



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Pwyllgor ar y Mesur Arfaethedig ynghylch Bwyta'n
Iach Mewn Ysgolion
The Proposed Healthy Eating in Schools Measure
Committee**

**Cyfnod 1
Stage 1**

**Dydd Mawrth, 3 Mehefin 2008
Tuesday, 3 June 2008**

Cynnwys
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Session 2

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Angela Burns	Ceidwadwyr Cymreig (yn dirprwyo ar ran Alun Cairns) Welsh Conservatives (substitute for Alun Cairns)
Jeff Cuthbert	Llafur Labour
Irene James	Llafur Labour
David Lloyd	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)

Eraill yn bresennol
Others in attendance

Ruth Conway	Is-adran Cymorth i Ddysgwyr, Llywodraeth Cynulliad Cymru Support for Learners Division, Welsh Assembly Government
Jane Hutt AM	Aelod Cynulliad, Llafur (Y Gweinidog dros Blant, Addysg Dysgu Gydol Oes a Sgiliau) Assembly Member, Labour (The Minister for Children, Education, Lifelong Learning and Skills)
Iwan Roberts	Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services, Welsh Assembly Government

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol y Pwyllgor Legal Adviser to the Committee
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Kirsty Williams:** Good morning, everybody, and welcome to this morning's meeting of the Proposed Healthy Eating in Schools Measure Committee. I remind everybody to turn off mobile phones, pagers and any other electronic devices that they may have so that they do not interfere with the broadcasting system. Simultaneous translation facilities are available via the headsets. Members, please remember that there is no need to touch the microphones as the system will work automatically.

[2] Apologies have been received from Alun Cairns; Angela Burns is substituting for him this morning. I understand that Angela will be made a formal member of this committee at a vote in Plenary next week. It is good to see you, Angela.

9.31 a.m.

**Y Mesur Arfaethedig ynghylch Bwyta'n Iach mewn Ysgolion (Cymru) 2008—
Cam 1, Sesiwn Dystiolaeth 2
Proposed Healthy Eating in Schools (Wales) Measure 2008—Stage 1, Evidence
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[3] **Kirsty Williams:** The purpose of this morning's meeting is to take further oral evidence in connection with the proposed Healthy Eating in Schools (Wales) Measure 2008. I welcome Jane Hutt, the Minister for Children, Education, Lifelong Learning and Skills, to the meeting. Thank you, Jane, for taking up our invitation to give evidence to the committee. I am grateful for the paper that you and your officials have submitted. I am also grateful that Iwan Robertson and Ruth Conway are able to join you this morning. Members have a significant number of questions to ask. With that, I turn to Jeff Cuthbert to ask the first question.

[4] **Jeff Cuthbert:** Good morning, Minister. The issue of healthy living in schools is a matter of great interest and concern to me. I have read the 'Appetite for Life' action plan, and I also found your explanatory letter, which was sent to committee members beforehand, very helpful. Having read that letter, it seems to me, at any rate, that a clear message is coming across. In the light of the 'Appetite for Life' action plan and the associated research project, do you consider that there is a need for this proposed Measure?

[5] **The Minister for Children, Education, Lifelong Learning and Skills (Jane Hutt):** Thank you very much, Jeff. I am sure that all of us around this table share this great interest in and concern about promoting healthy eating in schools. At this stage, I remain open as to whether Jenny's Measure is the most effective way of delivering the required outcome, and that is why I will be listening carefully to the evidence given to this committee and considering it carefully, and I will await your findings. However, it is fair to say that I remain to be convinced that a Measure is necessary to take this agenda forward effectively, because the 'Appetite for Life' action plan was only launched last November, following an extensive consultation exercise. That included responses from children and young people—it is crucial to get them on board. That is why the Assembly Government has, at this stage, adopted an approach that seeks to take our partners, our stakeholders and, crucially, children and young people, with us to take this forward.

[6] As I said, it is matter of seeing the evidence. I am not convinced at this stage, but clearly committed to delivering the healthy eating and food agenda in schools.

[7] **Jeff Cuthbert:** With regard to the introduction to the proposed Measure, your letter contains comments about taking stakeholders with us through persuasion, participation and partnership. If the proposed Measure does indeed become law, do you feel that there could be a contradiction there?

