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Obesity policy in England

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Summary

Background

Obesity is a physical condition in which a person is very overweight, with a lot of body fat.

Obesity has many causes. An over-simplified description of the most common cause is “eating too much and moving too little”. The same phrase can be expressed more accurately as an imbalance between energy consumed and energy expended.

A person’s likelihood of being overweight or obese is affected by many factors, such as socioeconomic status, age, gender, ethnicity, where they live and whether or not they have a disability or medical condition. Governments have faced a challenge developing policy that is wide enough to address all of these factors.

Obesity prevalence in England

Adults

The Health Survey for England, published by NHS Digital, provides estimates of obesity levels based on the body mass index (BMI) of a representative sample of people aged 16+.

In the 2021 survey, 25.9% of adults in England were obese and a further 37.9% were overweight, making a total of 63.8% who were either overweight or obese. Men were more likely than women to be overweight or obese (68.6% of men compared with 59.0% of women).

Children

The National Child Measurement Programme (NCMP) found in 2021/22 that 10.1% of reception age children in England (ages 4-5) were obese, with a further 12.1% overweight. These proportions were higher among year 6 children (age 10-11), with 23.4% being obese and 14.3% overweight.

The 2020/21 edition of the survey, which was carried out as a sample because of the Covid-19 pandemic, found large increases compared to previous years, with obesity levels at 14.4% in reception and 25.5% in year 6.

In 2021/22 survey obesity levels were lower than in 2020/21, but the figures were still higher than in previous years.

Obesity policy in England

This briefing provides an overview of the work of the UK Government in preventing and reducing obesity in England, which in recent years has primarily focussed on reducing obesity prevalence in children.

The Government's response to obesity has mainly been set out across three chapters of its childhood obesity plan, published in 2016, 2018, 2019, and a further obesity strategy published in 2020. Within these, the Government has introduced a number of measures aimed at reducing the prevalence of childhood obesity. These have generated a wide range of responses from stakeholders, who in some cases, have considered the measures too weak, or conversely, disproportionately restrictive.

Public health policy is a largely devolved area. As such, it differs across England, Scotland, Wales and Northern Ireland. This briefing considers obesity policy in England but links to further information on obesity strategies in the devolved nations can be found below:

- Northern Ireland Department of Health, Obesity prevention
- Public Health Scotland, Healthy weight - Diet and healthy weight
- Welsh Government, Healthy weight strategy (2019)

This briefing focuses on measures which have garnered the most Parliamentary, social, health, business and regulatory interest. Three of these measures are highlighted below.

Restricting volume price and location promotions

In July 2020, the Government published its policy paper, Tackling obesity: empowering adults and children to live healthier lives. Here, it committed to legislate to end the promotion of foods high in fat, salt or sugar, by restricting volume promotions such as "buy one get one free", and the placement of these foods in locations intended to encourage purchasing, both online and in physical stores in England.

The Government initially set out to implement its proposals in April 2022. However, following feedback from industry about insufficient time to prepare, the Government agreed (in July 2021) to delay this until October 2022.

The Food (Promotion and Placement) (England) Regulations 2021 ('the Regulations') were subsequently laid in Parliament in December 2021 with an intended commencement of October 2022.

In May 2022, the Government said it would allow for a second delay in implementation, but only on restricting volume price promotions. This was, it said, in light of challenging economic circumstances. On this basis, restrictions on volume price promotions were due to commence in October 2023. However, in June 2023, the Government announced that it would delay restrictions on volume price promotions by a further two years – now requiring their implementation by October 2025. The Government said this would "allow the government to continue to review the impact of the restrictions on the consumers and businesses in light of the unprecedented global economic situation".

The provisions on location promotions came into force in October 2022.

Calorie labelling

In July 2020, the Government published its policy paper, Tackling obesity: empowering adults and children to live healthier lives.[1] In it, the Government committed to introduce legislation to require large out-of-home food businesses to add calorie labels to the food they sell.

The Government introduced the Calorie Labelling (Out of Home Sector) (England) Regulations 2021 ('the Regulations') in July 2021. They entered into force on 6 April 2022.

The Regulations impose a legal requirement for businesses in England with more than 250 employees to display calorie information of non-prepacked food and soft drinks. Businesses within the scope of the requirements include restaurants, fast food outlets, cafes, pubs, supermarkets and home delivery services and third-party apps. The Government has encouraged smaller businesses, which are outside the scope of the Regulations, to adopt the requirements voluntarily.

Advertising restrictions

There has also been work on advertising, with the Government having consulted on introducing further restrictions on advertising products high in fat, salt and sugar (HFSS). There has been strong support from children's health campaigners for additional advertising restrictions, while industry bodies have urged the government to "avoid any decisions that might have a damaging impact on industry, but little or no effect on lowering obesity levels".

In February 2021 the Government announced its intention to introduce further restrictions on advertisements for products high in fat, sugar or salt being shown on TV before 9pm.

[1] Department of Health and Social Care, Tackling obesity: empowering adults and children to live healthier lives, 27 Jul 2020

On 6 July 2021, the Health and Care Bill was introduced in the House of Commons. As anticipated, it contained new advertising restrictions to apply simultaneously to the whole of the UK:

- A 9pm watershed for advertisements of HFSS foods, applicable to television and UK on-demand programmes.
- A prohibition on paid-for advertising of unhealthy food and drink products online.

The Bill received Royal Assent on 28 April 2022. The advertising restrictions contained in the Health and Care Act 2022 (Schedule 18) were due to come into force on 1 January 2023. However, their implementation has been delayed – they are now expected to come into force on **1 October 2025**.

Further Reading

Obesity statistics, Commons Library briefing

Advertising to children, Commons Library briefing

Social prescribing, Commons Library briefing

The Soft Drinks Industry Levy, Commons Library briefing

1 Background

The NHS defines 'obese' as a term used to describe a person who has excess body fat.[2] The World Health Organization (WHO) defines it as a disease impacting most body systems, which leads to a range of noncommunicable diseases such as Type 2 diabetes, cardiovascular disease and cancer.[3]

Obesity and its complications can reduce a person's lifetime and quality of life. People with obesity are at increased risk of developing Type 2 diabetes, heart attacks, strokes, high blood pressure, some types of cancer and impaired insulin resistance.[4] Obesity is also associated with an increased use of long-term medication, impaired fertility, and musculoskeletal disorders.[5] Children and young people with obesity may experience bullying, which in turn can be associated with shame, depression, low self-esteem, poor body image and suicide.[6]

The technological revolution of the 20th century brought advanced food production and motorised transport, contributing to an 'obesogenic environment'.[7] Some observe that modern living can involve exposure to cheap high-calorie food, with much time being spent sitting down at desks, on sofas or in cars.[8]

The increase in the prevalence of obesity has become an area of concern for global health. Worldwide, obesity has nearly tripled since 1975.[9] The WHO estimates that more than 1 billion people worldwide are obese, of which 650 million are adults, 340 million are adolescents and 39 million are children.[10]

Obesity doesn't just affect individuals; it has implications for the NHS too.

In England, in 2018/19 there were 11,117 hospital admissions directly attributable to obesity, and 876,000 hospital admissions where obesity was a factor.[11]

2 NHS, Obesity, overview, accessed 11 April 2023
3 WHO, World Obesity Day 2022 – Accelerating action to stop obesity, 4 March 2022
4 WHO, The challenge of obesity in the WHO European Region and the strategies for response, Summary, 2007
5 The challenge of obesity in the WHO European Region and the strategies for response, Summary, 2007
6 WHO, Weight bias and obesity stigma: considerations for the WHO European Region,10 Oct 2017
7 Tackling Obesities: Future Choices- Project Report, 2nd Edition, Foresight, Government Office for Science, 17 October 2007
8 NHS, Overview, obesity, accessed 6 June 2023
9 WHO, Obesity and overweight, accessed 6 June 2023
10 WHO, World Obesity Day 2022 – Accelerating action to stop obesity, 4 March 2022
11 NHS Digital, Statistics on Obesity, Physical Activity and Diet, England, 2020, 5 May 2020

Several Governments have expressed concerns about the prevalence and impact of obesity in the UK.

