, she believed that the proposed Measure had ‘the advantage of putting ‘Appetite for Life’ on a statutory footing’ and emphasised that it went further than the existing initiative by including additional duties, such as the duty on ‘relevant authorities’ to promote healthy eating in schools and to report on progress.⁴²

ii. *Timing*

Evidence from stakeholders

45. As previously mentioned, we considered carefully the timing of the proposed Measure, particularly in view of the planned *Appetite for Life* Research Project, and received a significant amount of evidence on this issue.

46. In supporting the need for the proposed Measure, Professor Moore made clear he felt that the legislation should be brought forward in a timely

³⁶ *Evaluation of Food and Nutrition Education Provision in Wales – Final Report*, National Foundation of Educational Research, July 2007 (commissioned by the Food Standards Agency Wales).

³⁷ RoP, paragraph 5, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

³⁸ *Ibid*, paragraph 6.

³⁹ *Ibid*.

⁴⁰ *Ibid* paragraph 7.

⁴¹ *Ibid*, paragraph 16.

⁴² RoP, paragraphs 9 and 11.

manner. When questioned as to whether the proposed Measure may be 'premature' he stated:

'I would usually argue that it is wrong to take premature policy action when the evidence is not in place...but, clearly, that can sometimes take too long...The child obesity epidemic is coming upon us very fast and we have to respond quickly to that.'⁴³

And

'I am not sure exactly what evidence the 'Appetite for Life' work and the action research based around it will produce that will preclude the importance of taking legislative action.'⁴⁴

47. He acknowledged that the outcomes of the Research Project may usefully inform subsequent guidance but reaffirmed:

'...I do not hold out any sort of strong hope that 'Appetite for Life' is going to tackle this kind of patchiness and unevenness or the fact that a lot of actions that the schools will take will not be the most effective...'⁴⁵

48. As outlined in paragraph 30 above, a significant number of those giving evidence suggested that it may be more appropriate to await the outcomes of the *Appetite for Life* Research Project before progressing the proposed Measure.

49. Some felt the outcomes of the Research Project could usefully inform the development and implementation of the proposed Measure to ensure it was effective. In giving evidence, UCAC and Governors Wales, who were broadly supportive of the proposed Measure, acknowledged there would be 'value in delaying'⁴⁶ and that it would be 'very prudent'⁴⁷ to await these outcomes.

50. It was generally felt that the outcomes would provide an understanding of the financial and administrative costs associated with improving healthy eating in schools, in particular, the implementation of higher nutritional standards. In giving evidence, the Welsh Local Government Association (WLGA) and Association of Directors of Education in Wales (ADEW), while agreeing with the principles of the proposed Measure, stated:

'...it is important that Appetite for Life research and projects continue, in order to make a full assessment of the financial

⁴³ RoP, paragraph 11, 24 June 2008, Proposed Healthy Eating on Schools Measure Committee.

⁴⁴ Ibid, paragraph 11.

⁴⁵ Ibid.

⁴⁶ RoP, paragraphs 30, 17 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁴⁷ Ibid, paragraph 123.

implications and to allow a smooth and planned transition to improved nutritional standards...It would be useful to reassess this type of statutory approach in the future when the outcomes of the Appetite for Life work have been fully assessed.⁴⁸

51. In giving evidence to the Committee, the Minister implied that the proposed Measure was 'premature'⁴⁹ and stated:

'The action research project provides us with an excellent opportunity to develop and test how the persuasion, partnership and participation agenda helps us, and to test out the guidelines that we have consulted upon for implementing the food and nutritional standards and to learn lessons to inform their wider application across all maintained schools in Wales.'⁵⁰

52. Those who did not support the proposed Measure suggested that the outcomes could be used to determine whether a statutory approach was indeed necessary. In evidence to the Committee, Cardiff City Council asserted:

'Legislation should not be considered until the research phase of A4L [Appetite for Life] is complete and an analysis of the impact of similar legislation in other countries on the take up of school meals concluded.'⁵¹

53. Similarly, when questioned on the timing of the proposed Measure, NAHT Cymru stated:

'We would want to see evidence that the Measure is indeed needed and would improve the situation. It is premature and we should wait for the outcome of 'Appetite for Life'.⁵²

Evidence from the Member in charge

54. In giving evidence to the Committee, Jenny Randerson AM explained that the *Appetite for Life* Research Project was concerned primarily with the development and testing of guidelines on nutritional standards and that these did not deliver the key provision in the proposed Measure, i.e. the promotion of healthy eating.⁵³

55. She went on to explain that there were no commencement dates in the proposed Measure so different provisions could be commenced at different times. In view of this, there was nothing preventing Ministers awaiting the outcome of the Research Project before introducing

⁴⁸ Written evidence HES2.

⁴⁹ RoP, paragraphs 8 and 97, 3 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁵⁰ Ibid, paragraph 8.

⁵¹ Written evidence, HES21.

⁵² RoP, paragraph 26, 17 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁵³ RoP, paragraph 11, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

regulations on nutritional standards. Other provisions within the proposed Measure, including the key provision relating to the duty to promote healthy eating, could be commenced at an earlier date.⁵⁴

56. In addition, Jenny Randerson AM advised the Committee she anticipated that it would be approximately 15 months before the proposed Measure was to complete all stages of consideration in the Assembly and receive Royal Approval, which would 'dovetail well' with the timing of the *Appetite for Life* Action Plan and Research Project.⁵⁵

Our view

57. We welcome the strong support that exists for improving healthy eating generally and note that the overwhelming majority of those giving evidence recognised the significance of schools in moving forward this agenda.

58. We share the concern raised in evidence about the long term health effects of poor diet and nutrition. We accept the need to address the rising levels of obesity in Wales and believe that educating children about the benefits of healthy eating along with the provision of nutritious school meals will provide an effective starting point. In addition, we accept that good diet and nutrition have a positive effect on the behaviour of children, their ability to learn and to progress positively through school.

59. We acknowledge the broad support for the principles of the proposed Measure, and note the Minister's evidence that its overall objectives in no way conflict with those of the Assembly Government's *Appetite for Life*. We welcome the commitment demonstrated by many stakeholders thus far in improving healthy eating in schools. We support and endorse the positive work being taken forward through *Appetite for Life* and recognise that it will make an important contribution to taking forward the healthy eating agenda. However, while many schools have reportedly embraced this healthy eating agenda we share the concerns of some of those giving evidence that there is significant variability in arrangements for improving healthy eating across schools in Wales. We believe that all children and young people deserve a healthy start in life and that the proposed Measure will provide a suitable framework within which consistency and equity can be achieved.

60. On the basis of the above, we believe that a statutory approach to improving healthy eating in schools is warranted and we therefore support the general principles of the proposed Measure. Notwithstanding this, we acknowledge the concern raised in evidence about the timing of the legislation in relation to the *Appetite for Life* Research Project. However, we believe that the latter provides insufficient reason to delay bringing forward the proposed Measure, given that the Research Project focuses on

⁵⁴ RoP, paragraph 11, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee .

⁵⁵ Ibid, paragraph 59.

nutritional standards, which is only one element of the legislation. In addition, we consider the absence of commencement dates in the proposed Measure will allow the Minister the flexibility to introduce the provisions at an appropriate time, e.g. to take account of outcomes of the Research Project before the introduction of regulations under Section 7. In view of this, we believe the proposed Measure should be progressed without delay.