[8] **Jane Hutt:** As I said very clearly in my written statement, and as I outlined in response to your first question, we believe that persuasion, participation and partnership are key factors in developing a sustainable service that delivers healthy school meals and, critically, the take-up of them. The written statement makes clear our approach through the 'Appetite for Life' action plan, with a two-year action research project commencing this September. It is possible—obviously, the committee's views are important in this regard—to see the introduction of the Measure at this stage as perhaps premature. 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.

[9] **Jeff Cuthbert:** In the light of that response, I will ask my next two questions together. Do you think there are any elements or aspects of the proposed Measure that could usefully supplement the work of the action plan—I appreciate your point about waiting to see the evidence and so on—and do you think that there is anything in the proposed Measure that could conflict with the action plan?

[10] **Jane Hutt:** Looking at the issues in terms of supplementing the work of ‘Appetite for Life’, as you can see from my evidence, 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. We have powers under section 114A of the School Standards and Framework Act 1998, so, to a certain extent, those powers are already restated in the Measure. However, the Measure adds to those powers in subsections 2 and 12, which are the subsections about standards and involving school councils. We have the powers, but we have not chosen to use them at this point and until we have completed the ‘Appetite for Life’ action research project.

[11] With regard to your question about conflicts, there are no conflicts in terms of overall policy objectives as far as this is concerned. It has been very valuable to have had discussions right from the start with Jenny Randerson about the principles and the overall policy objectives. However, ‘Appetite for Life’ and the Measure take different approaches to reaching the goal that we want to achieve. ‘Appetite for Life’ is a voluntary approach, whereas the Measure introduces statutory duties.

[12] **Jeff Cuthbert:** When Jenny came before the committee a few weeks ago, she said that her proposed Measure aimed for a non-prescriptive approach, leaving much of the detail to Welsh Ministers. Do you think that that approach—and I acknowledge all that you have said so far—is sensible, and could it assist in leading to the desired effect, namely healthier children?

[13] **Jane Hutt:** The difference, as I have just said, is that the Measure makes the provision statutory. At the moment, it is non-statutory, and once you have statutory provision, it imposes duties and places duties to deliver on local education authorities, schools and governing bodies. I recognise, from the route that Jenny has taken, and from reading her evidence, that she acknowledges the importance of the gradual approach and that we do not need to do this overnight. I understand that she also recognises the importance of assessing and taking on board the ‘Appetite for Life’ action research project. However, the Measure is still about moving from a non-statutory to a statutory approach. I also welcomed, from Jenny’s evidence, the fact that she recognises that we must take a holistic approach; it is not just about statutory provision in relation to nutritional standards, for example. I hope that you saw from my written evidence that we have a much broader agenda in terms of the Welsh network of healthy schools and the food and fitness implementation plan, promoting healthier lifestyles and physical activity for children and young people in Wales. It will be a holistic and whole-school approach, and through these wider policy programmes I think that we will make the difference and ensure that we have healthier children.

9.40 a.m.

[14] **Jeff Cuthbert:** My final question is on the issue of statutory measures. As you have said, ‘Appetite for Life’ is not statutory, but seeks to reach agreement, and you have explained why that is so. However, why did you not put it on a statutory footing to preserve funding for the policy, for example?

[15] **Jane Hutt:** I have partially answered those questions. We already have powers that I

can invoke as a Minister under the Schools Standards and Framework Act 1998, which are now inserted in the Education Inspection Act 2006. We could use those powers to make these provisions statutory. The issue is whether this is the right route for delivering what we all subscribe to in terms of healthier food and healthy eating in our schools. We already have minimum standards, which were introduced in regulations in 2001. However, if we are to successfully improve the food and drink provided in schools and improve the take-up of healthy eating and the eating habits of our children and young people, we have to work with them and engage with them. The fact that ‘Appetite for Life’ is non-statutory is helpful at this stage, and we can perhaps learn from the action research project before invoking powers to make it statutory.

