

Children's Wellbeing and Schools Bill Public Bill Committee Evidence

Prepared by Finlay Allmond, Legislative Lead, on behalf of Magic Breakfast

Please contact finlay.allmond@magicbreakfast.com

Executive Summary

- 5 1. The submission focuses almost entirely on Clause 21 within Part 2 of the Bill. At one point there is a note on Clause 22, and the final section looks at Clause 59 of Part 3. After an introduction to Magic Breakfast the submission is split into nine sections.
2. **Measuring and Monitoring** explores the need for provision within the Bill for measuring and monitoring the effectiveness of the provision of school breakfasts.
- 10 3. **Advice and Support for Schools** explores the need for provision of expert support and advice to schools. It makes clear the benefits of support and advice and the risks posed to the policy if not included.
4. **Provision of Guidance to Schools** notes the need for guidance to schools to be put upon a statutory footing.
- 15 5. **Scope of the Bill and Special Schools** recommends the extension of the scope of the Bill to encompass all pupils in special schools as defined within the Education Act 1996. It notes the significant issues the Bill creates for special schools and makes recommendations for change.
6. **Mixed Models** recommends that the Bill become more forthright in its support for schools delivering alternative forms of provision to ensure the intended impact is realised in all school settings and for the most disadvantaged pupils. It also notes the significant benefits of delivering a mixed model approach.
- 20 7. **Provision in Wales** highlights the learnings from the implementation of free breakfast provision in Wales. It suggests lessons that need to be learned to ensure the roll out in England is successful.
8. **Provision Outside of School Grounds** briefly notes the considerations needed around allowing schools to meet their duties under the Bill using premises in the vicinity of schools.
- 25 9. **Nutrition** notes Magic Breakfast's support for the nutrition provisions within Clauses 21 and 22. It also notes Magic Breakfast's agreement with the sectoral view that school food standards need to be reviewed and complied with.
- 30 10. **Commencement** highlights the need for the provisions in Clause 21 to be enacted in all schools from September 2026.

Magic Breakfast

11. Magic Breakfast makes a difference for over 300,000 children and young people every day by offering free breakfasts and expert advice to tackle morning hunger in schools across England and Scotland. We exist to make sure no child or young person is too hungry to learn.

- 5
12. Magic Breakfast has over 20 years' experience in delivering school breakfast provision. We have been involved in cross party policy design and have advised civil servants in the UK, Scottish, and Welsh Governments as well as across local Government. Magic Breakfast has successfully delivered a multiplicity of national and local contracts. This includes co-delivery of the first phase of the National School Breakfast Programme (NSBP).
13. This submission will focus on [the provisions in Part 2 of the Bill](#) focussing on 'Breakfast clubs etc.' This follows a briefing at second reading which was provided to all MPs representing English constituencies where the relevant provisions shall have effect. A copy of this is published on our website and available [here](#).
- 10
14. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Measuring and Monitoring

- 15
15. Measuring and monitoring the effectiveness of the provision of school breakfast is vital to ensuring the success of the policy. Magic Breakfast consistently measures and monitors the impact of our charitable work through regular pupil uptake analysis and through our annual Measuring and Monitoring survey. This is published on our website and is available [here](#).
- 20
16. Currently the Bill contains no provisions for measuring and monitoring the success of school breakfast provision. The Public Bill Committee is being asked to consider an amendment which would require the Secretary of State to collect data that enables ongoing measurement of the impact of school breakfast provision through effective evaluation aligned to His Majesty's Treasury's Magenta Book methodologies. This commitment will align to the Government's [Evaluation Task Force Strategy](#).
- 25
17. Magic Breakfast believes that it is important that the Bill considers the characteristics of children and young people accessing school breakfast provision. Pupil Premium, Free School Meals Eligibility, and the Income Deprivation Affecting Children Index (IDACI) are known markers that can be used to ensure breakfast provision is reaching those who need it the most.
18. The Welsh Government's free breakfast policy does not measure or monitor its impact. This has been shown to be detrimental to its effectiveness as explored in paragraphs 63-68.
- 30
19. The Secretary of State should also consider the satisfaction of beneficiary stakeholders. If these groups are not satisfied and the provision is not meeting their needs, then the Secretary of State would need to review its efficacy and delivery. Magic Breakfast would include the following groups as beneficiary stakeholders; school students within the scope of the Bill; their parents, kinship carers, connected persons, or responsible adults.
- 35
20. The Secretary of State should also collect data on the outcomes of the policy. This should include to what extent the provision impacts behaviour, attendance, concentration, academic attainment, and health and wellbeing. Magic Breakfast [evidence](#) shows that when delivered effectively, school breakfast policy can have an impact on these areas. Therefore, if the Government policy doesn't significantly impact these areas, then the Secretary of State should consider the efficacy of the policy roll out.