4. Specific comments on provisions

Section 1 - Duties in relation to the promotion of healthy eating in schools

Background

61. Section 1(1) of the proposed Measure imposes a duty on Welsh Ministers, local education authorities, governing bodies and head teachers to promote healthy eating among pupils while they are at school or engaging in activity which is incidental to their education.

62. Section 1(3) of the proposed Measure enables Welsh Ministers to issue guidance to relevant authorities on how best to discharge their duties. A relevant 'authority' must 'have regard to any guidance issued by Welsh Ministers' and to any 'relevant reputable scientific advice.'

Evidence from stakeholders

63. It seemed apparent in some of the evidence that there was a general lack of understanding about the Section 1(1) requirement, in particular what it would mean in practice and how it related to existing work on the promotion of healthy eating being taken forward by some schools. Notwithstanding this, there was broad support for the general duty to promote healthy eating provided for in Section 1(1).

64. Some of those giving evidence raised concern that the Section 1(1) duty would lead to additional burdens being placed on 'relevant authorities'. In particular, it was suggested that the duty could create additional work for head teachers.

65. Both NAHT Cymru and the Association of Schools and College Leaders (ASCL Cymru) maintained that work was ongoing in schools across Wales to promote healthy eating. They raised concern that placing a statutory duty on head teachers to promote healthy eating could lead to litigation against head teachers. Indeed, ASCL Cymru, subsequently suggested:

'...the Measure should place responsibilities and duties on the Governing Body and not the Head teacher.'⁵⁶

66. When questioned as to whether the benefits of the proposed Measure would outweigh additional burdens placed on teachers, NAHT Cymru stated:

'Any burden on headteachers, no matter how great, seems to be excused if it is of benefit to others. There are times when a burden becomes too great.'⁵⁷

⁵⁶ Written evidence, HES36.

⁵⁷ RoP, paragraph 51, 17 June 2008, Proposed Healthy Eating in Schools Measure Committee.

67. In contrast, Professor Moore acknowledged the need to be aware of the burden the proposed Measure could place on relevant bodies, but believed:

‘Schools need to be encouraged to recognise the potential benefits of children having a good diet, such as improved engagement with schoolwork....We also need to recognise that many of these health benefits will be major, but they will not be of direct benefit to the school: rather, they will be of benefit to the nation and to the NHS in the long-term.’⁵⁸

68. A number of those giving evidence highlighted the importance of partnership working. Isle of Anglesey County Council felt that the Section 1(1) duty would ‘encourage’ a partnership approach and result in ‘more robust’ partnerships. However, the British Dietetic Association was concerned that the proposed Measure placed insufficient emphasis on the ‘wider school community’. Others emphasised the role of parents and carers in improving children’s eating habits and believed it would be important to effectively engage with them to ensure success. In particular, ContinYou Cymru stated:

‘There is a need to promote and enable healthier eating within families and wider communities...for many children and young people their experiences of food in the home and community will be different to those healthy experiences in school and may take time to be embraced. Without a family and community understanding and support change is unlikely to be sustained.’⁵⁹

69. Although Section 1(3) enables Welsh Ministers to issue guidance on the promotion of healthy eating, there is no further detail included about the way in which, or the extent to which, the general duty should be fulfilled. A number of those giving evidence highlighted the importance of Food and fitness policies, which were encouraged under *Appetite for Life*, and suggested that these should be a statutory requirement and provided for in the proposed Measure. Others believed that including more specific detail in Section 1(1), e.g. either by including minimum requirements on the face of the proposed Measure or in regulations, was unnecessary, and that it was important not to be overly prescriptive.

70. It was generally felt that that ‘relevant authorities’ would require significant support, either by way of guidance or practical assistance, to successfully fulfil their duties to promote healthy eating. Professor Moore strongly believed that the success of the proposed Measure:

⁵⁸ RoP, paragraph 18, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁵⁹ Written evidence, HES29.

'...will be critically determined by high quality guidance and support mechanisms.'⁶⁰

71. This view was shared by Estyn who also highlighted the need to support 'implementation of this guidance.'⁶¹

72. When explicitly questioned on the provision of guidance, some witnesses felt that Section 1(3) should be strengthened to require Welsh Ministers to issue guidance as opposed to enabling them to do so. Linked to this, a number of witnesses, including the Minister's legal adviser, felt that the requirement to 'have regard to relevant reputable scientific advice' would be better placed solely on Welsh Ministers, partly to ensure consistency.⁶²

73. In addition, it was suggested that the term 'relevant reputable scientific advice' was open to interpretation⁶³ and that it could be 'usefully improved'⁶⁴ to ensure clarity of meaning. In particular, Professor Moore stated he was:

'...not very happy with the term 'reputable', because that requires a very subjective judgement, and there are more objective ways of identifying scientific rigour.'⁶⁵

74. Many of those giving evidence expressed disappointment that the proposed Measure did not address the quality of food brought into schools by pupils for their own consumption. Indeed, concern was raised that this would undermine the effectiveness of the proposed Measure since the ability of pupils to bring 'unhealthy' food to school was 'the main obstacle'⁶⁶ in taking forward the healthy eating agenda. Some went on to suggest that any legislation aimed at improving healthy eating should enable the issue of food brought into schools to be addressed. To this aim, there was also specific suggestion that the proposed Measure should be strengthened.

75. However, in contrast, the National Confederation of Parent Teacher Associations (NCPTA) and Snack Nut and Crisp Manufacturers Association (SNACMA) welcomed the fact that the proposed Measure did not include any requirements to restrict food and drink brought into school.⁶⁷

⁶⁰ Written evidence, HES11.

⁶¹ Written evidence, HES19.

⁶² RoP, paragraph 41, 3 June 2008, Proposed Healthy Eating in Schools Measure Committee..

⁶³ Ibid.

⁶⁴ RoP, paragraph 30, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁶⁵ Ibid.

⁶⁶ Written evidence, HES25.

⁶⁷ Written evidence, HES18 and HES32.

Evidence from the Member in charge

76. In giving evidence to the Committee, Jenny Randerson AM explained that the Section 1(1) duty did not set out in detail what would be expected of relevant authorities. Instead, it was anticipated that this would be done through guidance issued by Welsh Ministers under Section 1(3), to allow sufficient flexibility to adopt a gradual approach and take account of ongoing developments and scientific evidence.

77. In terms of additional burdens, Jenny Randerson AM asserted that these would be outweighed by the benefits brought about as a result of the proposed Measure, e.g. improvements in physical and emotional health, and behaviour and learning.⁶⁸

78. She 'endorsed the principle of partnership'⁶⁹ but pointed out that it would be difficult to legislate for a partnership approach and stated:

'Almost by definition, if partnership is going to work, it needs to be done with the goodwill that comes from voluntary effort.'⁷⁰

79. Although Jenny Randerson AM acknowledged the role of parents in developing children's eating habits, she suggested that the impact of the promotion of healthy eating could extend beyond schools to influence the home environment and stated:

'...I hope that we will be able to encourage the education of parents via their children.'⁷¹

80. She went on to assert:

'...children are clearly influencing their parents' choice of food.'⁷²

81. In responding to evidence received on strengthening the guidance, Jenny Randerson AM suggested that she did not want to be overly prescriptive or reduce the flexibility of Welsh Ministers. However, she said she would give further thought to this in light of the Committee's report and subsequent recommendations. Similarly she agreed to consider the term 'relevant advice' and the need to place the requirement to have regard to such advice solely on Welsh Ministers.⁷³

82. Jenny Randerson AM explained that she was unable to make provision for the regulation of food brought into school as it was outside the principal power enabling the Assembly to make a Measure in relation to healthy eating in school, i.e. Matter 5.9 of Schedule 5 to the Government of Wales

⁶⁸ RoP, paragraph 37, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

⁶⁹ RoP, paragraph 26, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

⁷⁰ Ibid.

