

REGULATORY APPRAISAL

NATIONAL HEALTH SERVICE, WALES

THE HEALTHY START SCHEME (DESCRIPTION OF HEALTHY START FOOD) (WALES) REGULATIONS 2006

Background

1. The Welsh Assembly Government manages the Welfare Food Scheme in Wales and will manage, when it is introduced in November, the Healthy Start Scheme in Wales. However, responsibility and accountability for the existing Welfare Food Scheme and the soon to be introduced Healthy Start Scheme rests with the Department of Health.
2. The Healthy Start Scheme is being rolled out across the UK on the 27 November 2006 to replace the existing Welfare Food Scheme (WFS), first brought in as a war time measure in 1940 to protect the health of young children during times of rationing.
3. Under the existing Welfare Food Scheme (WFS), pregnant women and families who have a child under 5 years old in receipt of certain qualifying benefits are eligible for milk and infant tokens. Tokens do not have a monetary value attached. Milk tokens can be exchanged for 7 pints of liquid cow's milk and once the baby is born and up until the baby's first birthday, infant tokens are exchangeable for 900g of infant formula. Pregnant women and breastfeeding women and children under 5 years old who qualify for tokens may also claim free vitamin supplements.
4. Infant tokens have traditionally been exchanged in NHS child health clinics and pharmacies. Milk tokens have been exchangeable at a restricted number of retail outlets, which have included corner shops, supermarkets and doorstep deliverers.
5. The first scientific review of the WFS since its inception in 1940 was undertaken in 1999 by the Panel on Maternal and Child Nutrition of the Committee on the Medical Aspects of Food and Nutrition Policy (COMA). COMA concluded that whilst the WFS retained great potential for improving the health of nutritionally vulnerable pregnant women, mothers and young children, there were significant flaws within it. The review said that it:
 - Did not meet the wider nutritional needs of pregnant women and young children, who would benefit from a wider choice of foods to help address health inequalities;
 - is a disincentive to breastfeeding;
 - provides up to twice as much infant formula as 6-12 month olds need;
 - may provide too much milk for 1-5 year olds; and
 - did not effectively promote awareness or uptake of free vitamin supplements.

6. As a result of the COMA review the Government committed to reforming the WFS within existing budgets to reflect the review's recommendations.
7. On the 27 November 2005, the Healthy Start Scheme and Welfare Food (Amendment) Regulations came into force. The key purpose of the Regulations was to introduce Healthy Start Vouchers to Devon and Cornwall for a period of evaluation and testing in advance of their launch nationwide (Phase 1 of the Healthy Start Implementation). The Welfare Food Scheme Regulations 1996 remained in force across the rest of Great Britain. These Regulations came into force in England only – and applied to Devon and Cornwall only.
8. Under the new Healthy Start Scheme those who qualify will receive a fixed faced value Healthy Start Voucher worth £2.80 that can be exchanged for liquid cow's milk, infant formula milk and fresh fruit and vegetables. Under Healthy Start:
 - pregnant women are entitled to one voucher a week worth £2.80;
 - for each baby under the age of one, the family is entitled to two vouchers a week worth a total of £5.60; and
 - for each child aged over one and under four, the family is entitled to one voucher a week worth £2.80.
9. The vouchers will be exchangeable at a large range of retail outlets. All outlets that sell any of the Healthy Start foods are eligible to apply to participate in the scheme. The scheme offers much more flexibility and choice, supports breastfeeding, and encourages early and closer contact between health professionals and families from disadvantaged groups. In addition to Healthy Start food, beneficiaries will also be entitled to vitamin tablets or vitamin drops appropriate for his or her nutritional and health needs in quantities prescribed in Regulations made by the Secretary of State on behalf of England and Wales. The Assembly does not have the power to make Regulations specifying the quantities of food and vitamins available under the scheme separately.
10. To qualify for Healthy Start, recipients must be pregnant or have a child under 4 years of age, and if the following applies:
 - they or their family receive Income Support; or
 - they or their family receive Income-Based Job-Seekers Allowance; or
 - they or their family receive Child Tax Credit and have an annual family income less than £14, 155; or
 - they are pregnant and under 18 years of age.
11. A rapid evaluation of Phase 1 undertaken by the Department of Health highlighted that overall Healthy Start has been effectively implemented from the perspective of beneficiaries, health professionals and retailers.
12. These Regulations implement Phase 2 of the Healthy Start Scheme and are due to come into force across the UK on the 27 November 2006.