[16] Your point on funding is important, because you will see from ‘Appetite for Life’ that we have already invested a great deal. There is a £6 million provision in the budget for ‘Appetite for Life’ over the next two years. That is not just for the four authorities that are engaged as the key authorities to test this out; there is a grant scheme for the whole of Wales. The success of the network of healthy schools, and all the other provisions that I have mentioned in my written statement, is all as a result of considerable investment from the Welsh Assembly Government. There is Government backing and strong backing from schools and local education authorities, and this is a priority for me as the Minister.

[17] **Kirsty Williams:** Angela wants to come in on this point.

[18] **Angela Burns:** Following on from Jeff’s comments, I want to push you again on that issue; I know that you have answered this in part. You are absolutely right that nothing is ever successful in life unless you take people along with you, so we must therefore take the children, schools and so on along with us. However, this is an area that is fundamental to the health and wellbeing of our children where we can legislate—not in relation to the children, obviously, but in relation to the local authorities and schools—to ensure that schools do not fall by the wayside and that there is not some school somewhere providing inadequate food or a caterer who is not doing things right. I would therefore like to press you again as to why this is not statutory and why you have not used the powers that you already have. If you make everything completely voluntary and hope for best wishes and goodwill, there will always be those who try to buck the trend. This matter is of fundamental importance, and it is one small area that we can control and where we can lay down absolute minimum standards in order to improve the quality of food that our children receive.

[19] **Jane Hutt:** I think that you have answered the question yourself in part. There is a balance between non-statutory and statutory in terms of taking everyone with us. Importantly, if we look at the experience in England, we have seen a fall-off in the take-up of school meals in England, and I think that you have acknowledged that. We were just looking at the figures in primary schools, and the take-up in Wales in 2007 was 47 per cent, I believe, whereas it was 41 per cent in England. There has been a fall-off in the take-up. We must take children and young people with us—

[20] **Angela Burns:** Making it statutory will not stop that.

[21] **Jane Hutt:** The interim food-based standards were introduced in England in 2006 and then the food-based standards were introduced in 2007. Primary schools had to meet the new nutrient-based standards from 2008 onwards. There has been a fall-off in terms of take-up in England, but the commitment is there in Wales; it is not just voluntary. ‘Appetite for Life’ is a substantive commitment on the part of the Government. We have received more than 500 responses to the consultation and there have been conferences and launches. I mentioned the figure of £6 million, but we are putting more like £13 million per annum into taking this agenda forward. So, the action research project will highlight practical implementation issues.

[22] We will probably go on to questions about the recommended food standards for school lunches, but it is in 'Appetite for Life'. We need to trial this out, and we will be doing that over the next two years. For example, we are trialling food standards not just in relation to children getting not less than two portions of fruit and vegetables per day, but in relation to all the other issues, such as oily fish, deep-fried potato products, chips, and so on, which we will be checking to see how we can ensure that we take our children and school meals service and delivery with us. So, I do not think it is a case of either/or, but a matter of when the statutory basis is introduced.

[23] **Kirsty Williams:** Minister, I think that you are trying very politely to say that 'when' is not now; you are trying to do it in the nicest possible terms. So, if it is not now, how long would you envisage letting your current policy agendas and objectives go on before you would consider it necessary to have a Measure or to put it on a statutory basis?

[24] **Jane Hutt:** The two-year action research project starts in September, and I think that two years will take us forward.

[25] **Kirsty Williams:** I will move on to Dai Lloyd, who will ask questions on section 1.

[26] **David Lloyd:** As the Chair said, section 1(1) of the proposed Healthy Eating in Schools Measure imposes a duty on Welsh Ministers, local education authorities, governing bodies and headteachers to promote healthy eating by pupils while they are at school or engaging in any activity that is incidental to their education. What is your view on the additional work that this duty will create?

[27] **Jane Hutt:** This is another area where I hope that the committee will be getting evidence so that you can find out what the views are on the additional work or burdens this would create. I want to take the committee's evidence and views into account before coming to a decision about that.

[28] **David Lloyd:** Are there any minimum requirements that the relevant bodies should meet to fulfil this duty? Should the Measure be more specific and set minimum requirements in relation to the promotion of healthy eating?