⁷¹ RoP, paragraph 44, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

⁷² Ibid, paragraph 45.

⁷³ RoP, paragraph 48, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

Act 2006. However, the proposed Measure would not prevent the development of policies regarding food brought into school and that this could be encouraged under the Section 1(1) duty to promote healthy eating in schools.⁷⁴

Our view

83. We acknowledge that the duty to promote healthy eating in schools could lead to an increase in work loads for 'relevant authorities'. We concur with those giving evidence about the need to be mindful of the creation of additional burdens when implementing the provisions contained in Section 1. Notwithstanding this, we believe that the promotion element of the proposed Measure is key to changing attitudes and behaviour towards healthy eating and, if successful, could bring about significant long-term educational and health benefits across Wales.

84. We note Jenny Randerson AM's comments regarding the level of detail provided for in Section 1(1) and are content that the most appropriate way to set minimum standards is through guidance issued by Welsh Ministers. We concur with witnesses that such guidance will be vital in ensuring consistency of approach and successful outcomes. To this end, **we recommend the proposed Measure should be strengthened to require Welsh Ministers to issue guidance under Section 1(3).**

85. We accept that the issue of food brought into school is outside the scope of the proposed Measure. However, we recognise the strong support in evidence for the need to tackle this, in particular the view that failure to do so could undermine the effectiveness of the proposed Measure. To this end, **we recommend that guidance issued by Welsh Ministers under Section 1 encourages all schools to develop and implement packed lunch policies in partnership with parents and carers.**

86. **We recommend that the proposed Measure should provide for Welsh Ministers rather than all 'relevant authorities' to 'have regard to relevant reputable scientific advice'. We further recommend that the meaning of 'relevant reputable scientific advice' be made clear in the proposed Measure to avoid misinterpretation.**

Section 2 - Further duty on the Welsh Ministers

Background

87. Section 2 imposes further duties on Welsh Ministers to promote healthy eating in the exercise of their functions relating to the curriculum.

⁷⁴ RoP, paragraph 17 to 21, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

Evidence from stakeholders

88. A number of those giving evidence made general observations about the provision of healthy eating in the current curriculum. While there was widespread support for improvements in the curriculum in relation to healthy eating, concern was raised about existing practical constraints, in particular the lack of specialist teachers and kitchen facilities to teach practical cooking skills. Indeed, NAHT Cymru highlighted there were no colleges in Wales offering training in cooking skills for teachers.⁷⁵

89. Professor Moore felt that good coverage of healthy eating and nutrition related issues in the curriculum would be important in trying to change behaviour and attitudes and foster an understanding of the importance of a good diet.⁷⁶ Some of those giving evidence felt that the new school curriculum, which specifically incorporates food education, would be implemented from September 2008, and would be a positive step forward.

Evidence from the Member in charge

90. In giving evidence to the Committee, Jenny Randerson AM explained that the promotion of healthy eating in schools is currently provided for in the curriculum, albeit at the discretion of Welsh Ministers. The proposed Measure would require Welsh Ministers to promote healthy eating through the curriculum but leaves the detail for them to decide.⁷⁷

Our view

91. We are content with the further duty on Welsh Ministers provided for in Section 2.

Section 3 - Meaning of "healthy eating"

Background

92. In the proposed Measure "healthy eating" means eating (and drinking) food (and drink) whose nature, quality and quantity—

- (a) benefit the health of the person consuming it;
- (b) do not damage the health of the person consuming it; and
- (c) cause as little damage as is reasonably possible to the environment during the course of its production, processing and distribution.

93. The Explanatory Notes to the proposed Measure state the meaning of 'healthy eating' provided for in Section 3:

⁷⁵ RoP, paragraph 68, 17 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁷⁶ RoP, paragraph 33, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁷⁷ RoP, paragraph 59, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

'...is intended to provide a very broad definition of "healthy eating", to include not only the health of the individual consumer but also its effect on the general health of the population and the environment.'⁷⁸

Evidence from stakeholders

94. Only a few of those giving evidence commented on the meaning of "healthy eating" provided for in Section 3. However, there was general support for the inclusion of the principles of sustainability, as provided for in Section 3(c). Notwithstanding this, some witnesses raised concern about the drafting of the definition and questioned whether it was appropriate to address the issue of 'sustainability' in Section 3.

95. In her evidence to the Committee, the Minister supported the inclusion of the principles of sustainability, but raised concern about the compatibility of the concept of 'healthy eating' and 'sustainability', suggesting that the latter should be dealt with as a separate element within the proposed Measure.⁷⁹ This was qualified by the Minister's Legal Adviser (Mr Roberts) who stated:

'When it comes to definitions, our view is that words and definitions should bear the meaning of things as ordinarily constructed. We do not believe that sustainability is encompassed in healthy eating...as it [the definition] is currently constructed, we believe that that is potentially problematic.'⁸⁰

96. Similarly the WLGA and ADEW 'welcomed' the 'focus on sustainability', but raised concern about the drafting of the definition.⁸¹

97. Professor Moore acknowledged that Section 3(c) was 'not directly' related to healthy eating' but recognised that:

'...sustainable food production and the quality of food production...is an important dimension that is good to have reflected in the Measure.'⁸²

98. There was concern raised by those directly involved in providing the school meal service that the Section 3(c) provision would be difficult to deliver in practice. Indeed, the Newport Appetite for Life Working Group suggested that this provision was an 'aspiration' and stated:

'...procuring produce that is organic, fair trade and as local as possible...would be high on the [schools'] agenda, but realistically, the money and the processes are not there to do it at present.'⁸³

⁷⁸ Proposed Healthy Eating in Schools (Wales) Measure 2008, Explanatory Memorandum, MPM-02-EM-S1, Explanatory Notes, paragraph 6.

⁷⁹ RoP, paragraph 53 and 55, 3 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁸⁰ Ibid, paragraph 56 and 59.