21. Monitoring provisions appearing on the face of the Bill would not be unique to the Children's Wellbeing and Schools Bill. The [Environment Act 2021](#) – in section 16, subsection 1A – requires that the Secretary of State obtain data. Similarly, the [Climate Change Act 2008](#) – in section 16 - requires that the Secretary of State publish certain data points. Whilst both these acts fall within a different portfolio, it is the view of Magic Breakfast that they are an example of how legislation can require data to show the effectiveness of an act of parliament in practise.
22. Magic Breakfast believes the Committee should welcome and consider any amendments to strengthen clauses related to measuring and monitoring.
23. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Advice and Support for Schools

24. Through 21 years of service, Magic Breakfast has learned how to deliver free school breakfast that is accessible, and stigma- and barrier-free. One of the key components of our method is providing expert support and advice to schools to help them deliver this service. This has been refined and improved over the years to adequately support schools so they can go beyond the bare minimum.
25. Schools are already stretched too thin, with limitations on their budgets, staff, and time. By offering expert support and advice, we can better ensure this policy is effective and achieves what it intends to. The Bill currently does not provide any formal advice and support to schools beyond written guidance.
26. The [Education's Endowment Foundation's National School Breakfast Programme: Scale-up Evaluation Report](#) evaluated the scale-up of the programme when it was delivered by Magic Breakfast in partnership with Family Action. This included the changes made and costs of the National School Breakfast Programme and put forward lessons for future scaling-up efforts. The evaluation found that providing a 'high degree' of expert support and advice to National School Breakfast Programme schools was 'important to the successful reach of the programme.'
27. In the case of the National School Breakfast Programme scale-up, support and advice included support provided by trained National School Breakfast Programme staff members, financial support in the form of grants, and resource-based support in the form of free foods and promotional materials.
28. Magic Breakfast partner schools also find expert support and advice to make a significant difference, noting it to be of high value. Our [Hidden Hunger](#) report confirms it has a positive impact on pupil uptake of school breakfast. In this review, Magic Breakfast partner schools were found to have an average uptake of 209 pupils per schools, a significantly higher number than the national average: 44 in England, 22 in Scotland, 58 in Ireland, and 75 in Wales. Such findings reflect the important role that advice and support can have on optimising provision.
29. Schools have also shared feedback indicating that it helps them to deliver their breakfast provision and go beyond the bare minimum. The Education Endowment Foundation noted the engagement of trained staff with schools to be the 'lynchpin' of the success of the programme. Further evaluation demonstrates that expert advice and support can help remove barriers to attendance and reduce any associated stigmas.

30. Support and advice to schools, delivered by skilled experts, could be the difference between this policy succeeding and failing.
31. Magic Breakfast believes the Committee should welcome and consider any amendments to strengthen clauses related to advice and support.
- 5 32. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Provision of Guidance to Schools