Specifically they build on the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005, which introduced the Healthy Start Scheme in areas of Devon and Cornwall, by extending the Healthy Start Scheme across Great Britain. These Regulations also amend and reduce the upper age limit for qualifying children to receive vouchers from the fifth birthday to the fourth birthday.

13. The Department of Health announced in 2004 that the upper age limit for children in qualifying families to receive Healthy Start vouchers would be reduced from their fifth birthday to their fourth birthday. They advised that this is to ensure support is given to those in greatest need, the youngest and most vulnerable children. Additionally, children have access to milk and healthy foods via the school breakfast scheme in Wales and when they attend nursery and primary school. All existing Welfare Food beneficiaries have been made aware of the change in entitlement criteria well in advance of the UK wide roll out of the Healthy Start Scheme. From July, a news flash appeared on all WFS token letters informing beneficiaries that Healthy Start Vouchers would be replacing milk and infant tokens from November 2006. A telephone helpline has also been set up to deal with any enquiries about this issue.
14. As the responsibility and accountability for the Healthy Start Scheme rests with the Department of Health, the Assembly does not have information about the anticipated uptake of the scheme. The Department of Health has advised that this information is not yet available. This will be monitored as part of the long-term evaluation of the scheme.

Purpose and Intended effect of the measure

15. These Regulations specify the range of healthy start foods and vitamins that will be available under the Healthy Start Scheme in Wales. The foods that are currently available under the Welfare Food Scheme are milk, infant formula and vitamins. Under the new Healthy Start Scheme those who qualify will receive a fixed face healthy start voucher that can be exchanged for milk, infant formula and fresh fruit and vegetables. In addition they will be entitled to vitamins suitable for their nutritional and health needs.
16. The effect of the proposed Regulations is to expand the list of foods available to pregnant women, qualifying mothers and young children. The purpose of extending the range of foods is to provide nutritional safeguard for those pregnant women and children in disadvantaged families; to improve the health outcomes of disadvantaged families and to ensure that children from disadvantaged families have access to healthy foods.
17. One of the key aims of the scheme is to increase support for breast feeding mothers. Moving supply of the Welfare Food Scheme infant formula out of NHS Child Health Clinics frees up Health Professionals time to concentrate on providing practical support and advice on breastfeeding, healthy eating, lifestyle and parenting.

Risk Assessment

18. The Healthy Start Scheme is a UK wide scheme; failure to make these Regulations would mean that the scheme effectively could not operate in Wales, resulting in qualifying women and children under four not receiving the foods they are entitled to. There are no risks associated with Wales prescribing its own Healthy Start Foods. The Assembly has given an undertaking not to vary, at least initially, the range of foods available under the Healthy Start scheme.

Options

Option 1: Do Nothing

19. The Healthy Start Scheme is a UK wide scheme; failure to make these Regulations would mean that the scheme effectively could not operate in Wales, resulting in qualifying women and children under four not receiving the foods they are entitled to.

Option 2: Make the Regulations

20. The Regulations will specify the healthy start foods and vitamins that are available as part of the Healthy Start Scheme in Wales. As per the undertaking that has been given, these foods will, at least to start with, be the same as the foods and vitamins available across the rest of the UK.

Costs

21. There are no financial implications arising from the implementation of these Regulations. The Welfare Food Scheme (WFS) is a totally demand led budget administered by the Department of Health. The budget allocation for Wales in 2005/06 and 2006/07 is £9 million. There is no indicative budget increase on this line.