⁸¹ RoP, paragraph 198, 10 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁸² RoP, paragraph 35, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

99. Both the Food Standards Agency (FSA) Wales and the Association of Teachers and Lecturers raised the need to address 'food safety' in the proposed Measure.⁸⁴

Evidence from the Member in charge

100. In giving evidence to the Committee, Jenny Randerson AM asserted that the definition provided in Section 3 was 'very comprehensive'.⁸⁵ However, she was willing to give further consideration to the definition in light of any recommendations made by the Committee.⁸⁶

101. Jenny Randerson AM reinforced the importance of including the principles of sustainability within the proposed Measure, particularly given the statutory duties on Welsh Ministers (Section 79) and the Assembly Commission (Schedule 2, Section 8) in the *Government of Wales Act 2006* 'to promote sustainable development'. She did not believe that this requirement would be particularly onerous. She went on to explain that *Appetite for Life* already had a reference to the need to ensure that the best sustainable development outcomes could be derived and that 'the infrastructure' to support this was already in place.⁸⁷

102. In respect of food safety issues Jenny Randerson AM considered that specific reference to 'safe food' in the proposed Measure would be 'superfluous' since 'food cannot be healthy unless it is safe'.⁸⁸

Our view

103. We recognise that the overriding purpose and aim of the proposed Measure is to improve healthy eating in schools and, as such, believe that the meaning of 'healthy eating' provided for in Section 3 should fully reflect this. While we support the intention to incorporate the principles of sustainability in the proposed Measure we would not want this to be a barrier to its success. We remain unconvinced that Section 3 is the appropriate place within the proposed Measure to promote the principles of sustainability. In view of this, **we recommend consideration be given to including separate provision in the proposed Measure with the aim of promoting the principles of sustainability. We further recommend that adequate support is provided to those responsible for the planning and delivery of the school meals service to assist them in applying these principles.**

⁸³ Ibid, paragraph 175.

⁸⁴ Written evidence, HES20 and HES34.

⁸⁵ RoP, paragraph 36, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

⁸⁶ RoP, paragraph 62, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

⁸⁷ RoP, paragraph 54, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee

⁸⁸ Ibid, paragraph 40.

Sections 4, 5 and 6 - Relating to reporting and inspection arrangements

Background

104. Section 4, 5 & 6 of the proposed Measure provide the mechanisms for evaluating and monitoring progress with the promotion of healthy eating and the extent to which there appears to have been an increase in healthy eating in schools. Duties are placed on school governors, the Chief Inspector of Schools and Welsh Ministers.

105. The Explanatory Memorandum accompanying the proposed Measure suggests that having statutory monitoring arrangements will:

'...ensure that robust and effective reporting and monitoring systems are implemented and to ensure that progress on healthy eating continues in the future when facing competition from other priorities within the education system.

To place reporting and monitoring of progress towards healthy eating in primary legislation will also help to ensure a consistent approach and on-going levels of improvement across Wales.'⁸⁹

Evidence from stakeholders

106. A diverse range of views were expressed by those giving evidence on provisions relating to reporting and inspection.

107. Those who supported the inclusion of reporting and inspection arrangements in the proposed Measure felt it would ensure sufficient priority was given to the healthy eating agenda and that focus was maintained in the face of competing priorities.

108. Conwy Education Services specifically 'welcomed' the reporting and inspection requirements and suggested they would:

'...raise[s] the status of healthy lifestyles and would ensure head teachers take an active interest in the provision of food...'⁹⁰

109. In addition, evidence suggested that these provisions were 'an effective way of raising standards'.⁹¹

110. While strongly supportive of the provisions, Professor Moore suggested that, although it was reasonable for relevant authorities to monitor schools' compliance with the general duty to promote healthy eating, measuring the impact of the proposed Measure on pupils' dietary

⁸⁹ Proposed Healthy Eating in Schools (Wales) Measure 2008, Explanatory Memorandum, MPM-02-EM-S1, Explanatory Notes, paragraph 7.9 and 7.8.

⁹⁰ Written evidence, HES16.

⁹¹ Written evidence, HES32.

behaviour might be more appropriately carried out using an independent mechanism, e.g. the Welsh Youth Health Surveys.⁹²

111. Indeed, the way in which success was measured was of concern to most of those who commented on the reporting and inspection requirements, including those who supported these, in principle. The need for appropriately qualified experts to carry out inspections and the financial implications of this were viewed as particularly important.

112. Generally, those representing the teaching profession were not supportive of the reporting and inspection requirements, with the NAHT Cymru and Association of School and College Leaders specifically opposed to them.⁹³

113. Both NAHT Cymru and UCAC were concerned that these requirements would lead to an increase in work load for head teachers and make them accountable for something over which they had no direct control.⁹⁴ In particular, NAHT Cymru felt it would be unfair to judge schools on whether there had been an increase in up-take of school meals, since so many factors affecting pupils choices were outside the control of schools.

114. While the WLGA and ADEW acknowledged 'a clear reporting structure can be useful', they emphasised the need to build successful partnerships and ensure buy-in from the whole school 'rather than stringent reporting mechanisms'.⁹⁵

115. There was much confusion among those giving evidence regarding the role of Estyn in relation to inspections, in particular whether Estyn would be expected to check, and subsequently report on, compliance with the more stringent nutritional standards (provided for in Section 7). While Section 5 would require Estyn to inspect and report on compliance with the general duty to promote healthy eating (imposed by Section 1(1), it would not be expected to check compliance with nutritional standards as part of its role. It could be argued that some of the above objections to the reporting and inspection requirements may have been founded partly on a misunderstanding of these specific provisions.

116. In evidence to the Committee, Estyn explained that since April 2007, inspectors have been required to comment on whether a school has arrangements that encourage and enable learners to be healthy. Estyn went on to suggest that additional inspection requirements would not be in line with the general policy of rationalisation of the inspection of public services in Wales. It believed that a more appropriate inspection arrangement to that provided in Section 5 would be to conduct specific thematic survey

⁹² RoP, paragraph 45, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee; Written evidence, HES11.

⁹³ Written evidence, HES 8 and HES36.

⁹⁴ RoP, paragraph 78 and 82, 17 June 2008, Proposed Healthy Eating in Schools Measure Committee.

⁹⁵ Written evidence, HES2.

work to evaluate progress of schools in promoting healthy eating. These could be carried out using existing powers under Section 20 of the *Education Act 2005*. Estyn believed this thematic approach should address any problems that could otherwise be created in the inspection process as a result of a phased implementation of provisions.⁹⁶

Evidence from the Member in charge

117. In giving evidence to the Committee, Jenny Randerson AM asserted that the reporting and inspection provision was one of the most important aspects of the proposed Measure and key to its success. She believed that it was the most effective way to ensure that healthy eating was given priority when schools were faced with competing demands and that consistency in approach was achieved across all schools.⁹⁷

118. In responding to the concern that schools would be unfairly judged on whether there has been an increase in healthy eating, Jenny Randerson AM suggested that Estyn had developed sophisticated and fair reporting mechanisms, which already took account of a number of external factors that may impact on a school's performance.⁹⁸

119. She believed that the reporting and inspection arrangements provided for in the proposed Measure were not onerous and that they were designed to dovetail into existing arrangements.⁹⁹

120. Jenny Randerson AM clarified that local authorities (or governing bodies in the case where budgets have been delegated) would be responsible for the implementation and subsequent monitoring of compliance with the nutritional standards provided for in Section 7. However, she acknowledged there was 'an overlap' with the additional function of the Chief Inspector of Schools provided for in Section 5, in relation to the duty to promote healthy and would further consider this issue in light of the Committee's report and any subsequent recommendations.¹⁰⁰

Our view

121. We recognise the importance of monitoring and evaluating progress made in taking forward the healthy eating agenda and accept the assertion of Jenny Randerson AM and others that it will help ensure sufficient priority is afforded to this issue on an ongoing basis. We acknowledge the concerns raised in evidence about the potential administrative and bureaucratic burden that these arrangements may place on authorities. However, we believe that the arrangements provided for in the proposed Measure will, in

⁹⁶ Written evidence, HES19.

