

EAST AYRSHIRE COUNCIL

CABINET – 7 NOVEMBER 2007

SCHOOLS (HEALTH PROMOTION AND NUTRITION) (SCOTLAND) ACT 2007

Report by Executive Director of Educational and Social Services

1. PURPOSE OF REPORT

- 1.1** To seek agreement on an approach to meet the requirements of new legislation which places a duty on the Council as an Education Authority in relation to health promotion and the well being of pupils in schools and the nutritional content of snacks and meals in schools and nurseries.

2. BACKGROUND

- 2.1** The inclusion of nurseries is a welcome significant addition and it is hoped this will be accounted for in subsequent funding for this work. Generally the legislation links to ongoing work in relation to Hungry for Success – Whole School Approach for School Meals and to Health Promoting Schools in East Ayrshire.
- 2.2** The Scottish Government Schools (Health Promotion and Nutrition) Act 2007 was enacted by the Scottish Parliament in March 2007. On 26 September anticipated further guidance was issued by the government which will be written into legislation and apply from August 2008.
- 2.3** In summary, the 2007 Act applies to East Ayrshire in the following ways:
- Places health promotion at the heart of school activities
 - Ensures that food and drink served in schools meets the Scottish National Nutrient Standards
 - Ensures local authorities promote the uptake and benefits of school meals and in particular free school meals
 - Gives education authorities the power to provide pupils with snacks, either free of charge, or subject to a charge
 - Requires local authorities to consider sustainable procurement and sustainable development objectives when providing food or drink or catering services in schools.

East Ayrshire Council is active in pursuing the 26 recommendations detailed in the report Hungry for Success Whole School Approach for School Meals and all schools in East Ayrshire are committed to achieving Health Promoting School status. This new legislation therefore does not suggest a change in policy rather it builds into legislation requirement for work already being developed in East Ayrshire.

3. PROVISIONS OF THE SCHOOLS (HEALTH PROMOTION AND NUTRITION) ACT 2007

3.1 Health Promotion

The Act places a duty on Education Authorities to endeavour to ensure that all public schools maintained by the Authority are Health Promoting. In East Ayrshire all schools aspire to Health Promoting School status and this is a key part of each schools development plan. The duty for Health Promotion in schools relates also to a Curriculum for Excellence, Eco Schools and Hungry for Success. The key areas which will be addressed by schools include physical activity, healthy eating, mental and emotional wellbeing.

This Act makes amendments to the Standards in Scotland's Schools Act 2000 to ensure that strategies for ensuring that school are health promoting form part of the Annual Statement of Education Improvement Objectives. As a result of these amendments to section 5 of the 2000 Act, all school development plans will have to take account of the improvement objectives set out by Education Authorities in relation to Health Promotion.

3.2 Food and Drink: Nutritional Requirements

The requirement is to ensure that food and drink provided in schools complies with the national nutritional requirements specified in the regulations. The regulations will apply to food and drink provided as a school lunch, breakfast, snacks or at any other time of the day and includes vending machines.

Anticipated further guidance, which will be subsequently written into legislation and apply from August 2008, was issued in September of this year. Some significant aspects in relation to the further guidance include:

- Soft drinks are restricted to milk and milk drinks. Soya drinks and pure fruit juice and drinks which contain 50% fruit juice or vegetable juice in a combination with water.
- No sugar free soft drinks or carbonated drinks may be sold or provided in primary or secondary schools.
- No confectionary shall be provided as part of the school lunch or in any school food outlet.
- No savoury snacks including crisps shall be provided as part of the school lunch with the exception of crackers, oatcakes or breadsticks.
- Deep fried foods menus shall not contain more than 3 deep fried items in a single week.
- No salt shall be provided to be added to food after the cooking process is complete.
- The menu shall provide a choice of vegetables and fruits and oily fish.

The nutritional standards the Act introduces shall come into effect from August 2008.

3.3 Education Authority Arrangements with Independent Schools

This section makes amendments to the 1980 Education Act. It requires the Council when placing a pupil at an independent school to consider how the food provided at that school complies with the nutritional regulations. This is a new responsibility and will require changes to our partnership arrangements with external providers.