22. Under the Healthy Start Scheme, voucher value has been set at £2.80. The rationale behind this decision lies in the commitment given by the Department of Health to reform the WFS within current expenditure levels. £2.80 is the average price that Department of Health has traditionally paid retailers for a milk token that they have exchanged for seven pints of liquid milk, though the range of value does vary between £1.81 in some supermarkets and over £3.00 through some milk doorstep deliverers. Voucher values will be kept under review, and will be revised over time in light of increases in the retail prices of products that can be bought with vouchers. Any increases will be agreed between all the UK countries.

23. Children under the age of one receive two vouchers a week, worth £5.60 to reflect the higher costs of feeding a new baby. Babies born early receive two vouchers until the anniversary of their expected date of delivery. In the WFS, the average cost of an infant token exchanged through the NHS for 900g of infant formula was £5.09, with retail costs much higher. The Department of Health consider that £5.60 a week will buy sufficient infant formula over a year to feed an average healthy baby – very young babies and babies who are being weaned need less formula so would not require

a full 900g per week. Babies who are breastfed also get double vouchers, to help the mother buy healthy food for her own use. Vouchers can also be used to buy fruit and vegetables that are important as part of a weaning diet.

24. The Department of Health have advised that extra support is provided to babies under the age of one in the form of double vouchers rather than a different voucher because this enables them to print and distribute vouchers much more cost effectively.
25. In relation to Wales, the Welsh Assembly Government has concluded that the Healthy Start Scheme could open up significant opportunities for existing milk rounds, local and regional food producers and that it appears to be a good development opportunity for the Welsh Food Industry, including the Dairy Industry, as opposed to being a threat. This conclusion is based on the detailed consideration of the Regulatory Impact Assessment carried out by the Department of Health on a UK wide basis

With Stakeholders

26. There has been no formal consultation in relation to these Regulations in Wales. However, before the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 were made in England on 27 November 2005, the Department of Health held a UK wide consultation in February 2005, which included the description of healthy start foods to be made available under the Scheme. An agreement was made during the passage of the Health and Social Care (Community Health and Standards) Act 2003, to initially prescribe the same foods in Wales as the other UK administrations. Therefore, further consultation was not considered necessary. Also, plans to reform the scheme were subject to a UK wide consultation by the Department of Health in October 2002. Over 500 written responses were received, a summary of these responses, which indicated overwhelming support for reform was published in March 2003 and can be viewed at (www.dh.gov.uk). Consultees included Health Professionals: Midwives, Health Visitors and Trusts, Health Authorities, the Nutrition Forum and Members of the Scientific Advisory Committee on Nutrition, Public and Dental Health organisations, Sure Start Co-ordinators, Local Authorities, representatives from the food and dairy industry and parents.

With Subject Committee

27. These Regulations were notified to the Health and Social Services Committee, via the list of forthcoming legislation, on 6 October 2004 (HSS(2)-11-04-, item no: HSS 48 (03) and have remained on the list ever since.
28. The Regulations were identified for scrutiny, which took place on 11 October 2006. No amendments were proposed but several points of clarification were raised. The Regulations were agreed as drafted. A transcript of the discussion is attached at Annex A.

Review

29. The Department of Health plan to implement a long-term UK evaluation project, which will aim to look more specifically at the health impact of the scheme. Voucher value and the range of foods allowed will also be specifically monitored. Wales will be fully involved as part of the evaluation project.

Summary

30. These Regulations will specify the range of healthy start foods, including vitamins, available under the Healthy Start Scheme in Wales.