Former Prime Minister Tony Blair referred to poor diet and inadequate exercise as a "collective problem that will require us all to work together, including government", but also considered that obesity and a number of other conditions were "questions of individual lifestyle".[12]

Former Prime Minister David Cameron spoke of "most disturbing" figures on childhood obesity and said that Britain's obesity crisis must be tackled as seriously as smoking.[13]

Former Prime Minister Theresa May said that "nothing threatens [the health and well-being of our children] more than childhood obesity".[14]

1.1 Measuring obesity - body mass index (BMI)

The most widely used method of identifying obesity is calculating a person's BMI. BMI is a measure that uses a person's height and weight to work out if their weight is healthy.[15] The NHS BMI calculator uses a person's score to place them in one of four weight categories:

If your BMI is:

- below 18.5 – you're in the underweight range
- between 18.5 and 24.9 – you're in the healthy weight range
- between 25 and 29.9 – you're in the overweight range
- between 30 and 39.9 – you're in the obese range[16]

The National Institute for Health and Care Excellence (NICE) generally recommends using BMI as a practical estimate of overweight and obesity in adults, children and young people.

However, it notes instances where BMI should not be used, reflecting the fact that the metric does have limitations.[17]

BMI is calculated using weight and does not make a distinction between fat and other types of tissue such as muscle. As such, BMI is not used in pregnant

12 BBC News, Blair calls for lifestyle change, 26 July 2006
13 The Telegraph, More spent on treating obesity-related conditions than on the police or fire service, says NHS Chief, 7 June 2016,
14 DHSC, Childhood obesity: a plan for action, chapter 2, 25 June 2018
15 NHS, What is the body mass index (BMI)?, accessed 11 April 2023
16 NHS, What is the body mass index (BMI)?, accessed 11 April 2023
17 NICE, Obesity: identification, assessment and management, clinical guideline [CG189], last updated 8 September 2022

women, very muscular people, and people over the age of 60 (who lose muscle during the aging process).[18]

There are some considerations to be made regarding ethnicity. NICE considered that evidence gathered by The Public Health Interventions Advisory Committee, showed that people from Black, other minority ethnic and Asian groups are at an equivalent risk of ill health at a lower BMI than the white European population.[19] However, the Committee did not consider the evidence sufficient to make recommendations on the use of new BMI and waist circumference thresholds in these groups.[20]

There are other means of measuring obesity, but BMI is the most commonly used.

For example, NICE guidance recommends that clinicians take 'central adiposity' – the accumulation of excess fat in the abdominal area - into consideration.[21] NICE recommends the use of "clinical judgement when interpreting the [BMI] healthy weight category because a person in this category may nevertheless have central adiposity".[22]

1.2 What causes obesity?

Obesity is a complex and multi-factorial condition with many causes. An over-simplified description of the most common cause is "eating too much and moving too little". The same phrase can be expressed more accurately as an imbalance between energy consumed and energy expended.

This is the most widely accepted factor contributing to obesity, though there is (growing) acknowledgement and understanding of other causes, which we discuss briefly below.

Unhealthy diet

The development of obesity is gradual, and often results from a variety of poor diet and lifestyle choices over time.

Some examples of these include eating large amounts of processed or fast food that is high in fat and sugar, excessive alcohol consumption (which is often high in calories and sugar), eating excessive portion sizes, drinking too

18 NHS, BMI healthy weight calculator, accessed 6 June 2023
19 NICE, BMI: preventing ill health and premature death in black, Asian and other minority ethnic groups, Public health guideline [PH46], 3 July 2013
20 NICE, BMI: preventing ill health and premature death in black, Asian and other minority ethnic groups, Public health guideline [PH46], 3 July 2013
21 NICE, CG189, Obesity: identification, assessment and management, last updated 8 September 2022
22 NICE, CG189, Obesity: identification, assessment and management, last updated 8 September 2022

many sugary drinks and eating to improve mood (comfort eating) as opposed to responding to hunger.[23]

Respondents to the UK-wide National Diet and Nutrition Survey Rolling Programme (2016-2019) reported a higher free sugar[24] and saturated fat intake than the government recommended amount, as well as a lower fibre intake. [25]

The NHS provides advice on achieving a healthy balanced diet using the Eatwell Guide, which provides a visual representation of government recommendations on eating healthily and achieving a balanced diet.

Public Health England (now the Office for Health Improvements and Disparities) has published Government Dietary Recommendations[26]. This provides a summary of the government's recommendations for energy and nutrients for males and females aged 1-18 years and 19+ years. It is based on recommendations made by the Scientific Advisory Committee on Nutrition (SACN), which provides expert advice to the UK Government on nutrition and health matters.

There is some evidence to suggest that consumption of ultra-processed foods is associated with weight gain and obesity in adults,[27] and an increased risk of cancer incidence and mortality.[28]

Processed foods are food that have undergone any form of processing. There are different extents of food processing; simpler methods include pressing, milling and drying. The NOVA food classification system provides a means of quantifiying the extent of food processing.[29] This system defines ultra-processed foods as products formulated mostly or entirely from food constituents that are never or rarely found in home cooking. They are often high in fat, salt or sugar content, and contain less fibre and protein than other foods. They are typically mass-produced and packaged. Examples include breads, sugared breakfast cereals, buns, biscuits, sweet or savoury

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23 NHS, Causes, Obesity, accessed 7 June 2023

24 Free sugars include those which are added to food or drink, and those found in honey, syrups, unsweetened fruit juices and smoothies. See NHS, Sugar: the facts.

25 The National Diet and Nutrition Survey Rolling Programme (NDNS RP) is a continuous cross sectional survey, designed to assess the diet, nutrient intake and nutritional status of the general population aged 1.5 years and over living in private households in the UK. A representative sample of around 1,000 people (500 adults and 500 children) take part in the NDNS RP each year. The programme has been jointly funded by the UK Food Standards Agency and Public Health England (now defunct, health promotion functions assumed the Office for Health Improvement and Disparities).

26 PHE, Government Dietary Recommendations, Government recommendations for energy and nutrients for males and females aged 1-18 years and 19+ years, Aug 2016

27 WHO, International Agency for Research on Cancer, Consumption of ultra-processed foods associated with weight gain and obesity in adults: a multi-national cohort study, 6 September 2021

28 Ultra-processed food consumption, cancer risk and cancer mortality: a large-scale prospective analysis within the UK Biobank, Chang, Kiara et al. eClinicalMedicine, Volume 56, 101840

29 Monteiro CA, Cannon G, Moubarac JC et al. 2017. The UN Decade of Nutrition, the NOVA food classification and the trouble with ultra-processing. Public Health Nutrition, 21, 5-17 (PDF)

packaged snacks, instant soups and noodles, processed meat, and certain industrially pre-prepared meals.[30]

Inadequate exercise

Individuals who are less physically active reduce their opportunity to use up the energy they consume through food. The extra energy is stored by the body as fat.[31] The NHS publishes exercise guidelines for children and adults.[32] It sets out an aim for most adults to:

- do strengthening activities that work all the major muscle groups (legs, hips, back, abdomen, chest, shoulders and arms) on at least 2 days a week
- do at least 150 minutes of moderate intensity activity a week or 75 minutes of vigorous intensity activity a week
- spread exercise evenly over 4 to 5 days a week, or every day
- reduce time spent sitting or lying down and break up long periods of not moving with some activity[33]

The four UK Chief Medical Officers have also published physical activity guidelineson the amount and type of physical activity people should be doing to improve their health. They have produced physical activity infographics highlighting easy ways to lead an active and healthy life for different age groups and for people with disabilities.

