

Proposals for Health Eating in Schools Measure

Response from the Children's Commissioner for Wales.

This is a response on behalf of the Children's Commissioner for Wales.

The Children's Commissioner for Wales is an independent children's rights institution in line with the Paris Principles. The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare.



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None of the evidence in this submission need be treated as confidential

Introductory comments

The principal aim of the Office of the Children's Commissioner for Wales is to safeguard and promote the rights and welfare of all children aged under 18 in Wales. The provision of food in school affects almost all children and young people. Their rights are enshrined within the United Nations Convention on the Rights of the Child (UNCRC). This convention has been adopted as the key driver in policy development by the Welsh Assembly Government. A number of the rights contained within UNCRC are particularly relevant to this consultation, these being Articles 12, 13, 14, 24, 27 and 30. For reference, the full text of each of these rights can be found as an annex to this response.

In the recent past, a large number of children and young people have commented to us about the food available in their schools. The main focus of these comments have related to:

- The high cost of food in school
- The variable quality of the food in school
- The length of queues in school dining areas

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- The need for greater time to each lunch and to have improved dining areas

The Children's Commissioner for Wales welcomes the opportunity to now respond to the consultation on the Proposed Healthy Eating in Schools Measure.

Following AM Jenny Randerson's successful ballot application, we submitted a response to the Assembly Member in September 2007 outlining our position on the proposed measure and have drawn on that in our response to this consultation.

We also responded to the consultation carried out in January 2008 and that response is replicated in full below.

We have noted and welcomed the changes that were made to the Measure as a result of the consultation in January 2008 which were

- Greater consultation
- Consultation prior to making Regulations
- Strengthening the requirements in relation to drinking water in Schools
- The reporting requirements on Governing Bodies and Headteachers

We have read the transcripts of the recent Committee sessions and the evidence of various bodies and the variety of opinions that have been expressed and the concerns from some bodies around consultation with pupils and the funding for the provision and maintenance of water coolers.

We note that both Scotland and England have moved ahead in terms of policy implementation in this field at a much greater speed than in Wales. However, we feel that this will allow some of the barriers to successful implementation of changes to school food to be identified prior to implementation in Wales. This we hope will mean that the same issues around implementation, for example reduction in the number of children eating school meals¹, will not be replicated in Wales.

We welcome that the Proposed Measure extends, as we have advocated previously, the power to promote healthy eating to beyond just schools but to include other premises maintained by the local education authority or where local education authorities may send children.

¹ British Broadcasting Corporation 2006 *Fewer pupils eating school meals* 13 July 2006 Accessed 14 July 2006
<http://news.bbc.co.uk/1/hi/education/5177880.stm>

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Consultation Questions

- 1 The impact of the measure in developing holistic 'all school' approaches to healthy eating will only be measurable when the measure has been implemented. We would stress however the need for children and young people to participate fully in the development of such approaches, which is their right under articles 12 and 13 of the UNCRC. Children and young people are the key consumers of food in school and if the food that they eat and drink that they consume is to be made healthier, then they need to be part of the process of change and not merely be subjected to imposed change. It is vital that children and young people understand fully the changes that are being made and how the implementation of such changes will impact on them. It has been reported, in some areas of Wales, that where changes have been made to school food there have been reductions in the take up of meals.

We welcome the fact that 'all school' approaches have been reintroduced into the proposed Measure because they will focus school's attention on healthy eating across all aspects of school life and not just on the food served at lunch times.

- 2 As has been seen in England, changes in nutritional standards have led to a reduction in the number of children eating school meals. We therefore support the use of an incremental approach to these changes which will need to be accompanied with clear explanations of the changes being made and the benefits which are expected to accrue from the introduction of more stringent standards. The *Appetite for Life* consultation document envisaged that the Caroline Walker Trust standards would be introduced, is the intention to introduce those standards? As we stated in September 2007, the introduction of nutritional standards should underpin the other policy changes foreseen by this measure.
- 3 We are concerned that there is insufficient attention paid to the issue of drinking water in the proposed measure and would wish to see the regulations that may be made under this Measure reflect the importance of freely available chilled drinking water dispensers for use by pupils in schools.

In September 2007, we suggested that within the proposed Measure that there should be strengthened references to drinking water for all pupils:

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The Appetite for Life Consultation referred to the provision of drinking water for pupils, however, as you will note from our consultation response, we did not consider that these proposals were sufficiently far-reaching. As you will note from page 5 we offered suggestions as to how the proposal relating to water could be strengthened. Your letter made no reference to drinking water, but this is an essential part of healthy eating and therefore I would ask you to consider placing this within the Measure for debate.

When responding to the Appetite for Life consultation in 2006 we stated that:

The Office of the Children's Commissioner for Wales has always taken a keen interest in the health and well being of children and young people in Wales, as evidenced by the publication in 2004 of Lifting the Lid into the condition of school toilets in Wales. Since then some progress has been made in improving school toilets, however the hygiene of school toilets was identified as a contributory factor in the e-coli outbreak in the South Wales area in late 2005. It is pleasing that new guidelines have been sent to primary schools on minimising the spread of harmful germs, which include advice about hand washing. We await information about whether similar guidance is being prepared for secondary schools. Proposal 7 is therefore a proposal of considerable interest to the Office of the Children's Commissioner for Wales, following his publication Lifting the Lid. ...It is also vital to recognise the importance of rehydration following physical education lessons and after school activities, especially given the increasing use of school as community focused schools. We clearly welcome that the need for water sources to be physically divorced from the toilets is included within the proposal. Evidence from other sources suggests the importance of chilling water that is provided for children and we consider that this should be mandatory.