⁹⁷ RoP, paragraph 59, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

⁹⁸ Ibid, paragraph 61.

⁹⁹ Ibid, paragraph 59.

¹⁰⁰ Ibid, paragraph 67.

practice, largely amount to an extension and change in focus of existing arrangements. On this basis, we support, in principle, the reporting and inspection arrangements provided for in Sections 4, 5 and 6.

122. Notwithstanding the above, we share the concerns raised in evidence about the way in which the impact of the duty to promote healthy eating (Section 1(1)) will be measured. In particular, we question whether it is appropriate for governing bodies and Estyn to report on the extent to which the duty 'appears to have resulted in an increase in healthy eating.' To this end, while we accept there is a need to measure the success and/or outcomes of the Section 1(1) duty, we recommend that further thought is given to how this can best be provided for in the proposed Measure.

123. We note the suggested thematic approach to the inspection of healthy eating put forward by Estyn. While we support this approach we believe that thematic survey work would best be used to compliment, as opposed to replace, the requirement provided for in Section 5.

124. Furthermore, in view of the apparent confusion regarding the role of Estyn in inspecting more stringent nutritional standards provided for in Section 7, we recommend that the Member in charge consider how greater clarity could be achieved.

Section 7 - Requirements for food and drink provided on school premises etc.

Background

125. Section 7 is based on the current section 114A of the School Standards and Framework Act 1998, which enables Welsh Ministers to make regulations to prescribe the nutritional standards of school meals.

126. Section 7(2) goes beyond existing powers by requiring that, when making regulations prescribing for food and drink, Welsh Ministers must specify maximum levels of fat, salt, sugar and artificial additives.

Evidence from stakeholders

127. There were varying levels of support for more stringent nutritional standards provided for in Section 7. Some of those giving evidence specifically welcomed the provision while others believed that a statutory approach was unnecessary since improvements in nutritional standards were being addressed through *Appetite for Life*.

128. In supporting the Section 7 provision, the Children's Commissioner for Wales suggested that the higher nutritional standards should 'underpin' other changes provided for in the proposed Measure.¹⁰¹ Similarly, the

¹⁰¹ Written evidence, HES15.

Newport Appetite for Life Working Group believed that such standards were 'a necessary requirement' and would help 'to improve school meals'.¹⁰²

129. The Welsh Food Alliance took a broader view and suggested the Section 7 provisions would lead to wider benefits. It emphasised the potential purchasing power of local authorities (and government departments), which:

'...should drive the specification of manufactured foods available to the public sector and the wider population. This provides a double dividend for public health.'¹⁰³

130. While acknowledging the nutritional standards being piloted through *Appetite for Life*, Estyn believed that further, timely work was required by schools, the Welsh Assembly Government and local authorities to ensure that all schools across Wales were meeting those standards.¹⁰⁴ To this end, when questioned, Estyn implied that Section 7(1) should be strengthened to require Welsh Ministers to make regulations relating to nutritional standards as opposed to simply enabling them to do so.¹⁰⁵

131. Notwithstanding their support for higher nutritional standards, a number of organisations emphasised the need to be mindful of, and learn lessons from, the recent experience in England where the introduction of more stringent nutritional standards had led to a decrease in take up of school meals. However, Professor Moore believed this experience was a result of the speed with which the changes in England had been implemented and explained that behavioural change was 'complex and difficult.' He went on to emphasise:

'.....there needs to be careful consideration of how rapidly changes are brought about in food provided in school lunches and you need to support that and encourage children...'¹⁰⁶

132. Similarly, SNACMA suggested:

'The likelihood of radical changes to the foods being offered in schools ... being embraced quickly, if at all, by children is remote as evidenced by the problems experienced in England. It is important in this context to understand the changes in behaviours and habits are achieved only slowly and when the change is easy to accept and adopt.'¹⁰⁷

133. However, it was generally accepted by those giving evidence that an incremental approach, as outlined by Jenny Randerson AM in both the

¹⁰² Written evidence, HES17.

¹⁰³ Written evidence, HES33.

¹⁰⁴ Written evidence, HES19.

¹⁰⁵ RoP, paragraph 135 to 140, 24 June 2008, Proposed Healthy Eating in Schools Measure Committee.

¹⁰⁶ Ibid, paragraph 47.

¹⁰⁷ Written evidence, HES32.

Explanatory Memorandum and in evidence to the Committee, was the 'most pragmatic'¹⁰⁸ and would help safeguard against any negative impact in Wales.

134. A number of those giving evidence felt that the Section 7 provision was unnecessary given the piloting of new standards through *Appetite for Life*. Further to this, concern was raised that drastic changes in nutritional standards would undermine work being taken forward through *Appetite for Life* and lead to a negative impact, e.g. decrease in take up of school meals with pupils seeking out alternative 'unhealthy' options off site, or choosing to bring in packed lunches of 'a lower quality in terms of nutrition'.¹⁰⁹

135. The lack of current information about the practical and financial implications of introducing more stringent standards was of concern to a number of those giving evidence. Indeed, some went on to suggest that the outcome of the *Appetite for Life* Research Project would help assess whether the nutritional standards were workable and inform further decisions. Linked to this, the indirect cost of introducing higher nutritional standards was an issue for some of those who commented on the Section 7 provision. Specific concern was raised by the Local Authority Caterers Association (LACA), who suggested the cost estimate outlined in the Explanatory Memorandum:

'...falls short of the amount that we believe is actually required to provide healthier school meals in Wales.'¹¹⁰

136. LACA emphasised the recent increase in the cost of food and highlighted the need for significant investment in the infrastructure, e.g. improved facilities, equipment and increased staffing costs, to realise the higher standards.¹¹¹ Similar views were expressed by other organisations, mainly from within the local government sector. Indeed, several went on to highlight the need for additional funding, in particular to avoid increases in the cost of school meals.

137. Serious concern was raised in evidence about how compliance with the Section 7(2) requirement would be monitored and inspected (as mentioned in paragraph 115 above). It could be argued that some of the reservations about the introduction of higher nutritional standards were linked specifically to this. In some cases it was difficult to ascertain whether those giving evidence objected, in principle, to the Section 7 provision, or whether their concern was primarily with arrangements for monitoring and reporting of compliance with the standards. Nonetheless, some witnesses suggested there was a need to make clear who would be responsible and accountable for implementing nutritional standards.

¹⁰⁸ Written evidence, HES13.

¹⁰⁹ Written evidence, HES3.

¹¹⁰ Written evidence, HES22.

¹¹¹ Ibid.