- 10 33. The Bill currently provides for the Secretary of State to 'issue guidance' and for the 'appropriate authority' to have regard for it. Magic Breakfast does not believe these provisions are clear enough to ensure that children and young people are not at risk of a postcode lottery.
- 15 34. Lord Justice Sedley noted in *R v Islington LBC ex p Rixon* [1998] 1 CCLR 119 that parliament's view in the Local Authority Social Services Act 1970 was that 'local authorities must "follow the path charted by the Secretary of State's guidance, with liberty to deviate from it where the local authority judges on admissible grounds that there is good reason to do so, but without freedom to take a substantially different course"'. This was cited in the [Care Act 2014 explanatory notes](#) to show that guidance in that Bill had been drafted to have the above legal effect.
- 20 35. Such an assertion is not present in the explanatory notes to the Children's Wellbeing and Schools Bill. Therefore, it is not clear whether the Secretary of State believes the guidance they issue would have the affect articulated by Lord Justice Sedley.
- 25 36. Without a statutory footing for the guidance schools may deliver breakfast provision in a way not commensurate with the guidance issued after having had the appropriate amount of regard for it. It is children and young people who are at risk in such a situation as this would create a postcode lottery.
37. Magic Breakfast believes the Committee should welcome and consider any amendments to strengthen clauses related to the provision of guidance to schools in regards to the enforcement of the guidance.
38. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Scope of the Bill and Special Schools

- 30 39. The Bill currently requires breakfast clubs are provided to all 'qualifying primary pupils' and offers an agreeable definition of these pupils. This ensures provision is available to 4.5 million pupils as per [2023/24 school census data](#).
- 35 40. The extension to secondary pupils in special schools would not require a significant amount of additional resource from the Government. Whilst there are around 4.5 million pupils of primary age in England there are only around 100,000 pupils of secondary age in special schools. This would mean increasing the scope of the policy – in terms of pupils reached – by 2.22%.

41. Many special schools are all-through schools, catering for all ages of pupils and focusing more on levels of need than age. The current position of the Bill would mean these schools would be expected to deliver a provision free to a majority of their pupils whilst barring some from accessing it.
- 5 42. This reality is unlikely to happen though. What would be more likely is that already stretched school budgets would be used to facilitate extending provision to secondary aged pupils. The Government should codify what would become normal practice and fund the provision to all pupils in special schools through to Year 14.
- 10 43. Whilst extending the scope of the Bill in this way would increase its reach by 2.22%, it is clear that not all 100,000 children and young people would seek to access food within a breakfast provision. A number of pupils with significant and complex needs do not require the food provision accessed by most pupils. In Swiss Cottage School for example – which Magic Breakfast supports as part of a partnership with the London Borough of Camden – breakfast is offered to 100% of pupils. However, only 50% of pupils are provided with food as part of the partnership. The remaining pupils access selective or medically prescribed diets provided by the National Health Service. This means any extension of the scope of the Bill would not necessarily require an equivalent extension to food costs.
- 15 44. A number of special schools segment their classes not by age groups – as mainstream schools do - but by need category. Therefore, you may have a class where Year 6 pupils – who are currently covered by the Bill – and Year 7 pupils – who are not currently covered by the Bill – take their lessons together. The Bill maintains that only the former of these pupils should be entitled to a breakfast provision and classroom teachers would only be required to recommend breakfast provision to a portion of their class. Hunger does not end at the legal barrier between primary and secondary school.
- 20 45. Additionally, the mandatory nature of breakfast clubs as the main method of provision is clearly aimed at mainstream education. Magic Breakfast works with around 150 schools that would fall within the legal definition of special schools. Within this, only 16% operate a Breakfast Club only model. An additional 17% operate a Breakfast Club alongside another model of provision. The remaining 67% operate only models which are not a Breakfast Club.
- 25 46. The primary reason for this is the before school aspect of a Breakfast Club does often not fit in with the needs of the school and its pupils. These schools have wider catchment areas and rely on public sector transport contracts which often involved pupils arriving promptly for the start of the school session. Therefore, schools prefer to operate models which fit within a longer soft start, which can be embedded into the school day. This takes a food first approach rather than prioritising childcare; this is in line with the needs of children and young people and their families.
- 30 47. Paragraphs 50-62 of this submission explore how the Bill could have better regard for mixed models.
- 35 48. Magic Breakfast believes the Committee should welcome and consider any amendments to strengthen clauses related to extending the scope of the Bill to secondary pupils in special schools as designated by the Education Act 1996.
49. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Mixed Models