[29] **Jane Hutt:** We already have minimum standards, as I mentioned earlier, which were introduced in 2000-01. It is about whether those minimum standards are being implemented, and I think that we will see, through 'Appetite for Life', not just in terms of the action research in the four authorities concerned but across Wales, a much greater impetus in terms of delivering those minimum standards. We will also be using 'Appetite for Life' to look at the recommended food standards for school lunches in particular, to see what impact those have on take-up and with regard to all of the relevant issues, such as the training, support for staff and catering services that would be necessary. We must ensure consistency across Wales.

[30] **Kirsty Williams:** Surely Minister, one way you could achieve, and assure yourself of, that consistency would be to have a statutory national standard across Wales, backed up by a Measure?

[31] **Jane Hutt:** We already have minimum standards, and the issue is implementation.

[32] **Kirsty Williams:** Forgive me—it is just like old times—but you have just said that you do not know how the minimum standards are currently being implemented and that you will need 'Appetite for Life' to give you information about minimum standards. It seems that, perhaps because you do not have a statutory framework and because people do not have to

work to a statutory framework, you simply do not know what is going on. Perhaps that is a very good reason to move to a statutory basis.

9.50 a.m.

[33] **Jane Hutt:** Minimum standards have been in place since 2001, and it is about the implementation of those minimum standards. ‘Appetite for Life’ takes us further than those minimum standards, looking at section 7(2) of the proposed Measure. It is about the strength of the new nutritional standards that we are consulting on in ‘Appetite for Life’. I have to say, Kirsty, that legislation itself does not change anything—it is how we implement a policy. Putting a policy on the statute book can be a strength, but we know that that does not necessarily deliver. As we have seen, if we do not go down the persuasion, participation and partnership route, we could lose opportunities for promoting healthy eating.

[34] **David Lloyd:** The next question is on the same theme of consistency. In discharging their duties to promote healthy eating, section 1(3) of the proposed Measure states that the relevant bodies must

[35] ‘have regard to any guidance issued by the Welsh Ministers’

[36] and ‘relevant reputable scientific advice’.

[37] How would you protect against marked variations between these and between different local education authorities?

[38] **Jane Hutt:** The issue of the relevant reputable scientific advice is important, and, clearly, it would have to guide any ministerial guidance and regulations that came through. Again, I know that you will be consulting on that and that you have asked Jenny already, because it is her Measure, and it is important that that underpins your evidence. I would turn to the Food Standards Agency, as you would expect, Dai, because it was set up under the Food Standards Act 1999 to advise and, in particular, to assist Ministers on food safety. It is an independent UK Government agency that has a world-class evidence base on food safety and nutrition, so it would have to be the guide for Welsh Ministers if we were to go down this route.

[39] **David Lloyd:** Further to that, do you think that it is appropriate for local education authorities, governing bodies or headteachers to be required to have regard to relevant reputable scientific advice in promoting healthy eating in schools, or should that be a requirement placed solely on Welsh Ministers?

[40] **Jane Hutt:** The difficulty is that Welsh Ministers will not be providing the meals in schools. There is an issue about the focus on Welsh Ministers, because Welsh Ministers will not be the delivery agents. Iwan, do you want to make a point on this?

[41] **Mr Roberts:** Members may find it useful if I bring to the fore legal and drafting issues in respect of section 1 as currently drafted. What you have there is a duty placed upon Welsh Ministers, but you would also have Welsh Ministers having to have regard to guidance made by them. That, in constitutional terms, would be quite an odd provision, and, as the Minister indicated, Welsh Ministers do not have direct responsibility in respect of school meals. That responsibility lies with local education authorities, governing bodies and headteachers. In drafting terms, perhaps it would be better to separate the duties placed on those bodies and those placed on Welsh Ministers. There is also an issue in respect of the term ‘relevant reputable scientific advice’. It is not clear exactly what that means, because one person’s reputable scientist may be another person’s complete crank. That needs to be looked at further because we would say that there is a lack of precision in that respect, and the term

would be open to many interpretations.

[42] **Kirsty Williams:** Can I stop you there? Joaneest, I do not know whether you could briefly say whether that term, which has just been questioned by Mr Roberts, is a common term that would be found in other legal documents? Mr Roberts is saying that that term may not be appropriate.

[43] **Ms Jackson:** I have seen similar phrases used in other legislation, which I could not quote to you now off the top of my head.

[44] **Kirsty Williams:** Can you provide a note?