138. In giving evidence to the Committee, the Minister explained that the Welsh Assembly Government currently had powers relating to nutritional standards, but that, at present, she had chosen not to use them. Instead, nutritional standards were being piloted through *Appetite for Life*, to ascertain whether they were deliverable in practice.¹¹²

Evidence from the Member in charge

139. Jenny Randerson AM explained that the Section 7(2) requirements were linked to the specifications regarding nutritional standards within *Appetite for Life* and provided a 'logical progression from that initiative.'¹¹³ She firmly believed that an incremental approach to the introduction of more stringent nutritional standards, combined with the promotional and educational approach provided for by the proposed Measure, would safeguard against a decrease in take up of school meals.¹¹⁴

140. In commenting on the timing of the implementation of nutritional standards, Jenny Randerson AM explained there were no commencement dates in the proposed Measure, which would allow the Minister to await the outcome of the *Appetite for Life* Research Project before introducing regulations under Section 7.¹¹⁵

Our view

141. We acknowledge the existing powers of Welsh Ministers in respect of nutritional standards for school meals and note that these powers are currently not being exercised. However, we recognise that the proposed Measure seeks to consolidate and strengthen existing legislation on healthy eating in schools and, to this end we are content with the inclusion of the Section 7 provision.

142. While we welcome the piloting of higher nutritional standards through *Appetite for Life*, we concur with witnesses that further work is required to improve nutritional standards of food in schools. We recognise that the Section 7(2) requirements are based on, and provide a logical progression of, the specifications being taken forward through *Appetite for Life*. We believe the inclusion of these requirements will help ensure consistent and equal provision of food in schools across Wales. On this basis, and in view of the strength of evidence, **we recommend the proposed Measure should be strengthened to require Welsh Ministers to make regulations under Section 7 as opposed to enabling them to do so.** While we accept that the exercise of these powers ultimately will be a decision for Welsh Ministers (as set out in the commencement provisions in Section

¹¹² RoP, paragraph 10, 3 June 2008, Proposed Healthy Eating in Schools Measure Committee.

¹¹³ RoP, paragraph 85, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

¹¹⁴ Ibid, paragraph 88 and 90.

¹¹⁵ Ibid, paragraph 9 and RoP, paragraph 11, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

16), we believe that strengthening the provision will create an expectation for them to do so.

Section 8 - Drinking water in schools

Background

143. The *Education (School Premises) Regulations 1999* state that a school shall have a wholesome supply of water for domestic purposes including a supply of drinking water.

144. Section 8 imposes a duty on local education authorities to ensure that a supply of water is available free of charge, and to have regard to any guidance issued by Welsh Ministers in this respect.

Evidence from stakeholders

145. There was widespread support for the duty provided for in Section 8. The Welsh Food Alliance believed that the provision of free drinking water was a 'basic human right'.¹¹⁶ While others recognised the importance of hydration, which was 'a key factor in children's learning'.¹¹⁷ Some highlighted the need for drinking water to be easily accessible, 'plentiful',¹¹⁸ and expressed a preference for it to be from 'filtered main [water] supplies'.¹¹⁹

146. Notwithstanding the above, many of those giving evidence were concerned about the cost of implementation and maintenance, particularly when using water coolers. The Farmers' Union of Wales highlighted the need to ensure the duty did not 'put constraints on existing education budgets',¹²⁰ while some local authorities specifically suggested that any associated costs should be reflected in the Revenue Support Grant.

147. Evidence suggested that pupils were reluctant to drink during the school day to avoid using poor toilet facilities and that:

'Aspects of toilets are unsatisfactory in half of secondary schools and in a quarter of primary schools surveyed for Estyn's report...'¹²¹

148. In view of this, Estyn, along with the Children's Commissioner for Wales and the ATL Cymru believed that inadequate toilet facilities could impact on the effectiveness of the Section 8 provision and called for the

¹¹⁶ Written evidence, HES33.

¹¹⁷ Written evidence, HES15.

¹¹⁸ Written evidence, HES1.

¹¹⁹ Written evidence, HES28.

¹²⁰ Written evidence, HES37.

¹²¹ Written evidence, HES 19

introduction of minimum standards for school toilets.¹²² Linked to this, the FSA Wales suggested the proposed Measure should include:

‘...a duty on LEAs to ensure adequate hand washing facilities are available and to promote good hygiene practice, such as hand washing by children before school mealtimes...’¹²³

149. In giving evidence to the Committee, the Minister implied that the Section 8 provision was unnecessary since a significant amount of work had already been undertaken in this area. She explained that the Children’s National Service Framework (NSF) required all places where children ate to have water available free of charge. In addition, this was reinforced in *Appetite for Life*, which required water provision to be physically divorced from school toilets.¹²⁴

Evidence from the Member in charge

150. Jenny Randerson AM explained that the Section 8 provision was not included in her original proposal on which she consulted. However, following strong support for the inclusion of such provision in consultation responses it was added. She went on to explain that the 1999 regulations did not specify that water should be free of charge and that Section 8(2) of the proposed Measure provided for Welsh Ministers to issue more precise guidance on this issue.¹²⁵

Our view

151. We note the strong support in evidence for the Section 8 provision and are content that the duty, which builds on existing legislation, is included in the proposed Measure. We acknowledge the evidence received regarding more detailed specifications relating to the availability and sourcing of drinking water and believe that these would be more appropriately addressed through guidance issued by Welsh Ministers. To this end, **we recommend that guidance under Section 8(2) requires the supply of drinking water to be easily accessible, physically divorced from the toilets and, where possible sourced from the mains supply.**

152. We accept that the issue of toilet facilities is outside the scope of the proposed Measure. However, given the strength of the evidence that failure to tackle poor toilet facilities could undermine the effectiveness of the Section 8 provision, we would urge the Assembly Government to consider how best to address this issue.

¹²² Written evidence, HES19.

¹²³ Written evidence, HES34.

¹²⁴ Written evidence, HES42.

¹²⁵ RoP, paragraph 99, 20 May 2008, Proposed Healthy Eating in Schools Measure Committee.

Sections 9 & 10 - Promotion of meals in schools and protection of identity of pupils receiving free school lunches

Background

153. Section 9 would require local education authorities to promote the availability and consumption of school meals in general, and free school lunches, in particular. There is no provision included in Section 9 for Welsh Ministers to issue guidance relating to the promotion of meals in schools.

154. Section 10 imposes a duty on local education authorities to protect the identity of those entitled to free school lunches in an attempt to encourage the take up of healthy school meals. In fulfilling their duties under Section 10, local education authorities must have regard to any guidance issued by Welsh Ministers.

Evidence from stakeholders

155. Those who commented on the provision relating to the promotion of meals were generally supportive of it. In particular, Professor Moore suggested that research shows that the nutritional content of school meals was superior to that of packed lunches and food bought off the school premises, e.g. in mobile vans.¹²⁶

156. The importance of the dining environment and the management of meal times in promoting school lunches and healthy eating more generally were raised by many of those in evidence. The National Federation of Women's Institutes stated:

'It should be noted that take up on school meals is often low because of queuing and dining facilities.'¹²⁷

And

'It is important that pupils can access and consume their food in a conducive atmosphere...we believe that it is vital that these are effectively addressed if this Measure is to make a difference.'¹²⁸

157. In its 'Food and fitness' report, Estyn concluded that the 'quality of the dining experience' was an influential factor in determining whether or not pupils choose to consume school meals. It subsequently recommended that schools should 'review their lunchtime arrangements to ensure they support healthy living.'¹²⁹ Indeed, the length of meal times and queuing was viewed by many as a significant barrier to improving healthy eating. It was suggested that these could be overcome, either through the introduction of

¹²⁶ Written evidence, HES11.

¹²⁷ Written evidence, HES28.

¹²⁸ Ibid.