50. The Bill requires that schools deliver one model of the breakfast provision, the traditional breakfast club. Magic Breakfast agrees with this requirement being on the face of the Bill and acknowledges and welcomes the benefits around childcare that this will bring.
51. However, as the explanatory notes to the Bill acknowledge in paragraph 26, this is to be seen as a minimum. Schools will be empowered to 'offer more than the minimum standards to meet the needs of their school, pupils, and parents.'
52. This must include schools being able to use consequential funding to deliver models beyond the minimum standards. The published guidance and conditions of grants for the Early Adopter Scheme do not make this clear. For schools to be empowered to 'offer more than the minimum standards' they must be financially supported to do so.
53. One model schools would be asked to consider is classroom provision. Classroom provision is delivered within the main learning environment either immediately before the start of the school day or it can be embedded as a soft start. Food can be produced centrally, or miniature classroom-based kitchens are used by some Magic Breakfast schools. This model already meets staff to pupil ratios within existing staff time.
54. Another model schools would be asked to consider is takeaway provision. Breakfast items are available to pupils as they arrive every morning, in a location that is easily accessible. This could be at the school gate or as they line up in the playground. This is adaptable to any school layout and can be tagged onto the end of breakfast club. This model requires minimal excess staffing and due to being delivered in existing open pupil areas, schools are already meeting staff to pupil ratios.
55. The other model schools would be asked to consider is a nurture group. Nurture groups are for targeted pupils, for booster learning sessions or a calm and quiet start to the day. These models work well as small form breakfast provision to supplement wider reach models.
56. Encouraging schools to adopt models which work for them, alongside offering the advice and support outlined in paragraphs 24-32 will be vital to a place-based policy making approach. Adopting a place-based approach has been vital to the success of Magic Breakfast. We come alongside schools and develop models that can best embed in their environment. This is partly why, as noted in paragraph 28, our 2022 [Hidden Hunger](#) report noted that Magic Breakfast schools reach – on average – around 375% more pupils than non-Magic Breakfast provision in England.
57. A mixed model approach has also been noted to reduce the cost burden of school breakfast provision. The [Education Endowment Foundation noted in their National School Breakfast Programme scale-up report](#) that delivering alternative forms of provision 'reduced costs and improved reach of the programme.' They noted, using 2021 figures, that the cost per pupil served for breakfast club only provision was £51.90 per year. For schools delivering a breakfast club and one of the models in paragraphs 53 and 54 the cost was £12.90 per year. This suggests that at the level of pupils accessing provision it is 75% cheaper to deliver a mixed model approach.
58. Mixed models can also support schools at threat of requiring an exemption from the requirement to deliver school breakfast provision. The intent of the provisions within the Bill is to ensure children and

young people accessing schools have access to breakfast provision. Currently, if a school feels incapable of delivering the breakfast club model, they would be exempt from delivering any model.

59. We know there are schools passionate about delivering breakfast provision who do not believe clubs are the right model for their environment. This is outlined in the statistics around special schools outlined in paragraph 45. This Bill cannot be allowed to only cater for mainstream education.
60. Magic Breakfast believes the Committee should welcome and consider any amendments to strengthen clauses related to extending the models recommended in the Bill.
61. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Provision in Wales