[45] **Ms Jackson:** We would be able to do a trawl to try to ascertain whether that particular terminology or similar terminology has been used.

[46] **Kirsty Williams:** So it is not something that you have never come across before?

[47] **Ms Jackson:** I would not say that.

[48] **Mr Roberts:** A way of rectifying that would be by reference to the Food Standards Agency guidance or something like that. It is not something that cannot be rectified, but it is something that needs to be looked at.

[49] **Kirsty Williams:** Thank you, that is helpful. Dai has the next questions.

[50] **David Lloyd:** Moving on to section 2 of the proposed Measure and a further duty on Welsh Ministers, this section imposes further duties on Welsh Ministers to promote healthy eating in the exercise of their functions relating to the curriculum. How do you see this provision differing in practice to the current position?

[51] **Jane Hutt:** There is no general duty on Welsh Ministers at present with regard to what is contained in this proposed provision.

[52] **David Lloyd:** Section 3 of the proposed Healthy Eating in Schools Measure is on the definition of healthy eating. Do you believe that the definition is appropriate?

[53] **Jane Hutt:** There are problems, inevitably, which you have started to tease out, about how you determine whether food is benefiting the health of the person eating it and how you determine any damage done. I believe that you will have to tease that out further. I do not know whether you were going to follow this through, but section 3(c) is about sustainability and healthy eating; that is a different concept, in that food can be good for you, but environmentally unfriendly and damaging in the sense of how it got to you, with regard to food miles and so on. However, the first issue is how you determine what is healthy and what is not damaging in terms of food's after-effects.

[54] **David Lloyd:** So do you believe that the proposed Measure is an appropriate mechanism through which to promote sustainability?

[55] **Jane Hutt:** Not in the way that it is currently drafted; it is a different issue from healthy eating. I have talked to my advisers and to Iwan about this, and we feel that you could separate it; but it is difficult to bring it together in the way that it has been, because they are two different concepts. However, you could possibly deal with it by separating those elements in the Measure.

[56] **Mr Roberts:** 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, but it would be possible to rectify that by separating out the healthy eating provisions; as the Minister has indicated, how you determine that needs to be reconsidered, so that you perhaps have a separate provision for sustainability. However, as it is currently constructed, we believe that that is potentially problematic.

[57] **David Lloyd:** So what practical difficulties do you have regarding this provision in section 3(c) on sustainability when making regulations under section 7? Are they just legal worries? What practical difficulties are there?

[58] **Jane Hutt:** It is to do with definitions and the fact that you are trying to address two things in one—you need two definitions really, do you not?

[59] **Mr Roberts:** Yes. We believe that healthy eating and sustainability are two separate concepts, which are not necessarily compatible, and so they should be dealt with differently. That can be rectified in the Measure, but we believe that, because of how it is currently constructed, there is a problem with that definition.

[60] **Kirsty Williams:** We are currently at Stage 1 of this proposal, Mr Roberts, so we are looking at the general principles at this stage, are we not? I guess that drafting issues would be more appropriately considered at Stage 2, when we are doing line-by-line scrutiny.

10.00 a.m.

[61] On your concerns with regard to the mention of sustainability, are you opposed to that in principle, in that you do not believe that there is a place for talking about sustainability when talking about the provision of healthy eating in schools, or are you just concerned at this stage with the drafting and think that that could be addressed more appropriately should we move to Stage 2?

[62] **Mr Roberts:** It is the drafting that we are concerned with.

[63] **Kirsty Williams:** So, you are not objecting to the general principle of this Measure referring to sustainable methods of food production?

[64] **Mr Roberts:** No, not at all.

[65] **Kirsty Williams:** Right; thank you. That is an important difference. Thank you, Dai. We are now going to move to questions on sections 4, 5 and 6, relating to inspection and reporting; Irene is going to ask those.

[66] **Irene James:** Good morning, Minister. In your letter, you state that there is a need to ensure that we contribute to the wellbeing of our young people, but that there is not an additional burden of workload on staff in schools. The proposed Measure requires governing bodies, the chief inspector of schools and Welsh Ministers to monitor provision under the proposed Measure and while that may ensure that the relevant bodies and individuals comply with their duty, it does not guarantee that pupils will actually choose healthier school meals. How do you consider that the monitoring process will contribute to healthier eating among children?