Annex A

Is-ddeddfwriaeth: Rheoliadau Cynllun Cychwyn Iach (Disgrifiad o Fwyd Cychwyn Iach) (Cymru) 2006 Secondary Legislation: The Healthy Start Scheme (Description of Healthy Start Food) (Wales) Regulations 2006

[234] **Rhodri Glyn Thomas:** Nid oes gwelliannau wedi eu cyflwyno, ond cyflwynwyd pum pwynt am eglurhad. Os oes pwyntiau sy'n wahanol i'r pump hyn, mae'n bosibl y bydd rhaid inni ofyn am nodyn ar hynny oherwydd, gyda deddfwriaeth, mae'n bwysig rhoi rhybudd blaenorol, yn hytrach na'n bod yn gofyn i rywun i wneud dyfarniad yn y fan a'r lle. Nid yw hynny'n ffordd briodol o ymwneud â deddfwriaeth. Fodd bynnag, gallwn nodi unrhyw bwyntiau eraill a gofyn am eglurhad pellach.

Rhodri Glyn Thomas: No amendments have been put forward, but there are five points for clarification. If there are any points other than these five, we may need to ask for a note on that because it is important that forewarning is given with legislation, instead of us just asking someone to give us a judgment here and now. That is not an appropriate way of dealing with legislation. However, we can note any other points and ask for a further explanation.

12.20 p.m.

[235] Mae Helen Mary Jones wedi cyflwyno pedwar pwynt. A yw Helen yn dymuno—

Helen Mary Jones has presented four points. Does Helen wish to—

[236] **Helen Mary Jones:** Cawn ateb y Gweinidog. Mae'r pwyntiau ym mhapurau pawb.

Helen Mary Jones: We can have the Minister's answer. The points are included in everyone's papers.

[237] **Brian Gibbons:** The first point was in relation to the value of the tokens. The tokens did not have a monetary value per se. They were essentially part of a barter system—you presented your token and you got the goods or the item without a monetary exchange. In that sense, there was no monetary value to the food tokens, just value in what you got in return for them.

[238] On breastfeeding, you generally get the forms to apply for this scheme through maternity services. When you turn up at a maternity clinic, this is one of the batch of forms that you fill in to become eligible for the scheme, if you meet the benefits criteria or if you are under 18 years of age. The midwives are involved in promoting breastfeeding, so that is built into the system. Another important incentive is going to change, because the overdependence on milk in the original scheme sent out a mixed message to people—'We believe in breast feeding, but here is a wheelbarrow-load of formula milk'. The make-up of what is available under the new healthy start scheme sends out the right signals, and the milk element has been reduced is in line with that. There has not been a significant change in the budget: it is still £9 million.

[239] **Ms Lloyd:** We have not spent that much for a number of years.

[240] **Brian Gibbons:** I think that, in fact, it was originally a good bit higher. I think that I remember a figure of £12 million or something three or four years ago, but do not quote me on that.

[241] **Rhodri Glyn Thomas:** It is not up to me whether Helen Mary wants to quote you or not.

[242] **Helen Mary Jones:** He just gets nervous when he sees me writing things down.

[243] **Brian Gibbons:** Yes, that is right.

[244] The anticipated take-up of the scheme is in the context that it has been difficult to get full engagement with it. Offering a wider variety of choices to people may make a difference, and there have been concerns that any baby that would manage to consume all the milk that was being offered—

[245] **Helen Mary Jones:** It would drown probably.

[246] **Brian Gibbons:** Yes, you would be drowning them in milk, which is a reason why the scheme had to change to a more balanced and healthy diet. I do not know whether Helen has any other questions on that.

[247] **Helen Mary Jones:** I have a supplementary question on the point about uptake, and perhaps a note would be appropriate, if the Minister cannot give an answer now. I would like to explore what businesses are being targeted as outlets for the scheme. I know that you are targeting the main multiples, but we know that, in the most deprived communities, it is going to be difficult for people to get to those shops—they use their small corner shop on their estate. With a wider variety of goods available, what can be done to ensure that the outlets are ones that people can get to and use? I have concerns about that.