¹²⁹ Written , HES19.

staggered lunches¹³⁰ or regulation of the length of the lunch period to one hour.¹³¹ The British Dietetic Association explained that the reduction of the lunch hour had ‘a huge impact on availability, choices and serving of food.’ It went on:

‘Unless this is addressed and more importance paid to the social aspect of lunch times and eating the Measure is unlikely to lead to increased uptake of healthier choices.’

158. The lack of funding available to improve dining facilities to provide a suitable environment within which pupils would choose to dine was also raised in evidence.

159. In referring to Section 9(2), the FSA Wales suggested work should be undertaken to understand barriers to improve take up.¹³² In commenting on existing research, both Estyn and the Newport Appetite for Life Working Group reported that secondary schools pupils who were eligible for free school meals often chose not to take them up if they were allowed off-site, because they wanted to be with their friends.¹³³ The latter went on to suggest that this ‘complex issue’ would only be addressed with adequate support from head teachers and governing bodies, among others.¹³⁴

160. There was broad support in evidence for Section 10. It was generally felt that the protection of identity of those receiving free school meals, particularly through the introduction of ‘cashless systems’¹³⁵ would help combat any stigma that prevented pupils taking up entitlement. Linked to this, some ultimately suggested that consideration should be given to the introduction of free school meals for all pupils. Indeed, Powys County Council stated:

‘School meals should be regarded as an integral part of the academic day for all pupils. Just as lessons are free for all, free school meals for all would ensure that every pupil is treated equally with the same chance for a healthier diet and future life.’¹³⁶

161. There was concern raised by a number of those giving evidence about the financial and practical implications if there was a significant increase in demand for school meals as a result of the requirements, and also in the cost implications of protecting the identity of pupils receiving free school meals provided for in Section 10.

162. In giving evidence to the Committee, the Minister explained that an electronic system for local authorities to streamline the process for free

¹³⁰ Written evidence, HES6.

¹³¹ Written evidence, HES10, 30 and 31.

¹³² Written evidence, HES34.

¹³³ Written evidence, HES17 and HES19.

¹³⁴ Written evidence HES17.

¹³⁵ Written evidence, HES20.

¹³⁶ Written evidence, HES30.

school meal eligibility checking was being introduced. In addition, the Welsh Assembly Government was in the process of commissioning a literature review on take up of free school meals.¹³⁷

Evidence from the Member in charge

163. Jenny Randerson AM felt strongly that the protection of the identity of eligible pupils was key to increasing the take up of free school meals. She asserted:

‘If you protect...identity, then they are in the same position as all other pupils, and are therefore equally encouraged to eat healthily.’¹³⁸

164. Jenny Randerspn AM explained she had not considered introducing free school meals through the proposed Measure as it would have been ‘overly ambitious financially’.¹³⁹ However, she noted the work that was going on in Scotland on this agenda and considered it might be more appropriate to consider free school meals when there was more evidence available upon which to base a decision.¹⁴⁰

Our view

165. We acknowledge the general support in evidence for the promotion of meals in schools and protection of identity of pupils receiving free school lunches. We accept the evidence regarding the complexity of factors affecting the take up of school meals. In view of this complexity, combined with the underlying need to provide adequate support to those responsible for implementing key provisions, **we recommend that the proposed Measure includes a requirement on Welsh Ministers to issue guidance in respect of Section 9.**

166. Linked to this, we recognise the importance of creating a positive ‘dining experience’ for pupils and the positive impact this has on improving healthy eating. We acknowledge that the proposed Measure makes no specific provision to address this issue. To this end, **we recommend that guidance issued by Welsh Ministers (either under Section 1(1) or, if provided for Section 9) encourages all schools to ensure that the quality of the dining experience is conducive to encouraging healthy eating.**

167. We acknowledge and accept the view that the protection of identity of those receiving school meals provided for in Section 10 would help address the stigma that prevents pupils taking up entitlement. We recognise the importance of guidance in ensuring consistency of approach and successful outcomes. To this end, **we recommend that the proposed**

¹³⁷ Written evidence, HES42.

¹³⁸ RoP, paragraph 71, 1 July 2008, Proposed Healthy Eating in Schools Measure Committee.

¹³⁹ Ibid, paragraph 73.

¹⁴⁰ Ibid.

Measure be strengthened to require Welsh Ministers to issue guidance under Section 10(6).

5. Other Committee reports

i. Finance Committee

168. The Finance Committee considered the proposed Measure at its meeting on 12 June 2008, in accordance with Standing Order 14.2.¹⁴¹ It took oral evidence from Jenny Randerson AM, and representatives from the Welsh Local Government Association.¹⁴² The Committee laid its report before the Assembly on 1 July 2008, a copy of which can be found on the Assembly's website.

169. In the Committee's report it concluded that it was content with the cost estimate of the proposed Measure, but recognised that the timing of the costs could change depending on the speed with which provisions were implemented and improvements occurred.

Our view

170. We note the Finance Committee's conclusions. However, in view of the concerns raised in evidence received by this Committee, in particular about the indirect costs associated with delivering higher nutritional standards, we suggest the Assembly Government explore fully the financial implications of implementing regulations provided for in the proposed Measure before they are made.

ii Subordinate Legislation Committee

171. At its meeting on 15 April 2008, the Subordinate Legislation Committee considered the proposed Measure, in accordance with Standing Order 15.6. It took oral evidence from Jenny Randerson AM.¹⁴³

172. The Chair of the Subordinate Legislation Committee subsequently wrote to our Committee outlining its conclusions. A copy of the letter from Dr Dai Lloyd AM, can be found on the Assembly's website.

173. The Subordinate Legislation Committee concluded it was satisfied with the subordinate legislation provisions within the proposed Measure and the procedure applying to them. .

Our view

174. We note the conclusions of the Subordinate Legislation Committee. While we are content with the extent of regulation making powers contained within the proposed Measure, we have recommended that Section 7 be strengthened to require Welsh Ministers to make regulations in relation to nutritional standards as opposed to enabling them to do so.

¹⁴¹ RoP, 12 June 2008, Finance Committee.

¹⁴² Ibid.

¹⁴³ RoP, 15 April 2008, Subordinate Legislation Committee.



Consultation Responses

Reference	Organisation
HES 1	British Dietetic Association
HES 2	Welsh Local Government Association and Association of Directors of Education in Wales
HES 3	Vale of Glamorgan County Council, Chief Executive
HES 4	Vale of Glamorgan County Council, Director of Learning
HES 5	UCAC
HES 6	Bridgend County Council
HES 7	Governors' Wales
HES 8	National Association of Head Teachers
HES 9	Wales Council for Voluntary Action
HES 10	Carmarthenshire County Council
HES 11	Professor Lawrence Moore
HES 12	British Medical Association
HES 13	British Heart Foundation
HES 14	Diabetes UK Cymru
HES 15	Children's Commissioner for Wales
HES 16	Conwy County Borough Council
HES 17	Newport Appetite for Life Working Group
HES 18	National Confederation of Parent Teacher Associations
HES 19	Estyn
HES 20	Association of Teachers and Lecturers
HES 21	Cardiff Council