3.4 School Meals and Snacks

This section of the 2007 Act makes a number of amendments to section 53 of the Education (Scotland) Act 1980 in relation to the provision of meals and snacks in schools. It continues the existing rule that school lunches must be charged for unless the pupil is eligible for free school meals. The Council has the flexibility to provide pupils with food and drink at times such as breakfast clubs, after school events break times and any time of the day outwith lunchtimes either free of charge or subject to a charge.

3.5 Promotion of School Lunches

Members will be aware that East Ayrshire is a leading participant in the piloting of free school meals for P1-P3. The Act requires local authorities and schools to promote school lunches and encourage the uptake of meals. It also requires the Council to take reasonable steps to ensure that those who are eligible to receive free school lunches take full advantage of their entitlement. In East Ayrshire this includes:

- ensuring that benefits officers are aware of the limitations for obtaining free meals.
- schools providing information on free meals at primary school transition to secondary schools, and including specific help and guidance in the school handbooks, parent evenings and induction events.
- Application forms and information throughout local area offices.

The protection of identity of pupils who are entitled to free school meals is provided for in the new legislation at section 8. This requires all reasonable steps to be taken to ensure that when a pupil is entitled to free school lunches that the pupil can not be identified other than by authorised persons. In this regard a working group is established to review the process for administering free school meals and to issue good practice guidance to all schools to ensure anonymity. This includes cashless meals where appropriate.

Currently in East Ayrshire the pilot cashless meals systems at Kilmarnock Academy, Auchinleck Academy, Doon Academy and Dalmellington Primary are under review due to customer preference being less than anticipated.

3.6 Sustainable Procurement

This section of the Act places a duty on the Council to take account of sustainable development objectives in delivering catering services. The

Scottish Government has previously issued guidance for the public sector, *Integrating Sustainable Development into Procurement of Food and Catering Services, issued in 2004*. This also links to *Choosing Our Future, Scotland's Sustainable Development Strategy*.

East Ayrshire Council is regarded nationally as a Best Practice example of Sustainable Procurement in Catering and has been published in a number of governmental best practice case studies and the subject of research by Cardiff University.

4. FINANCIAL IMPLICATIONS

- 4.1** Funding required to implement the Schools (Health Promotion and Nutrition) Act is contained within the Council's revenue estimates and will be made available through the funding made available in the form of a grant through the National Priorities Action Fund via the theme "Nutrition in Schools". It is presumed this will include funding for nurseries also.

5. POLICY/LEGAL IMPLICATIONS

- 5.1** The Scottish Government prescribe a phasing in of the provisions of the 2007 Act.
- 10 August 2007, the power to provide pupils with snacks
 - 3 January 2008, duties in relation to health promotion
 - August 2008, duties in relation to food and drink in schools and guidance on sustainable development.

6. COMMUNITY PLANNING IMPLICATIONS

- 6.1** The schools (Nutrition and Health Promotion) Act places a statutory responsibility on the Authority to include an annual statement on Health Promotion within its Education Improvement Objectives for schools and through the nutritional requirements for food and drink to promote health improvement of young people. This legislative requirement complements the Councils Community Planning objectives, in particular:
- Improving health
 - Eliminating poverty
 - Improving the environment and sustainability

7. RISK IMPLICATIONS

- 7.1** There are no significant risk implications associated directly with this legislation

8. RECOMMENDATIONS

8.1 Members are asked to agree:

- (i) the overall approach reflected in this report as a means of fulfilling the Councils statutory objectives under the new legislation.
- (ii) otherwise note the content of the report.

Graham Short
Executive Director of Educational and Social Services

RG/JW
11 October 2007

LIST OF BACKGROUND PAPERS

NIL

Members wishing further information should contact Robin Gourlay, Head of Facilities Management, Tel (01563) 576089 or Graham Short, Executive Director of Educational and Social Services, Tel (01563) 576017.

IMPLEMENTATION OFFICER: ROBIN GOURLAY