The "food environment"

There is growing acknowledgement of an "obesogenic environment" – a term used to describe several environmental, socioeconomic and cultural factors which increase the risk of obesity:

- Changes in food production that have resulted in food becoming cheaper, available in larger portions, tastier and more calorific.[34]
- People eating outside of the home more often.[35]
- Increased motorised transport.[36]

30 WHO, International Agency for Research on Cancer, Consumption of ultra-processed foods associated with weight gain and obesity in adults: a multi-national cohort study, 6 September 2021
31 NHS, Obesity, accessed 6 June 2023
32 NHS, Exercise guidelines, accessed 24 April 2023
33 NHS, Physical activity guidelines for adults aged 19 to 64, accessed 24 April 2023
34 Cancer Research UK, What causes obesity?, accessed on 8 November 2020
35 PHE, Health and Wellbeing, Public health matters blog, Obesity and the environment- the impact of fast food, accessed 6 June 2023
36 Government Office for Science, Foresight, Tackling Obesities: Future Choices- Project Report, 2nd Edition, 17 October 2007

- Sedentary working and living patterns.[37]

A PHE webpage; Health matters: obesity and the food environment, provides information about features which contribute to an unhealthy food environment, and how local authorities can support food businesses to offer healthier food choices.[38] PHE also published a toolkit to help councils provide food businesses with support to offer healthier alternatives.[39]

Socioeconomic disadvantage, which is associated with higher BMI[40], can have a material effect on the environment in which a person lives, and indirectly, the factors that can affect weight. For example, more deprived areas have a higher prevalence of unhealthy takeaways[41] and less access to green outdoor space. [42] Access to green outdoor space is associated with lower BMI and higher levels of physical activity.[43]

Socioeconomic status can also have a direct effect on the quality of nutrition a person is able to access. The Food Foundation, an independent organisation working to provide solutions to the challenges facing the UK's food system, published a report, The Broken Plate, in 2019. In its findings they highlight challenges that low-income households in the UK face in meeting the financial costs of adhering to the Government's recommendations for a healthy diet. They provide comment on the affordability of the Eatwell Guide:

> The poorest 10% of UK households would need to spend 74% of their disposable income on food to meet the Eatwell Guide costs. This compares to only 6% in the richest 10%.[44]

Disability, illness and medication

Obesity can be caused or worsened by some medical conditions, such as underactive thyroid gland, Cushing's syndrome and polycystic ovary syndrome (PCOS). Individuals with disabilities are twice as likely to be physically inactive when compared to non-disabled people.[45] Obesity can be a side effect of some medications such as steroids, antipsychotics, insulin and

37 NHS, Why we should sit less. Exercise, accessed 6 June 2023
38 PHE, Guidance, Health matters: obesity and the food environment, 31 Mar 2017
39 PHE, Guidance, Strategies for Encouraging Healthier 'Out of Home' Food Provision. A toolkit for local councils working with small food businesses, 31 March 2017
40 BMJ, Socioeconomic disadvantage is linked to obesity across generations, UK study finds, 11 January 2017
41 PHE, Health matters: obesity and the food environment, published 31 March 2017
42 PHE, Local action on health inequalities. Improving access to green spaces, 8 September 2014
43 PHE, Local action on health inequalities. Improving access to green spaces, 8 September 2014
44 The Food Foundation, The Broken Plate Report, 26 February 2019
45 PHE, Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines, October 2018

beta blockers.[46] Individuals who quit smoking can often experience unwanted weight gain.[47]

Genetics

Somes genes are associated with obesity and overweight. It is thought these genes might affect how some people's bodies change food into energy and store fat. Further research needs to be undertaken to support knowledge in this area.

[46] PHE, Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines, October 2018

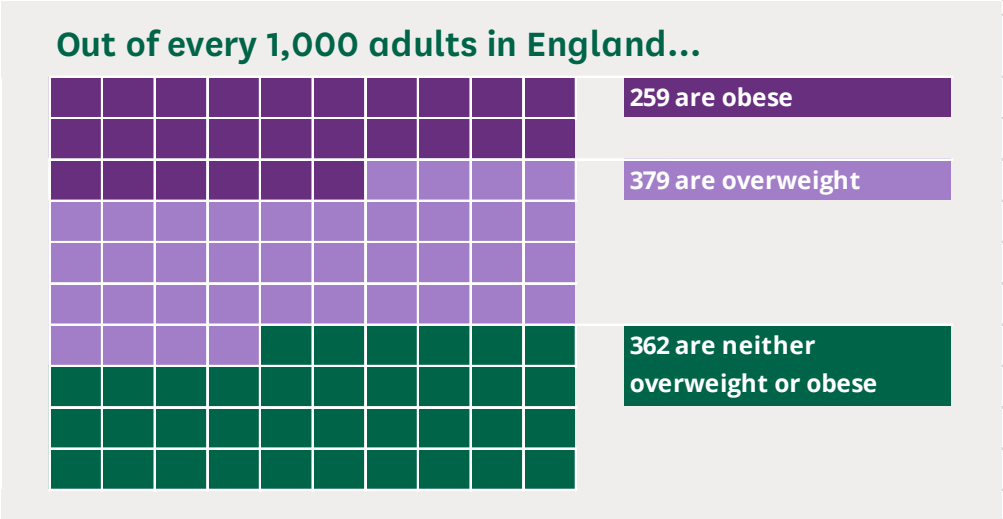
[47] PHE, Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines, October 2018

2 Is the UK facing an obesity epidemic?

2.1 Adult obesity in England

The Health Survey for England, published by NHS Digital, provides estimates of obesity levels based on the body mass index (BMI) of a representative sample of people aged 16+. The 2021 survey was based on adjusted self-reported height and weight data, while in previous years the survey was based on measured data.[48]

In the 2021 survey, 25.9% of adults in England were obese and a further 37.9% were overweight, making a total of 63.8% who were either overweight or obese. Men were more likely than women to be overweight or obese (68.6% of men compared with 59.0% of women).



Source: NHS Digital, Health Survey for England 2021, Table 1

Trends over time

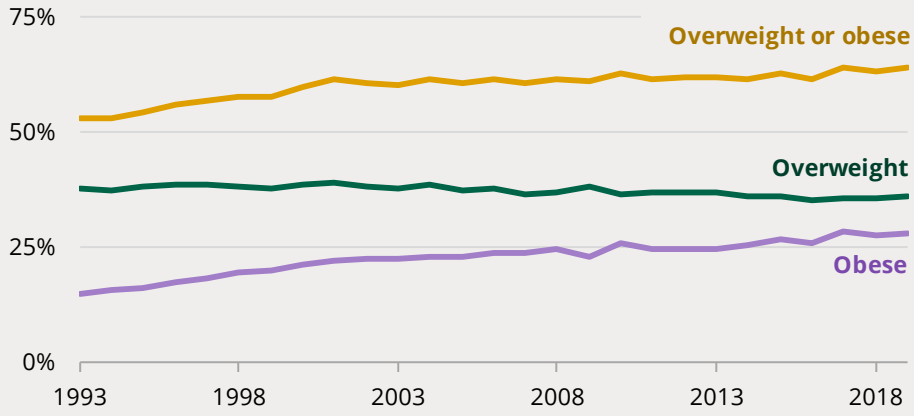
There was a clear increase in the proportion of overweight or obese adults between 1993 and 2001. Since then, there have only been small changes, although the proportion has risen slightly over the past decade. Some annual fluctuation in the data is likely to be because the data is based on a survey of a sample of the population.

[48] NHS Digital, Health Survey for England 2021, 15 December 2022

Between 1993 and 2019 the proportion of adults in England who are obese rose from 14.9% to 28.0%, while the proportion who were either overweight or obese rose from 52.9% to 64.3%.