62. To ensure Section 21 is effective and accessible, we must consider the learnings and lessons of similar policies across the United Kingdom. The Free Breakfast in Primary Schools scheme (FBIPS) was enacted in Wales in 2013 under the [School Standards and Organisation \(Wales\) Act 2013](#). The scheme [states](#) that 'all children who go to a primary school which is maintained by a local authority can have a free breakfast at school, if their school provides free breakfasts.'
63. Following the Government's guidelines, families must request free breakfast from their headteacher and governing body. It is then at the discretion of the school to determine if there is enough of a need to provide the service. The school can then ask the local authority to provide free breakfast in school.
64. The approach taken by Wales, in which families must express a need for free breakfast services, and both schools and local authorities can deny the request, creates stigma and barriers to access. This is examined further in Magic Breakfast's [Hidden Hunger](#) report, which found that, despite Government legislation intending to reach all primary schools in Wales, 85% of disadvantaged pupils are not reached by the provision.
65. The legislation has also caused confusion around childcare. According to the Act, schools 'may not' charge a fee for breakfast services, but 'may' charge a fee for childcare. As childcare and breakfast provision coincide, this has generated confusion over what constitutes breakfast, and what constitutes childcare provision. As noted in the [Hidden Hunger](#) report, 'the introduction of a de facto cost to some provision [has created] barriers for many pupils who need it most.' In fact, 10% of schools indicated that they limit free places at breakfast provision, or that free places are given out on a discretionary basis or based on status.
66. The Free Breakfast in Primary Schools scheme [does not include expert support and advice or monitoring metrics](#). Additionally, the legislation lacks a sound exemption clause. Such Government choices have resulted in confusion among families and schools, barriers to access to children, and stigma. At present, Section 21 of the Children's Wellbeing and Schools Bill risks following in the footsteps of the Welsh Government.
67. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Provision Outside of School Grounds

68. Out of school breakfast provision requires careful consideration to avoid hindering its delivery and effectiveness. The explanatory notes to the Bill suggest in paragraph 27 that schools will be able to meet their obligations using premises in the vicinity of the school.
- 5 69. While out of school provision is not the ideal delivery method, it remains a viable option if approached correctly. Its unique challenges must be carefully anticipated and addressed by the Committee to ensure that its differences are mitigated, and its objectives are met effectively.
70. The Early Adopter Scheme should be considered by both the Committee and the Department for Education as a testing ground to consider the effectiveness of provision outside of school grounds.
- 10 71. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.

Nutrition

72. The Bill states schools will have significant leeway in deciding the appropriate form that food provision takes in delivering school breakfast. However, they will have to abide by the applicable food standards duty. For the first time Academy schools will also have to abide by the applicable food standards duty in breakfast provision. Magic Breakfast supports the Government in this approach and encourages them to consider how this will be enforced.
- 15
73. Magic Breakfast delivers a range of breakfast foods to schools through our programme entitled 'Magic Menu.' Magic Breakfast is committed to providing a nutritionally balanced breakfast at the start of the school day, using the NHS's Eatwell Guide as a reference to help us and schools provide a variety of offers across the school week.
- 20
74. Magic Breakfast supports the Food Foundation and the School Food Review Working Group and their calls for a review of School Food Standards. As the School Food Review Working Group notes, the standards no longer match the most recent academic evidence.
75. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.
- 25

Commencement

76. The Bill offers the Secretary of State wide-ranging powers to decide when different sections of the Bill come into force. Magic Breakfast support this as it relates to provisions in section 21. Conducting commencement in this way allows the Early Adopter Scheme to be conducted in an orderly way.
- 30
77. The Early Adopter Scheme, if conducted fully and appropriately, will facilitate the ability for full universal provision to begin from September 2026. It is vital that the Comprehensive Spending Review facilitates this.
78. The Early Adopter Scheme is due to conclude in April 2026. Schools on this programme should have their funding protected throughout the summer term ahead of a national roll out in the autumn. The
- 35

Committee should also note that the Government has not made clear what will happen to schools currently part of the National School Breakfast Programme which will not fit within the criteria of this Bill.

- 5
79. If the full rollout isn't initiated in September 2026, it will perpetuate the risks faced by children and young people who currently do not have access to breakfast provision. There is also no way to do a staggered roll without creating a postcode lottery. Additionally, a staggered roll out creates the risk financial delays. For example, in 2020 the Scottish Government committed to extending free school lunches to all primary aged pupils. The decision was made to take a staggered approach and has thus been subject to competing demands; nearly five years later and the policy has no timeline for completion.
- 10
80. Magic Breakfast is responding in detail to the Comprehensive Spending Review. Our submission will include comments on the benefits of delivering economies of scale for breakfast provision. It will also identify the risks and opportunities of a full rollout from September 2026.
81. Magic Breakfast remains available to the Committee to provide further evidence orally or in written format if the Committee requires.