HES 22	Local Authority Caterers Association
HES 23	Torfaen County Borough Council
HES 24	Royal College of Nursing
HES 25	Anglesey County Council
HES 26	Children in Wales
HES 27	Catering Services Manager, Pembrokeshire County Council
HES 28	National Federation of Women's Institute's Wales
HES 29	ContinYou Cymru
HES 30	Powys County Council
HES 31	Merthyr Tydfil County Borough Council
HES 32	Snack Nut and Crisp Manufacturers Association
HES 33	Welsh Food Alliance
HES 34	Food Standards Agency
HES 35	Which?
HES 36	Association of School and College Leaders
HES 37	Farmers Union of Wales
HES 38	Monmouthshire County Council
HES 39	Rhondda Cynon Taf County Borough Council
HES 40	Ceredigion County Council
HES 41	Denbighshire County Council
HES 42	Minister for Children, Education, Lifelong Learning and Skills

Responses to the consultation can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/bus-legislation-meas-hes/bus-legislation-measures-hes-consultationresponses.htm>

Schedule of Oral Evidence

Date	Witnesses
20 May 2008	Jenny Randerson AM, Member in charge of the proposed Measure
3 June 2008	Minister for Children, Education, Lifelong Learning and Skills
10 June 2008	British Dietetic Association Welsh Local Government Association and Association of Directors of Education in Wales
17 June 2008	National Association of Headteachers (NAHT) Cymru Undeb Cenedlaethol Athrawon Cymru (UCAC) Governors Wales
24 June 2008	Cardiff Institute of Society, Health and Ethics Her Majesty's Chief Inspector of Education and Training (Estyn) Newport Appetite for Life Group
1 July 2008	Jenny Randerson AM, Member in charge of the proposed Measure

Transcripts of oral evidence sessions can be found at:-

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-hes-home/bus-committees-third-hes-agendas.htm>

Consultation with children and young people

1. Background

In considering its approach to scrutiny of the proposed Healthy Eating in Schools (Wales) Measure 2008 at its 13 May meeting, the Committee agreed it would be important to seek the views of children and young people.

The Legislation Office worked closely with Assembly Parliamentary researchers and the Education Service to compile two questionnaires aimed at 7 - 11 year olds and 11 - 18 year olds. The questionnaires along with a letter to the head teacher were sent to a 10% random sample of schools across Wales.

In addition, the Education Service used the questionnaires as part of their internal and outreach education programmes. Schools and colleges visiting the Siambr Hywel debated 'healthy eating', including some of the specific provisions contained in the proposed Measure. The electronic voting system was used to determine pupils' views on the provisions. Outreach officers also helped facilitate classroom debates in a number of schools about the main issues highlighted in the consultation document and the proposed Measure.

A total of 736 questionnaires were received.

2. Results of questionnaires

2.1 7 - 11 year olds

A total of 526 responses were received.

Question 1: *The Welsh Assembly Government and schools must encourage school children to eat healthily when they are at school.*

Yes	85%
No	13%
Not sure	2%

Question 2: *Schools must ask for, and listen to, school councils' ideas about how to encourage school children to eat healthily when they are at school.*

Yes	85%
No	14%
Not sure	1%

Question 3: *The Welsh Assembly Government can, if it wants, decide to allow only healthy food and drink to be provided in schools. This could mean that schools may not be allowed to provide certain food and drinks, like sweets, crisps and fizzy drinks, as part of school meals or in tuck shops.*

Yes 37%
No 62%
Not sure 1%

Question 4: *The Welsh Assembly Government must ask for, and listen to, school councils' views before deciding on what food and drink should be allowed in schools.*

Yes 86%
No 11%
Not sure 3%

Question 5: *Schools must try to make sure that healthy school meals are available to pupils and encourage as many pupils as possible to eat them.*

Yes 79%
No 17%
Not sure 4%

In the second part of the questionnaire pupils were asked to decide which of two statements they agreed with most:

I think there is enough being done in schools to try and make sure pupils eat healthily.

41%

I don't think enough is being done in schools to try and make sure pupils eat healthily

42%

17% made no comment

I think there should be a law to try and make sure that school children eat healthily in school.

46%

I don't think there should be a law to try and make sure that school children eat healthily in school.

43%

11% made no comment

2.2 11 - 18 year olds

A total of 210 responses were received.

Question 1: *There should be a law in Wales that makes sure healthy eating is promoted amongst pupils*

Yes	84 %
No	12 %
Not sure	4%

Question 2: *Welsh Ministers, governing bodies, head teachers and local authorities must be responsible for promoting healthy eating amongst school children.*

Yes	78%
No	19 %
Not sure	3 %

Question 3: *The Schools' Inspector must inspect schools on what they are doing to promote healthy eating.*

Yes	80%
No	15%
Not sure	5%

Question 4: *Welsh Ministers and governing bodies must report each year on what they are doing to promote healthy eating in schools.*

Yes	78%
No	18 %
Not sure	4%

Question 5: *Welsh Ministers can specify the nutritional standards of food and drink provided in schools, including the maximum levels of salt, sugar and artificial additives. This could mean that schools may not be allowed to provide certain food and drinks, like sweets, crisps and fizzy drinks, as part of schools meals or in tuck shops.*

Yes	65%
No	31 %
Not sure	4%

Question 6: *Local education authorities must promote the availability of school meals and encourage pupils to have school meals.*

Yes	76%
No	23%
Not sure	1%

Question 7: *Some pupils who are allowed free school meals may not want other pupils to know about this. Local education authorities must try to ensure that the names of pupils receiving free school meals must be kept confidential.*

Yes	74%
No	19 %
Not sure	7%

Question 8: *Local education authorities must ensure that drinking water is readily available to pupils?*

Yes	88%
No	4 %
Not Sure	8%

The second half of the questionnaire for 11 - 18 year olds asked for comments on selected consultation questions. Below is a summary of the main themes that emerged.

Question 9: *If the Measure is passed, what impact would it have on you?*

Out of the comments received a majority said that if passed the Measure would have little or no effect as 'I already eat healthily', 'my school is already a healthy school' and 'healthy eating is already promoted in my school. However, some children commented that the Measure would have a positive impact as it would mean that 'better food' would be available and children will be 'healthier, fitter' and 'concentrate in class more'. A small number of children said that it would 'make them sad'; and one suggested 'I like chips, but I would try healthy food'. A number of pupils associated eating healthy food with not 'getting fat'.

Question 10: *Do you think anything else to do with healthy eating in schools should be included in this Measure?*

Of those who commented a high proportion were concerned with the cost of healthy food in schools. A number of comments suggested 'healthy food should be free and you should only pay for unhealthy/greasy food'. A significant number of pupils suggested that more free sports activities should be available, with a small number suggesting the introduction of 'healthy eating lessons' in schools. A number suggested that 'promotion of healthy food at home' should be a high priority with 'a list of healthy foods for lunch boxes' made available for parents. A large number suggested 'getting rid of vending machines' in schools would help. A significant number also suggested making a greater variety of fruit and vegetables available with a small number suggesting 'free fruit at break times'. A minority opinion was that nothing else should be included and it is important 'to give kids a choice'.

Question 11: *If the Measure is passed do you think it will make pupils eat healthier food in schools?*

Out of those who commented, a large number said that the Measure would make pupils eat healthier food in schools. The majority of those who didn't think that it would make a difference said that they would take in their own packed lunches. Other suggested that parents also need encouragement and that there needs to be balance.