[248] **Brian Gibbons:** When I saw this regulation that was precisely the view that I took as well. At the moment, you get a lot of these items from the milk round, but also from chemists, pharmacists and welfare clinics. This scheme is opened up to a much wider range of organisations. We are not totally masters of our own destiny in this because we are, essentially, administering a Department of Health scheme and it is primarily responsible. However, our press colleagues are working with the Department of Health to try to ensure that when the scheme is launched, other possible providers will be alerted to it and it will become more widely available. There is no reason, for example, why even farmers' markets or food co-operatives could not do this, as long as they can meet the criteria in terms of fresh fruit—you do not have to supply everything either; as long as you can provide some of the elements of this, you are eligible for the scheme. So, I fully agree that people in many of the more disadvantaged communities—because, other than those under 18 years of age, those are people who are on benefits and low incomes—will be the recipients. So, it is important that issues of access are addressed.

[249] **Helen Mary Jones:** This is probably stating the blindingly obvious, and you are probably doing it anyway, but one way that you and the department might deal with that is by talking to organisations like Spar and Londis, which

are umbrella organisations—they kind of are businesses and they are not businesses. That might be a way of getting into some of those smaller shops in areas where you have a large concentration of potentially underprivileged children and mothers.

[250] **Brian Gibbons:** I agree, and we also need individual proprietors.

[251] **Helen Mary Jones:** Yes.

[252] **Brian Gibbons:** As I say, we have seen the publicity yet, so we do not quite know what the Department of Health is planning, but I agree that, once we have a view of what it is doing—particularly because of our situation here in Wales—we need to see whether or not we should do something a little more proactive to promote it among the smaller retail outlets in disadvantaged communities.

[253] **Jenny Randerson:** I was concerned, Minister, to see that the upper age limit for eligibility for the vouchers was being reduced from five to four. That seems to be a retrograde step. I would like to know why that is and whether we would have legally had the freedom—I understand that the legislative situation is complex—to stick with the five-year-old upper limit? I realise that this is, in some ways, a joint scheme, but could we have had separate eligibility criteria?

[254] **Brian Gibbons:** No. My understanding is that we were tied into the Department of Health scheme and even the commencement Order, if I am correct, is dictated by the Department of Health rather than by us in this instance. We disputed that with it, but it was an argument over principle rather than practicalities in the sense that it is a good idea that we try to get it up and running in November and that is what the Department of Health has done. There was no point arguing the toss with it. We agreed that we should go down this road, so let us get on with it rather than get involved in the constitutional argument with the Department of Health.

[255] We can vary what is available for the vouchers. For example, fruit juice is not included at present and one of the reasons for that is that a lot of stuff that is branded as being natural fruit juice is nothing like it. Equally, certain types of vegetables and fruit would be included if we could be sure that they would not include things like chips and so forth, or stuff that requires deep frying or something like that. So, there are options for us to vary what will be included in the scheme, but, until those issues are clarified, we are proceeding on the basis of what has been agreed with the Department of Health. The rationale was to try to concentrate our efforts on where we felt the need was greatest—in other words, the younger children—and to expand the scheme to include all under-18s. The scheme is largely, as I said to Helen Mary, the same sum of money, but it is a case of how that is distributed. So, it was an effort to distribute it to focus it on the earlier years and then to bring in the under-18s, regardless of the means test, which was not the case before.

[256] **Jenny Randerson:** I suspected that it was a case of the money, but, given that—

[257] **Brian Gibbons:** It is not essentially the money. This was based on a review that was done about six or seven years ago on how the scheme was

working, and the primary reason for changing this scheme was not the money; it was due to an overdependence on milk. A wider variety of provision of fruit and vegetables, and so forth, would make sense. So, the primary driver was the quality of the project—it was not the money. Once that decision was made, it was meant to be cost-neutral.

12.30 p.m.