The chart below shows these trends. The chart does not show data from 2021 because of the survey's change from measured to self-reported data. [49]

Adult obesity prevalence in England rose from 15% in 1993 to 28% in 2019



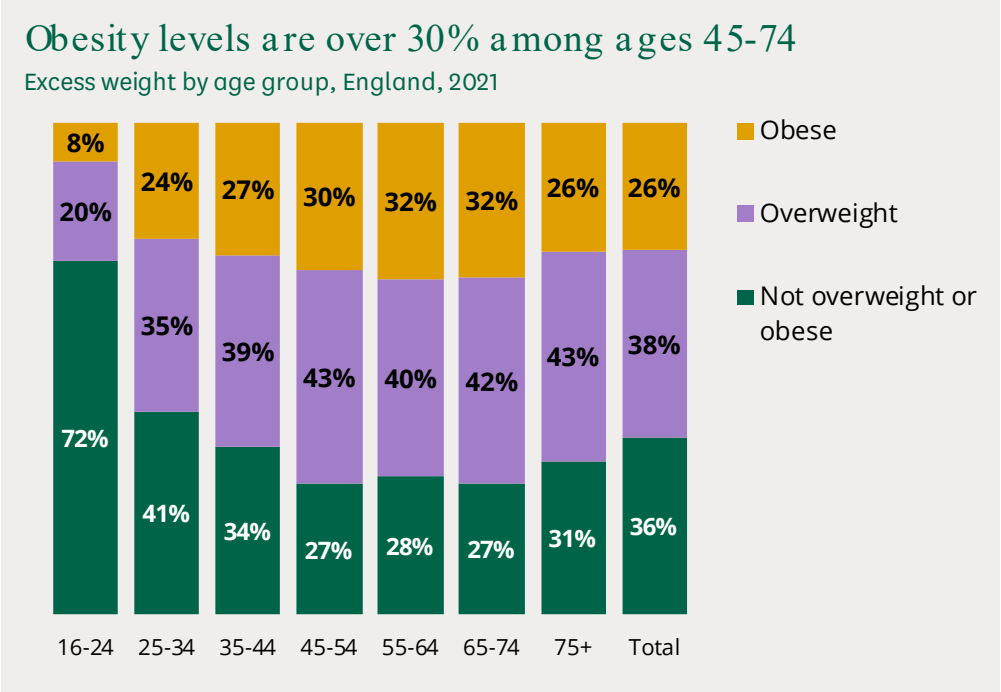
Source: NHS Digital, Health Survey for England 2021, Table 8

Age and sex differences

In 2021, people aged 45 to 74 were more likely to be overweight or obese than other age groups. Prevalence of excess weight (ie the proportion who were either overweight or obese) was above 70% in these age groups.

The adult age group least likely to be overweight or obese was 16- to 24-year-olds (28%). This self-reported data shows a substantial decline from the last measured data from 2019, when 37% of 16- to 24-year-olds were overweight or obese.

[49] NHS Digital, Health Survey for England 2021, 15 December 2022



Source: NHS Digital, Health Survey for England 2021, Table 1

As noted above, prevalence of excess weight (being either overweight or obese) is higher among men than among women. However, prevalence of obesity is slightly higher among women (26.4%) than men (25.4%). More men were overweight but not obese (43.3%) than women (32.5%). These proportions vary by age, as the next charts show. [50]

[50] NHS Digital, Health Survey for England 2021, 15 December 2022

In all age groups, men are more likely than women to be overweight or obese

Source: NHS Digital, Health Survey for England 2021, Table 1

2.2 Childhood obesity in England

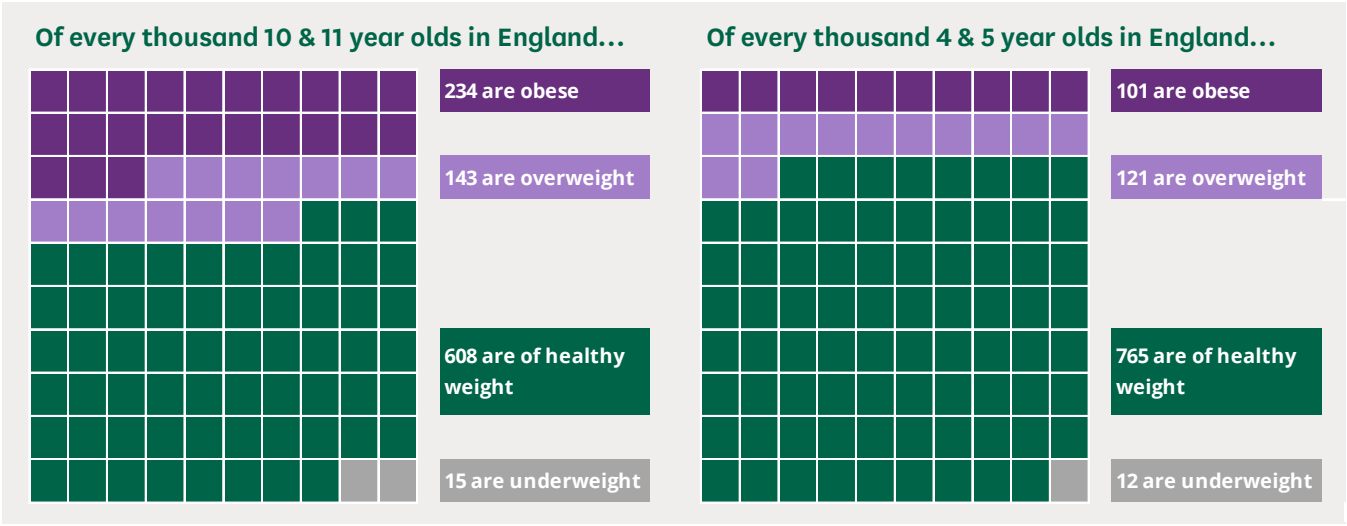
The National Child Measurement Programme (NCMP) found in 2021/22 that 10.1% of reception age children in England (ages 4-5) were obese, with a further 12.1% overweight. These proportions were higher among year 6 children (age 10-11), with 23.4% being obese and 14.3% overweight. [51]

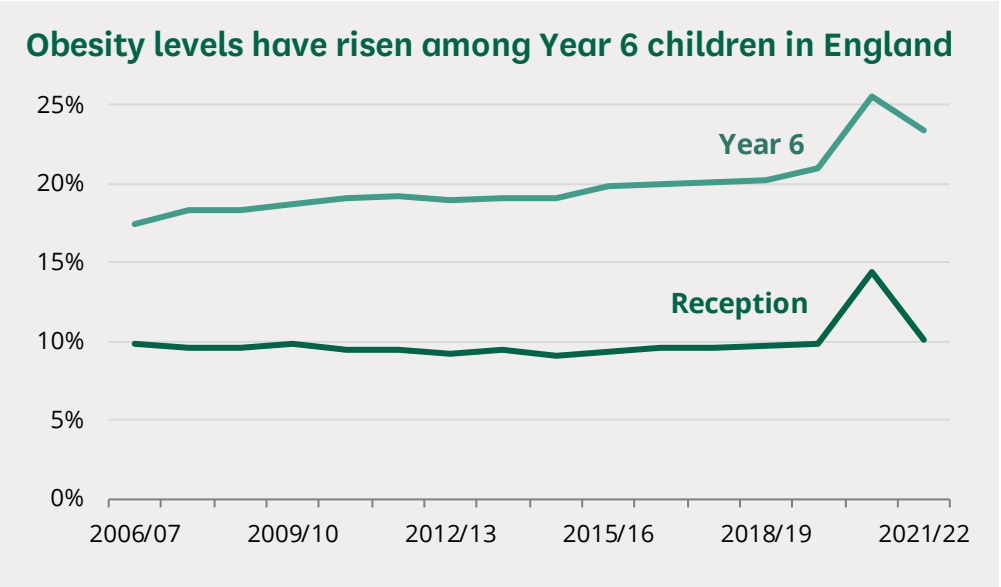
The 2020/21 edition of the survey, which was carried out as a sample because of the Covid-19 pandemic, found large increases compared to previous years, with obesity levels at 14.4% in reception and 25.5% in year 6.