It is of concern that, whilst Appetite for Life clearly encourages the importance of hydration for children, there are not connected recommendations in terms of toilet provision. Children have told us that some of them will avoid drinking in school so that they avoid having to use the toilets in school. This not only impacts on their hydration levels and what some people therefore consider to be the related concentration levels but also impacts on their health, through impacting on incontinence, urinary infections and constipation. It is of considerable importance that civilised toilets are provided to the children and young people in Wales today to support not only the improvements in healthy eating in schools but also to support the development of children's health.

We therefore call on those considering the Measure and the Welsh Assembly Government to ensure that there is sufficient access to freely

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- available to chilled drinking water in all schools. We also feel that toilet provision should be addressed in schools so that the aims of the healthy eating measure are not undermined by poor toilet provision. Hydration has been identified as a key factor in children's learning, however if children do not drink because they feel that they do not want to use the school toilets then a lack of hydration can contribute to a lack of progress.
- 4 We are not in a position to comment on this proposal.
 - 5 We agree with the proposed duties, responsibilities and reporting requirements on head teachers and governors, however, with school councils now being a mandatory requirement in schools in Wales we feel that head teachers and governors should report to the councils on an annual basis, possibly through a consultative process to gain pupils' views on the school meals. We feel that pupils should be one of the groups to whom head teachers must report on an annual basis as well as through an ongoing basis.
 - 6 The impact of the duties, responsibilities and reporting requirements will become clearer after the Measure is introduced. We would ask what, if any, scrutiny will take place of the report of the Welsh Ministers on the steps that they have taken to promote healthy eating. Without scrutiny of this important change to the food that children are eating in schools in Wales, there will be little opportunity to identify whether any further changes need to be made in national policy in the future. There is a need to discuss which body could take the overview of healthy eating measures in schools.
 - 7 There will be no financial costs incurred by the Children's Commissioner for Wales as a result of the proposals in the Measure.

Additional Comments

There are a number of issues that we believe could be usefully considered for inclusion in your proposed Measure. These are:

- Research into the meeting of the dietary needs of ethnic minority and other pupils with specific dietary needs.
- Consideration of banning mobile food vans from both school premises and the immediate areas.
- Greater involvement of pupils.

Research into the meeting of the dietary needs of ethnic minority and other pupils with specific dietary needs

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Proposal 3 in the *Appetite for Life* consultation referred to research into how the dietary needs of minority ethnic groups could be met by the nutrient and food based standards within *Appetite for Life*. There was no timetable attached to this research and I consider that this is an important element of any proposals seeking to improve school meals. There may be other groups of children, for example, vegans, vegetarians and those with food intolerances whose needs must be met and therefore what consideration, if any, has been given to this issue when preparing the Measure?

Consideration of banning mobile food vans from both school premises and the immediate areas

In 2006, a local authority in Wales proposed using existing legislation to ban mobile food vans from both school premises and the immediate areas. As I am sure you will appreciate the presence of such vans could render ineffective the increased food and nutrient based standards within schools. We understand that, although the education department within that authority supported the proposed ban, they were unable to secure support from other departments within the authority who could have enforced any such ban. Whilst a Wales wide ban may be outside of the scope of the Measure, it is perhaps an issue worthy of consideration.

Greater involvement of pupils

Children and young people often discuss school food with the Children's Commissioner for Wales' staff. Children and young people's concerns often centre on how their voices are often not heard in relation to school food. We are aware of schools where children have been involved fully in the whole process of changing school meals. At those schools, take up levels have not dropped at the same rate as in other schools. Recent reports suggest that take up levels of school meals have dropped in England, Scotland and Wales as a result of making school meals healthier. It is important that, as the consumers of school meals, children are involved in the changes through a fully participative process.

Concluding Remarks

The proposals in this proposed Measure replicate many of those made in *Appetite for Life*, and recognise that for some time the nutrition of children and young people in schools in Wales has been given a lower priority than is now felt to be required. When working with children and young people in Wales, we have found that currently the quality of food provision is variable and therefore the proposals to introduce more stringent food and nutrient based standards are to

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be welcomed in that they may provide equality of provision for all children and young people in Wales.

The proposals within the Measure do, however, appear to treat children and young people as merely passive consumers of school food. However our experience shows that children and young people are sophisticated consumers. The proposals to remove foods that have little or no nutritional value are to be welcomed, but the spectre of 'fast food' vans parked outside of school gates emphasises urgent need for the education of children and young people to make healthy choices. They can be supported to make such choices not only through education but also marketing campaigns.

We are particularly concerned that the recommendations in terms of water provision are not sufficiently strong to ensure that there is access to sufficient water sources outside of toilets, particularly in secondary schools. We are also concerned that there will be an increasing level of reporting in terms of the content of school meals but there appears to be little clarity as to the consequences of not meeting the new standards. Without stringent monitoring of schools' adherence to the new standards the provision of school food to children will remain variable across Wales.

It is important that those developing whole school food policies involve pupils fully in policy formation, planning and implementation as well as ongoing monitoring and not just a single, initial consultation. Children can offer their own unique insights into the food provision that they experience and therefore listening to their experiences will be crucially important in developing whole school food policies.

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Annex Relevant articles from the United Nations Convention on the Rights of the Child

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 24

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1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

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3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.