[67] **Jane Hutt:** I am sure that, again, you will be testing that out in terms of taking evidence; you have already done so in taking evidence from Jenny as to how she envisaged it working. It is about how she and how you, as a committee, envisage this working. I certainly want to hear how you and Jenny think that it could work and I will take that into account before reaching a decision, as Minister, in terms of endorsing or accepting Jenny's Measure

as a whole. I am sure that this is something on which you will be taking evidence from school leaders, governing bodies and LEAs. As you say, it is about how we ensure that we reach the goal—healthier children who are signed up to the healthier menus that we are introducing to schools through ‘Appetite for Life’. That comes back to our earlier discussions.

[68] **Irene James:** I would like to move on. How will you judge whether policies put on a statutory footing by the proposed Measure will have been successful and what criteria could be used?

[69] **Jane Hutt:** Again, we have explored that quite a lot and you are exploring whether the statutory basis is important. I am sure that you are also taking on board the points that I have made about timing—whether this is premature and whether it is something that would helpfully follow the ‘Appetite for Life’ action research project. I am sure that you will be discussing taking further evidence on how there could be appropriate monitoring and evaluation systems to make sure that the Measure was a success. This goes back to the fact that the action research is going to be research and that evaluation is key to that over the two-year period. I think that you then have to consider whether this Measure could be appropriately evaluated, when or if it was implemented.

[70] **Irene James:** Section 6 requires Welsh Ministers to report at least once a year on the steps that they have taken to promote healthy eating and the extent to which there appears to have been an increase in healthy eating. What level of detail would you envisage being in that report?

[71] **Jane Hutt:** It is interesting that I already get quite a lot of scrutiny, rightly and helpfully, through Assembly questions and Plenary statements, and by me coming to committees like this one, on such important policy issues. In terms of the detail that we would want to look for, it would be to see whether we had improved the take-up of school meals, for example, but also on what we had implemented. On the broader picture, we have targets for 100 per cent take-up of the Welsh network of healthy schools, for example. We also have our food and fitness action plan. We need to look holistically at how you, the Assembly and I would report on the promotion of healthy eating and healthier children in schools.

[72] **Irene James:** How will you monitor and take account of the activities of the other relevant authorities, such as local authorities, headteachers and governing bodies?

[73] **Jane Hutt:** Again, it is all hypothetical at this stage. As Kirsty says, this is the stage of looking at the overall principles of the Measure. However, Estyn, for example, through its inspections, is already starting to assess issues relating to healthy schools. That is also happening through the monitoring of our work through the Welsh network of healthy schools schemes. Therefore, we would have to look at how we can build on those reporting mechanisms.

[74] **Irene James:** Following on from that, do you believe that sections 4 to 6 would place a further burden on governing bodies, the chief inspector of schools and Welsh Ministers?

[75] **Jane Hutt:** We need to be very careful to ensure that we do not impose further burdens and that it is not a matter of bureaucratic process. That is always an issue when I meet with school leaders and teachers’ unions. It is something that I hope the committee will be exploring, and I would have to consider whether these were burdens that were necessary to achieve the goal. It goes back to the fact that the goal is healthier children through healthier eating. One of the useful aspects of the ‘Appetite for Life’ action plan will be that we can test that out.

[76] **Kirsty Williams:** Thank you. Angela Burns has questions on section 7.

[77] **Angela Burns:** At the risk of dragging this round the ballroom again, going back to the question of whether this should be statutory, although you stated in your speech in Plenary that you already have the powers to set minimum standards and that, therefore, we do not need a Measure, I think that Jenny Randerson's Measure is trying to strengthen that and give you more teeth. For example, she is putting forward the idea that you could then ratchet up the minimum and maximum requirements that you have on food, nutrition and standards. Do you agree with that principle?

[78] **Jane Hutt:** Again, the point is whether we are going to be overly prescriptive at this stage and how we would implement this in practice, because this would mean a considerable change with regard to food suppliers, canteen staff and so on. As you know, 'Appetite for Life' consulted on recommended food standards for school lunches—standards that move us clearly above the minimum standards. The relevant part of 'Appetite for Life' is table 1; we feel that we need to test out these food standards through the action research project. Section 2 of the Measure is probably over-prescriptive at this stage, because the food standards that we have consulted on are the ones that we are going to test out to see whether we can deliver them.