In 2021/22 survey prevalence was lower, but the figures were still higher than in previous years. [52]

[51] Note that these categories are not directly comparable to those used for adults, since measuring BMI and obesity for children is more complex than for adults. In the NCMP, obese is defined as having a BMI in the 95th percentile or higher of the British 1990 growth reference.

[52] NHS Digital, National Child Measurement Programme 2021/22, 3 November 2022





Source: NHS Digital, National Child Measurement Programme 2021/22, Tables 1a and 1b

In both age groups, boys are slightly more likely than girls to be obese. This difference is less than one percentage point at ages 4-5 but rises to six percentage points among ages 10-11. [53]

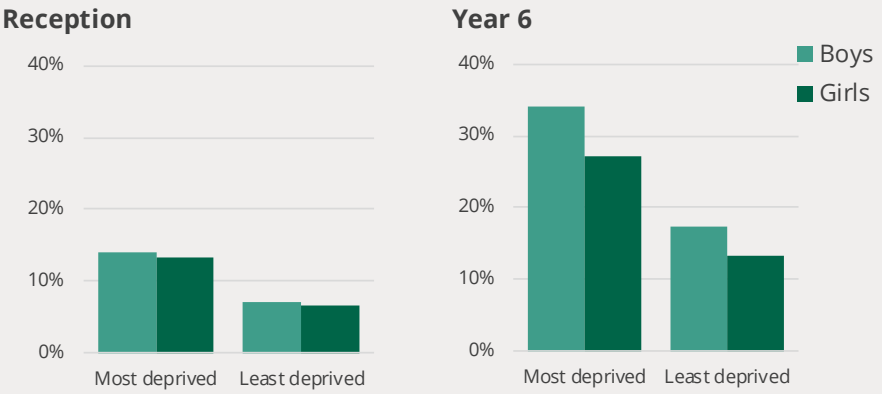
Children living in more deprived areas are substantially more likely to be obese. In 2021/22, 6.2% of children aged 4-5 living in the least deprived tenth of areas of England were obese. This compares with 13.6% of those living in the most deprived tenth of areas.

In Year 6 (ages 10-11), 13.5% of children living in the least deprived areas were obese, compared with 31.3% in the most deprived areas. In both age groups,

[53] Note that these categories are not directly comparable to those used for adults, since measuring BMI and obesity for children is more complex than for adults. In the NCMP, obese is defined as having a BMI in the 95th percentile or higher of the British 1990 growth reference.

children in the most deprived areas were approximately twice as likely to be obese. Rates of severely obesity were around four times higher in the most deprived areas.

Children living in deprived areas are more likely to be obese than those in less deprived areas (2021/22)



Source: NHS Digital, National Child Measurement Programme 2021/22, Tables 6a_R and 6a_6

2.3 Cost of obesity

Data on the total cost of obesity to the NHS and to society as a whole is scarce and out of date.

Public Health England's 2017 article Health matters: obesity and the food environment, provides an estimate that the NHS spent £6.1 billion on obesity-related ill health in 2014-15.[54]

An Foresight Report from the Government Office for Science in 2007 estimated that NHS costs attributed to elevated BMI (overweight and obesity) were £4.2 billion in 2007.[55] This was forecast to rise to £6.3 billion in 2015, £8.3 billion in 2025 and £9.7 billion in 2050. Estimates of future costs depend on the accuracy of forecasts of obesity prevalence.

Estimates of the wider economic cost of obesity beyond the NHS vary widely and are uncertain. In 2017 the Government quoted an estimate of obesity's annual cost to wider society at £27 billion.[56]

54 Public Health England, Guidance, Health matters: obesity and the food environment, 31 Mar 2017
55 Government Office for Science, Tackling Obesities: Future Choices- Project Report, 2nd Edition, Foresight, 17 October 2007
56 PHE, Health matters: obesity and the food environment, 31 March 2017

2.4 Diet and exercise habits in England

Diet

Results from the UK-wide National Diet and Nutrition Survey 2016 to 2019 show that people tend to consume too much sugar and saturated fat and not enough fruit and vegetables.[57]

An individual's diet can be measured by the percentage of total energy intake that comes from particular food types. The survey found that intake of free sugars in was higher than the government recommendation that free sugars should provide no more than 5% of total energy intake (which applies to those aged two years and over).

Across seven age groups, the average sugar intake ranged from 9.4% of total energy for adults aged 65 years and over, to 12.3% of total energy for children aged 11 to 18 years. The programme did, however, note that intake had fallen for adult and child groups over the eleven years from 2008.

Adults aged 19 to 64 averaged 4.3 portions of fruit and vegetables per day, while children aged 11 to 18 averaged 2.9 portions per day. These averages were unchanged since the 2014 to 2016 survey for all but ages 11 to 18, who increased their consumption of fruit and vegetables from 2.7 to 2.9 portions.

Exercise

Sport England's Active Lives Survey 2021/22 found that just over a quarter of adults were inactive (defined as doing less than 30 minutes of physical activity of moderate intensity per week on average), 11% were fairly active (defined as doing 30 to 149 minutes of activity), and 63% were active (defined as doing 150 or more minutes of activity). These figures have changed little since 2015. There was a small rise in inactivity during the Covid-19 pandemic which was reversed in 2021/22.[58]

People aged 16 to 34 were most likely to be active, at 70%, compared with 66% of those aged 35 to 54, 62% of those aged 55 to 74, and 41% of those aged 75+. Activity rates have grown in older adults since 2015.

57 PHE, NDNS: results from years 9 to 11 (combined) – statistical summary, 11 December 2020

58 Sport England, Active Lives Survey, accessed 31 May 2023

3 Medical treatments for obesity

This section contains an overview of some of the treatment options for obesity which are both recommended and available on the NHS in England. It is a general overview only; individuals should consult a qualified medical professional for health advice.

3.1 Background

The National Institute for Health and Care Excellence (NICE) has produced guidance on the identification, assessment, and management of obesity.[59] NICE recommend that practitioners should:

- Assess a patient's lifestyle, comorbidities [other concurrent illness] and willingness to change.
- Consider a patient's lifestyle changes such as diet, physical activity.
- Consider pharmacological interventions, only after dietary, exercise and behavioural approaches have been started and evaluated.
- Consider bariatric surgery (subject to meeting a number of criteria).[60]

An NHS webpage on obesity treatment notes that a GP will be able to advise on losing weight safely, and also provides information on the range of support and treatment that may be available.[61] Where obesity is caused or exacerbated by an underlying health condition, proper treatment of that condition may contribute to weight loss.

On 27 November 2022 the Government announced £20 million to trial how best to deliver new medicines and technologies for people living with obesity, particularly in deprived communities across the UK.[62] The Government said this will help new medicines coming to market to better support people to achieve a healthy weight. The research will also explore how these medicines can be combined with new technologies and digital tools to improve long-term health outcomes.

59 NICE, Obesity: identification, assessment and management, Clinical guideline [CG189], published 27 Nov 2014, last updated 8 September 2022

60 NICE, Obesity: identification, assessment and management, Clinical guideline [CG189], published 27 Nov 2014, last updated 8 September 2022

61 NHS, Treatment, Obesity, accessed 7 June 2023

62 DHSC, New obesity treatments and technology to save the NHS billions, 27 November 2022

Licensing new medical treatments

In recent years, new medicines have been made available to treat obesity. The Medicines and Healthcare products Regulatory Agency (MHRA) is the UK medicines regulator. Pharmaceutical companies who wish to market their medicines in the UK must submit an application to the MHRA, providing evidence on the medicine's clinical effectiveness and safety. The MHRA will assess the application on this basis and consider issuing a marketing authorisation accordingly.

Accessing medicines via the NHS or private providers

NICE is the body tasked with appraising medicines in terms of their value for money via its technology appraisals. Broadly speaking, these are decisions on whether a medicine's therapeutic outcomes justify the overall cost of providing it to patients via the NHS. If a medicine is recommended in a NICE technology appraisal, NHS in England is required to provide them to patients (subject to clinical considerations).[63]

Where NICE does not make a positive recommendation for a medicine, it may be possible for patients to access it via a private prescriber (subject to clinical considerations).