[258] **Jenny Randerson:** I fully accept that the new scheme is much better than the old scheme, which was out of date—it was well-intentioned in its time, but is now inappropriate. I gather that the amount of formula milk available was about twice as much as a child should have at that age, and so on. Given that it is a much better scheme, I am sure that you would agree, Minister, that if you could continue it up to the age of five it would be better than stopping it at the age of four. You said that it should be done within this sum of money; given that the money, according to what you said earlier, has been under-spent, it is a great pity that we are not able to continue the scheme up to the age of five. I understand the point that it is better to get it up and running than to spend ages arguing about the complexities of the situation. However, you may think in the future about trying to get permission from the UK Government for us to do something for ourselves, and expand it to the age of five. We have special needs in Wales—we have an intensity of need that is not seen anywhere else. It was said on television this morning that eating problems are greater in Wales than they are in the rest of UK.

[259] **Brian Gibbons:** One of the factors is that it used to be quite common for children to start school at the age of five; now, they start aged four, or three in most parts. When Flying Start kicks in, children will be in some sort of childcare/education system even under the age of three. I do not know for certain, but I am sure that the age of five was historically taken as a time when children would be starting school and getting free school meals, and so forth. It is one of the historical legacies in this scheme. How far back does the scheme go?

[260] **Ms Allen:** It goes back to the 1940s.

[261] **Jenny Randerson:** Yes; I remember going with my grandma to collect the wonderful concentrated orange juice.

[262] **Rhodri Glyn Thomas:** O fynd yn ôl i ddyddiau ysgol Jenny Randerson yr ydym mewn perygl o grwydro ymhell oddi wrth y pwyntiau o eglurhad ar ddeddfwriaeth. Mae gan Lynne Neagle bwynt i'w ychwanegu, ond pwynt i'w nodi yw hwnnw, o bosibl, gan na fu rhagrybudd.

Rhodri Glyn Thomas: We run the risk of deviating considerably from the points of explanation on legislation if we go back to Jenny Randerson's schooldays. Lynne Neagle has a point to add, but it is possibly a point to note, as no advance warning was given.

[263] **Lynne Neagle:** I agree about the age issue, because you are talking about anyone over the age of three not being in the programme. Although I recognise what the Minister said about children starting school, there are still many people who do not take up nursery entitlement and so on. Health-visitor

provision is all geared towards children up to the age of five, and the dietary advice that is given in terms of switching to low fat foods is given to children from the age of five. So, we need to think about that.

[264] I wanted to ask about the amounts of money and how they have been arrived at. A sum of £2.80 for a child aged three and under is not huge—it is half the amount of money for a child aged one and under. Is that because of the additional cost of formula? How were those amounts arrived at, because you will not get much milk and fruit and vegetables for a toddler for £2.80?

[265] **Brian Gibbons:** I do not know about that. I know that in the food co-op in the upper Afan valley you can get a hell of a lot of fruit and veg for £2.80. I do not know whether Irene or Claire can explain why—

[266] **Ms Bond:** Up to the age of one, children get double vouchers, worth £5.60.

[267] **Lynne Neagle:** What was the thinking behind the two amounts, and why was it double for one-year-olds and half for the slightly older children?

[268] **Ms Allen:** Again, in the first year it is also to the benefit of the mother. So, there are double vouchers going in, but I do not know how the actual monetary value is arrived at. We can look at that and give you a note from the research undertaken by the Department of Health. However, a pilot project was undertaken in Devon and Cornwall and the feedback from that was excellent—the uptake was much increased and the value of the voucher was also assessed. We can give you some feedback on that.

[269] **Rhodri Glyn Thomas:** Diolch yn fawr. Ni chredaf bod modd inni gael mwy o eglurhad; credaf ein bod wedi cael mwy o eglurhad nag y gallem ei ddisgwyl ar y pwyntiau hynny. Diolch i chi ac i'r swyddogion.

Rhodri Glyn Thomas: Thank you. I do not think that we could have any more clarification; I think that we have had more clarification than we could have expected on those points. Thank you to you and to the officials.