[79] **Angela Burns:** I understand the difficulty of delivering when you are relying on third and fourth parties to do so for you. I wish to tell you a story that is, perhaps, apocryphal. A report came out only a few weeks ago detailing how locally produced meat in eight pubs was tested. A sample of all the meat was sent to DNA testers who could tell—do not ask me how they do it—whether the meat was Welsh black beef or whether it came from Brazil. Of the samples tested, only two were locally produced. That sort of attitude to food is prevalent in the whole industry.

10.10 a.m.

[80] School lunches are no different. Therefore, if we say to a school, 'You must make sure that the food that is provided'—that is, if somebody else makes it and they are warming it up—'does not have this, that and the other in it', and you have the force of the law behind you, will that not make it happen more quickly? Then, when you follow that up and police it—my other question is how you police current nutritional standards—you have a proper set of teeth to do it. If it is only guidance, it is as good as saying, 'We would rather you did it this way, but if you do not, it is okay'.

[81] **Jane Hutt:** That was a horrific story. It might be useful to bring Ruth in at this point, because of all the work that was done to reach the food standards that we are now testing out. The issue of sourcing, arising from Angela's story, is also a crucial point.

[82] **Ms Conway:** Policing the existing minimum standards is down to local authorities and governing bodies. The standards set out in 'Appetite for Life', which broadly mirror those in England, are far more stringent and stretching than the existing standards, which we believe is necessary. However, we do not yet fully understand the practical implications of providing meals to more challenging standards. One thing that we have done, which will be important in helping us to police and monitor this, is to introduce a nutritional analysis software package, which enables local authorities and schools to analyse their menus, so that they can see how they are complying with the standards proposed in 'Appetite for Life'.

[83] **Jane Hutt:** That nutritional software, which is mentioned in my written statement, is unique to Wales. We have been rolling it out since last December as part of my investment in this, and it will have an impact on trying to achieve, as you said earlier, Kirsty, the consistency that we need. This is a national approach to ensuring that caterers plan, share and analyse their menus in terms of what we want to achieve with these food standards. However,

this goes back to whether section 7(2) is appropriate. I know that we are talking about the principle, but is it appropriate in terms of the links to what we are trying to test out in 'Appetite for Life'? I think that that is something that you will want to explore.

[84] **Jeff Cuthbert:** Although we are talking about nutritional standards, on the related matter of food safety, which I think that we are also hinting at, do you feel that the proposed Measure could provide ways and means of helping to improve other matters? I am thinking about the recent E.coli inquiry, for example. Do you think that there is scope here for that joined-up issue to be addressed?

[85] **Jane Hutt:** I am not sure whether that could be done via this Measure. We await the outcome of that inquiry, which will be very relevant in terms of food safety issues. I do not know whether Ruth wants to comment on that.

[86] **Ms Conway:** As part of 'Appetite for Life', we are raising awareness through training, which is not just training for the caterers—it is also training for the lunch time supervisors, and it is broader than how food is put on the plate because it is about raising awareness about other issues linked to hygiene.

[87] **Angela Burns:** I have a last point that I would like to try to put to bed, on the issue of whether we make this statutory. If we made this statutory, we could experience a fall-off in the uptake of school meals, as was the experience in England. Yet, I know from my constituency, where we have Lenny the Leek—a fantastic way of getting children to eat school food, which has led to an enormous uptake—that you can provide good food that kids love. I do not see why the two should be mutually exclusive, and I would like to see some acceptance of that. If you say that you can only have one particle of salt in an item, and there are currently two, you can take the children and young people along with you and they can still give their input as to what that food should be. I sense that that keeps being brought up as one of the reasons why we should not consider making it statutory, namely that we may lose input from the schoolchildren themselves. I would like your view on that, and an acknowledgement that the two could work in tandem.