Prescribing unlicensed medicines

Generally, medical professionals will only prescribe medicines with a marketing authorisation. However, in some instances, they may prescribe medicines for unlicensed use.

Unlicensed use (sometimes called 'off label' use) is where:

- The medicine in question has not received a marketing authorisation, or;
- The medicine has received a marketing authorisation but is being prescribed outside the limits of the marketing authorisation. For example, prescribing for a dose, condition or patient group that is not indicated.

Prescribers can make this decision at their own discretion but will rely on guidance on things to consider first. The main consideration is whether there is empirical knowledge or established use suggesting that the treatment is safe and effective when used in the proposed manner. This is the case for both private and NHS prescribing.

63 NICE, Our charter, Who we are and what we do, accessed 25 April 2023

An example of guidance is the General Medical Council's (the UK regulator for doctors) guidance on prescribing unlicensed medicines.

3.2 Appetite suppressants (GLP-1 agonists)

GLP-1 agonists are a form of appetite suppressants. They mimic a natural occurring hormone called glucagon-like peptide-1 (GLP-1), which is released from the intestine after meals. The NHS explains that GLP-1 agonists:

- Help your body to make more insulin (the hormone that controls the amount of sugar in your blood) when needed.
- Reduce the amount of sugar (glucose) that your liver makes.
- Slow down the digestion of food, so that it takes longer for your body to absorb (take in) the sugar from meals.
- Can reduce your appetite.[64]

Given these mechanisms, GLP-1 agonists are effective both in treating diabetes, and aiding weight loss.

Semaglutide and Liraglutide, discussed below, are both GLP-1 agonists. NICE's 2014 clinical guideline on identifying, assessing and managing obesity was updated in April 2023 to include recommendations from NICE technology appraisal guidance on liraglutide and semaglutide.[65]

Semaglutide (Wegovy, Ozempic)

In March 2023, NICE made a recommendation for semaglutide in the treatment of obesity. The recommendation is restricted to use:

> as an adjunct to a reduced-calorie diet and increased physical activity for weight management, including weight loss and weight maintenance, in adults with an initial Body Mass Index (BMI) of ≥30 kg/m2 (obesity), or ≥27 kg/m2 to <30 mg/kg2 (overweight) in the presence of at least one weight-related comorbidity'.[66]

The NICE guidance sets out further conditions for use, including a maximum treatment course of two years, and within a specialist weight management service.

Wegovy and Ozempic are branded products which both contain semaglutide as the active ingredient. However, in the UK, Wegovy is licensed for weight management, while Ozempic is licensed for the treatment of people with

64 NHS Guy's and St Thomas', Overview, Diabetes medicines: GLP-1 agonists, accessed 2 June 2023
65 NICE, Obesity: identification, assessment and management, CG189, last updated 8 September 2022
66 NICE, Semaglutide for managing overweight and obesity, TA875, 8 March 2023

diabetes. There has been much discussion about the unlicensed prescribing of Ozempic for weight loss, from private prescribers, in the UK.[67]

Wegovy was granted a marketing authorisation by the MHRA in 2021.[68] It is not yet commercially available in the UK but will reportedly be so in 2023.[69]

Ozempic supply issues

In October 2022, Novo Nordisk (who manufacture Ozempic), issued a notice to healthcare professionals (PDF) to advise them of UK supply shortages of Ozempic.[70] The notice, issued in agreement with the MHRA and DHSC, advised:

> The intermittent stock shortage of Ozempic® is due to unprecedented levels of demand for this product which have tested our manufacturing capacity. Whilst we continue to increase our capacity significantly, our present supply does not always meet this excess demand, which has led to temporary shortages or intermittent supply which is expected to last into 2023.[71]

The notice advised that during this period "as per DHSC recommendation no new patients should be initiated on Ozempic". The notice also advised healthcare professionals on how to manage patients if they were unable to access Ozempic, including supplying alternative products.

Reported shortages of Ozempic in other countries has, at least partly, been attributed to growing demand for weight loss use, further encouraged by social media.[72] There has been associated concern that supply shortages have resulted in people using Ozempic to treat diabetes being unable to continue their treatment as planned.

Liraglutide (Saxenda)

NICE's guidance on the use of liraglutide for managing overweight and obesity recommends liraglutide:

> as an option for managing overweight and obesity alongside a reduced-calorie diet and increased physical activity in adults, only if:
>
> - They have a body mass index (BMI) of at least 35 kg/m2 (or at least 32.5 kg/m2 for members of minority ethnic groups known to be at equivalent

67 See, for example i News, Ozempic: Diabetic urges weight loss patients to stop taking drug with demand 'getting out of hand', 16 May 2023

68 MHRA, Marketing authorisations granted in 2021, September 2021

69 The Independent, Wegovy: Weight loss injection beloved by celebrities gets green light for NHS, 5 April 2023

70 Novo Nordisk, Direct healthcare professional communication, Ozempic solution for injection in pre-filled pen (semaglutide) (PDF), 5 October 2022

71 Novo Nordisk, Direct healthcare professional communication, Ozempic solution for injection in pre-filled pen (semaglutide) (PDF), 5 October 2022

72 See, for example; The Guardian, Shortage of diabetes Ozempic after TikTok users promote drug for weight loss [in Australia], 31 May 2023 and Diabetes UK, TikTok trend causes a shortage of diabetes medication Ozempic, 7 June 2022

risk of the consequences of obesity at a lower BMI than the white population) and;

- They have non-diabetic hyperglycaemia (high blood sugar levels, with measurements defined further in the guidance);
- They have a high risk of cardiovascular disease based on risk factors such as hypertension and dyslipidaemia and;
- It is prescribed in secondary care by a specialist multidisciplinary tier 3 weight management service.[73]

NICE limits the recommendation to provision in accordance to a commercial access arrangement it has with Novo Nordisk, details of which have not been published.

3.3 Orlistat (Alli, Xenical)

A chemical (specifically, an enzyme) called lipase is found in the digestive system and enables the body to digest fat. Orlistat works by blocking lipase from working. The result is that the body is prevented from absorbing roughly one third of ingested fat, which is instead passed through the stool. [74] Orlistat is the generic name of the medicine, and it is available in the UK as branded products called Xenical and Alli.

Alli is available to purchase over the counter from pharmacies in a lower strength (60mg), while higher strength (120mg) preparations of orlistat are only available via a prescription.

NICE's clinical guideline recommends the use of orlistat in adults, as part of an overall plan for managing obesity in adults who have either:

- A BMI of 28kg/m^2 or more with associated risk factors, or
- A BMI of 30kg/m^2 or more.

The NICE clinical guideline sets out further recommendations on the duration, continuation of treatment and dietary and lifestyle practices.

People wishing to purchase Alli must have a BMI above 28kg/m^2.

The NHS has published information on orlistat for patients.[75]

73 NICE, Liraglutide for managing overweight and obesity, 9 December 2020

74 Cheplapharm Arzneimittel GmbH, Information for the user. Xenical 120mg hard capsules. Orlistat, accessed 6 June 2023

75 NHS, Obesity, treatment, accessed 25 April 2023

3.4 Surgery

Bariatric surgery reduces the size of the stomach, reducing the amount of food a person can consume, and causing them to feel fuller for longer. The NHS website explains that surgical procedures include:

- Gastric band a band is placed around your stomach, so you do not need to eat as much to feel full.
- Gastric bypass the top part of your stomach is joined to the small intestine, so you feel fullersooner and do not absorb as many calories from food.
- Sleeve gastrectomysome of your stomach is removed,soyou cannot eat as much as you could before and you'll feelfull sooner.[76]

NICE guidance sets out the criteria for bariatric surgery:

- They have a BMI of 40 kg/m2 or more, or between 35 kg/m2 and 40 kg/m2 and other significant disease (for example, type 2 diabetes or high blood pressure) that could be improved if they lost weight.
- All appropriate non-surgical measures have been tried but the person has not achieved or maintained adequate, clinically beneficial weight loss.
- The person has been receiving or will receive intensive management in a tier 3 service (for more information on tier 3 services, see NHS England's report on joined up clinical pathways for obesity).
- The person is generally fit for anaesthesia and surgery.
- The person commits to the need for long-term follow-up.[77]

3.5 Government announces a pilot for expand access to obesity medicines (June 2023)

In June 2023, the Government announced a two-year pilot, supported by up to £40 million of funding, to "explore ways to make obesity drugs accessible to patients living with obesity outside of hospital settings".[78] A press release noted arrangements for access to weight loss medicine, Wegovy:

[76] NHS, Overview, Weight loss surgery, accessed 25 April 2023

[77] NICE, Obesity: identification, assessment and management, Clinical guideline [CG189], published 27 Nov 2014, last updated 8 September 2022

[78] Prime Minister's Office, 10 Downing Street, Department of Health and Social Care, The Rt Hon Rishi Sunak MP, The Rt Hon Steve Barclay MP, and Neil O'Brien MP, New drugs pilot to tackle obesity and cut NHS waiting lists, 6 June 2023

> NICE advise that Wegovy should only be available via specialist weight management services, which are largely hospital based. This would mean only around 35,000 people would have access to Wegovy, when tens of thousands more could be eligible.[79]

The press release explains that the pilot will explore how approved medicines can be made safely available to more people, by expanding specialist weight management services outside of hospital settings. The press release suggests that this could include looking at how GPs could safely prescribe these medicines, and how the NHS could provide support in the community or digitally.

[79] Prime Minister's Office, 10 Downing Street, Department of Health and Social Care, The Rt Hon Rishi Sunak MP, The Rt Hon Steve Barclay MP, and Neil O'Brien MP, New drugs pilot to tackle obesity and cut NHS waiting lists, 6 June 2023

4 Dietary, lifestyle and social interventions

4.1 Dietary interventions

Measuring the energy content of food

A 'calorie' is a unit of measurement used to explain the amount of energy in food or drink.

A kilocalorie (kcal) is a unit of 1,000 calories and is commonly used to discuss calorie content.

As a guide, the average man needs 2,500 kcal daily, while the average woman needs 2,000 calories. Several factors affect this requirement, including age, weight, height and physical activity.

Calorie content is one of many ways to measure food intake. It does have limitations, namely that it does not account for the nutritional value of food. For example, a given quantity of sweets and fruit may have the same calorific value, but fruit would generally provide a greater nutritional benefit.

The NHS provides further information on calorie content.

Dietary recommendations

NICE's guidance on the identification, assessment, and management of obesity includes dietary recommendations.[80]

It advises that the main requirement of a dietary approach to weight loss is that total energy intake should be less than energy expenditure. This is provided through a calorie deficit – where a person consumes less calories than they would normally need to maintain their weight.

NICE recommends diets that have a 600 kcal daily deficit, or low-fat diets which provide any calorie deficit, in combination with expert support and intensive follow-up for sustainable weight loss.

NICE says that low-calorie diets (800 to 1600 kcal / day) may be considered but cautions that these are less likely to be "nutritionally complete".

[80] NICE, Obesity: identification, assessment and management, last updated 8 September 2022

NICE also cautions against the routine use of very-low calorie diets (800 kcal/day or less).

The guidance provides further recommendations on diet, including those for children.

4.2 Social prescribing

Social prescribing is a non-clinical intervention that enables GPs and other frontline healthcare professionals to refer people to activities in their community, such as exercise groups, alongside pharmacological and surgical solutions. The first point of referral is usually a voluntary sector link worker who can talk the patient about the things that matter to them. Together they can co-produce a social prescription that will help to improve the patient's health and wellbeing through access to activities and community groups that are of interest to them.

The NHS Long Term Plan, published in January 2019, provides further information on the intended policy direction for the NHS in England in relation to social prescribing (paragraphs 1.39 and 1.40).[81] In particular, it notes that social prescribing "link workers" within groups of GP practices (called primary care networks) will work with people to develop tailored plans and connect them to local groups and support services.

An NHS England webpage provides further information and guidance on social prescribing.[82] Another NHS England webpage provides information on how NHS England aims to form partnerships with voluntary, community and social enterprises.[83]

NICE has published public health guidelines on weight management: lifestyle services for overweight or obese adults[84] and obesity: working with local communities,[85] which provide guidance for commissioners and providers of lifestyle weight management programs.

As part of the Government's obesity strategy, published in July 2020, GPs will be encouraged to prescribe exercise and more social activities to help people keep fit.[86] Section 5.4 provides further discussion about the 2020 obesity strategy.

81 NHS, The NHS Long Term Plan, 7 January 2019
82 NHS, Social prescribing,accessed 6 June 2023
83 NHS, Partnerships and relationships, accessed 6 June 2023
84 NICE, Weight management: lifestyle services for overweight or obese adults, Public health guideline [PH53], 28 May 2014
85 NICE, Obesity: working with local communities, Public health guideline [PH42], 5 Jun 2017
86 Department for Health and Social Care press release, New obesity strategy unveiled as country urged to lose weight to beat coronavirus (COVID-19) and protect the NHS, 27 July 2020

4.3 Prevention

The Health and Social Care Act 2012 transferred responsibility for the provision of a range of public health services, from the NHS to local authorities. This included anti-obesity provision such as local weight groups. From 1 April 2013 upper tier and unitary authorities have had responsibilities to improve the health of their populations, backed by a ring-fenced grant. A Department of Health (DH) guide in 2011 set out the commissioning responsibilities of local authorities under the new arrangements.[87] Further information on these responsibilities for public health services are set out in the Library briefing on the structure of the NHS in England.[88]

In addition to work by local authorities, Change4Life was launched in 2009 as part of a national ambition set out in the Government'sHealthy Weight, Healthy Lives (2008) strategy. It aims to help families and children in England to eat well and move more. In 2021, Change4Life was brought under the Government's Better Health brand, although the public health information and advice on the Better Health website remains the same.

The Healthy Child Programme is the national programme for improving the health and wellbeing of children in England. It is a universal service, delivered by NHS health visitors. Its goals are to identify and treat problems early, help parents to care well for their children, change health behaviors and protect against preventable diseases.

The 2019 NHS Long Term Plan

The NHS Long Term Plan, published in January 2019, included objectives for improving public health and clinical outcomes over the next 10 years.[89] Chapter 2 sets out action the NHS will take to strengthen its contribution to prevention and tackling health inequalities and includes a specific focus on improving access to NHS obesity servics.

The section of the Plan on what the NHS will do to tackle obesity can be found on pages 36 to 37. Some of the key measures and commitments are set out below:

- The NHS will provide a targeted support offer and access to weight management services in primary care for people with a diagnosis of type 2 diabetes or hypertension with a BMI of 30+ (adjusted appropriately for ethnicity).

87 Department of Health, Commissioning responsibilities, 2011
88 Commons Library, The structure of the NHS in England, CBP 07206, July 2021
89 NHS, The NHS Long Term Plan, 7 January 2019

- A commitment to fund a doubling of the NHS Diabetes Prevention Programme over the next five years, including a new digital option to widen patient choice and target inequality.

- The NHS will continue to take action on healthy NHS premises. The next version of hospital food standards will strengthen requirements to provide healthy food for staff and patients.

- Together with the professional bodies and universities the NHS will ensure nutrition has a greater place in the education and training of healthcare professionals.