[88] **Jane Hutt:** Going back, we have already got the powers to put this on a statutory basis. The provisions and principle of Jenny's Measure introduce a new dimension, but we also have an opportunity with 'Appetite for Life', and a great deal of Government investment has gone into it—which I know the committee has recognised—to ensure that we can deliver it appropriately. The practical implications and policing arrangements need to be explored fully, I hope by this committee. It goes back to the question of whether the law changes things. It is inevitably an issue about the consumers, the customers, and we need to take them with us.

[89] I just wish to comment briefly on the fact that, when we introduced our free breakfast scheme, we did a nutritional analysis to underpin that. It is remarkable and wonderful to see children eating cereal without sugar—there is no sugar available because that was the nutritional advice—as well as consuming brown rather than white toast, because brown bread was recommended in the nutritional analysis. We know that this is about persuasion and behavioural change, but it is also about fun and enjoyment, and many other things that you touched on with regard to school lunches, such as queuing, timing and staying on the premises. Those are all policy issues that cannot be addressed by the Measure. However, we are looking at all of those issues through 'Appetite for Life'.

[90] So, I cannot answer that succinctly, but it has to be about statutory and non-statutory measures, in the wider sense of the word, to achieve the desired outcome of healthier children.

[91] **Kirsty Williams:** Briefly, on section 8, which is on drinking water, do you have any views on the inclusion in the Measure of the provision of free drinking water in schools?

[92] **Jane Hutt:** I went into some detail in my written statement about this, because we have already undertaken quite a lot of work with the water coolers scheme, which is funded in Communities First areas. There has been a good uptake of the food and fitness grant scheme, and we think that there will also be a good uptake of the 'Appetite for Life' grant scheme. So, a great deal of work has already been undertaken on this front.

[93] **Kirsty Williams:** Do you perceive there to be any dangers to the school meals service if people choose not to engage with healthy eating in schools—whether that is via 'Appetite for Life' or this Measure?

[94] **Jane Hutt:** My case for 'Appetite for Life' and the two-year action research project, is that we need to take people with us. Indeed, we have had a good response from the local authority school catering service, which is pre-eminently responsible for school meals in Wales—differently to England. There is very little opt-out from the local authority school catering service in Wales, although we have one authority that has contracted out its service substantially as part of the action research project, and it will be interesting to see what impact the changes will have on schools in that area. However, our experience is that the collaborative approach has been well received, and there has been less of a drop-off in the school meals service as a result of our approach than we have seen in England.

[95] **Kirsty Williams:** Is your cautiousness about supporting this Measure less about persuasion and taking people with you and more about your ability, as a Government, to invest in what is needed to deliver this agenda in schools?

[96] **Jane Hutt:** As I said from the word go, there is nothing that we disagree with in principle in the objectives of the Measure.

10.20 a.m.

[97] Indeed, as I have said, £13 million and 'Appetite for Life' represent a considerable commitment that we, and I as Minister, are making. It is a priority as far as I am concerned as the Minister with responsibility for children and education. It is much more a question of whether the Measure is premature.

[98] **Kirsty Williams:** Given that you have consistently mentioned your existing powers this morning and the question of when this should be done, if you were to decide in two years' time to legislate, would your existing powers be sufficient to put 'Appetite for Life' on a statutory footing, or would you need to return to the Assembly to put forward your own Measure to achieve that?

[99] **Jane Hutt:** The powers that I have would enable us to deliver 'Appetite for Life' and put it on a statutory basis—there is no question about that. There are other issues in this Measure that go beyond that.

[100] **Mr Roberts:** I am sure that Members will be well aware that section 7 of the Measure effectively restates what is already in section 114(3)(a) of the School Standards and Framework Act 1998, which is a power that the Minister already has, as she has already said. However, she has obviously decided not to make any regulations under that until she has had time to consider what comes out of 'Appetite for Life'.

[101] **Kirsty Williams:** Thank you very much. I cannot see any requests for further questions from Members. I therefore thank the Minister and her officials for their contribution

this morning. We are grateful. For Members' information, the next meeting of the committee will be on Tuesday 10 June, when the committee hopes to hear evidence from the British Dietetic Association, the Welsh Local Government Association, and the Association of Directors of Education in Wales.

[102] I thank you all for your attendance this morning. I now declare the meeting closed.

Daeth y cyfarfod i ben am 10.22 a.m.
The meeting ended at 10.22 a.m.