In a January 2019 statement, Secretary of State for Health and Social Care Matt Hancock introduced the plan and said that "at the heart of the plan is the principle that prevention is better than cure".[90] Mr Hancock said that "the role of the health service is just as much to prescribe behaviour change as it is to prescribe drugs", and that the Government would introduce more than 1,000 trained social prescribing link workers within the next 2 years, to help refer over 900,000 people.[91] During the debate, a number of members raised concerns about maintaining and improving healthcare services whilst facing reductions in local public health budgets.[92]

The Kings Fund considered that the delivery of the plan relied on tackling workforce shortages, and said that cuts to local government funding for public health services highlighted a need for "a more consistent approach across government to the population's health".[93] Shadow Health Secretary Jonathan Ashworth reportedly said that "the aspirations for improving patient care…are welcome", but considered that "…the reality is the NHS will continue to be held back by cuts and chronic staff shortages.".[94]

Prevention green paper

On 22 July 2019 the Government published its Prevention green paper, Advancing our health: prevention in the 2020s outlining the Government's proposals for tackling a range of health issues caused by tobacco use, physical inactivity and mental illness, amongst other factors.

In it, the Government stated that "The 2020s will be the decade of proactive, predictive, and personalized prevention". The Paper includes a section on "maintaining a healthy weight".

90 Hansard, NHS Long-term plan, Vol 652, 7 Jan 2019

91 DHSC and The Rt Hon Matt Hancock MP, Tackling obesity is a shared responsibility for society, 14 Jan 2019

92 Hansard, NHS Long-term plan, Vol 652, c80, 7 Jan 2019

93 The King's Fund, The King's Fund response to the NHS long-term plan, accessed 7 June 2023

94 The Pulse, Reaction to the NHS long-term plan, 7 January 2019 (subscription required)

The 2020 obesity strategy

In its 2020 obesity strategy, the Government committed to accelerate the expansion of the NHS Diabetes Prevention Programme to support those people are most at risk, and provide access to high-impact weight loss services for those who need it most.[95]

The Government described its 2020 obesity strategy as "the start of this government's effort to shift healthcare to focus more on public health and prevention".[96] The strategy is discussed further in section 5.4 of this paper.

4.4 Public health reforms

In 2010 the Coalition Government published its paper, Healthy Lives, Healthy People: Our strategy for public health in England which set out its plans for transforming public health in England. The Government recognised the threat that obesity posed to public health and identified opportunities to reduce infant mortality by tackling maternal obesity.[97] The report also recommended that a new national public health body, Public Health England (PHE) be established with responsibility for funding and ensuring the provision of services for obesity.

In August 2020, the Government announced that PHE would be abolished, with a new body merging the role of PHE, NHS Test and Trace and the Joint Biosecurity Centre. The press release described the restructure as 'the first step towards becoming a single organisation, focused on tackling COVID-19 and protecting the nation's health'.[98]

In March 2021, the Government published a policy paper, where it set out reforms to the public health system in England.[99] This set out details of a new body, the UK Health Security Agency (UKSHA), whose primary concern would be 'protecting against infectious diseases and external health threats'.[100]

At the same time, the Government gave details of a new office, which would sit within the DHSC, and 'drive our prevention agenda across government'. The Government explained its rationale for the creation of the two new bodies:

> Since 2013, national responsibilities for health security and health improvement have sat together within a single body, Public Health England

95 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020
96 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020
97 DHSC, Healthy lives, healthy people: our strategy for public health in England, 30 November 2010
98 DHSC and The Rt Hon Matt Hancock MP, Government creates new National Institute for Health Protection, 18 August 2020
99 DHSC, Transforming the public health system: reforming the public health system for the challenges of our times, 29 March 2021
100 The Independent, Covid: Matt Hancock announces new health agency focusing on preventing future pandemics, 25 March 2021

> (PHE).To ensure we have a public health system fit for the future, we are ensuring that going forward both health security and health improvement have their own clear, dedicated focus at national level. By giving each the focus it deserves, and carefully managing the important interdependencies between these elements of our overall public health system, we can do both better.[101]

The Government proposed to move most of the functions that directly support development and delivery of national health improvement policy from PHE to a new office, which became known as the Office of Health Improvement and Disparities (OHID), alongside existing DHSC capability on prevention and health improvement. This would include obesity.

The Office of Health Improvement and Disparities

The Office of Health Improvement and Disparities (OHID) officially launched on 1 October 2021.

While the UK Health Security Agency (UKHSA)[102] took on planning for and responding to infectious diseases, the health improvement responsibilities of PHE formally moved to OHID.[103] OHID coordinates central and local government, the NHS and wider society to promote improvements in the public's health. OHID is a part of the DHSC, under the professional leadership of the Chief Medical Officer.[104]

OHID is responsible for cross-government action on the major preventable conditions that drive ill health and early death, including cardiovascular disease and some cancers, as well as the risk factors that can cause those conditions, including obesity.

The OHID website states that it will work across "government, the healthcare system, local government and industry to be creative about how we shift our focus towards preventing ill health, in particular in the places and communities where there are the most significant disparities".

The website also sets out OHID's priorities to:

- identify and address health disparities, focusing on those groups and areas where health inequalities have greatest effect

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101 DHSC, Transforming the public health system: reforming the public health system for the challenges of our times, 29 March 2021

102 The UKHSA incorporated a number of functions of Public Health England (PHE), NHS Test and Trace, and the Joint Biosecurity Centre (JBC). Its chief executive is the former Deputy Chief Medical Officer Jenny Harries. The UKHSA was initially known as the National Institute for Health Protection (NIHP). More information about the NIHP is available in a Commons Library Insight, Establishing the National Institute for Health Protection, 17 February 2021.

103 OHID was initially known as the Office for Health Promotion.

104 As the Deputy Chief Medical Officer (DCMO), Dr Jeanelle de Gruchy will advise government on clinical and public health matters as the co-lead for OHID, alongside the DHSC Director General for Public Health, Jonathan Marron. Dr de Gruchy was previously the President of the Association of Directors of Public Health (ADPH).

- take action on the biggest preventable risk factors for ill health and premature death including tobacco, obesity and harmful use of alcohol and drugs
- work with the NHS and local government to improve access to the services which detect and act on health risks and conditions, as early as possible
- develop strong partnerships across government, communities, industry and employers, to act on the wider factors that contribute to people's health, such as work, housing and education
- drive innovation in health improvement, harnessing the best of technology, analytics, and innovations in policy and delivery, to help deliver change where it is needed most[105]

4.5 Health disparities strategy

On 4 February 2022 the then Health Secretary, Sajid Javid, announced plans for a health disparities white paper.[106] In September 2022 it was reported that Therese Coffey, during her tenure as Secretary of State for Health and Social Care, had decided not to publish the white paper, although this was not officially confirmed at the time.[107]

There were a number of subsequent PQs about whether the white paper would be published before the end of 2022, to which the Government repeatedly responded that "No decisions have been taken in relation to the health disparities white paper".[108] On occasion the Government has referred to other documents that include plans to tackle health disparities that were published in 2022, including the Women's Health Strategy and the Levelling Up white paper. The latter included a health levelling up mission to improve healthy life expectancy by five years by 2035 and narrow the gap by 2030.

In a PQ response on 31 October 2022, the Government noted that 'Our plan for patients', published on 22 September, set out "the immediate priorities to support individuals to live healthier lives, including improving access to health and care services". The response added that the Department continues to review how health disparities can be addressed and further information will be available in due course.[109]

In a written statement to Parliament on 24 January 2023, the Health Secretary Stephen Barclay announced that in consultation with NHS England and across Government, his Department would develop and publish a Major Conditions Strategy. He noted that tackling major conditions is critical to the

105 OHID, About us, accessed 6 June 2023
106 Written Ministerial Statement, HCWS591, 4 February 2022
107 See The Guardian, Therese Coffey scraps promised paper on health inequality, 29 September 2022
108 See for example PQ74729, Health: Disadvantaged, 7 November 2022
109 See PQ62134, Health: Disadvantaged, 31 October 2022

Government's levelling up mission to narrow the gap in healthy life expectancy by 2030:

> The strategy will set out a strong and coherent policy agenda that sets out a shift to integrated, whole-person care, building on measures that we have already taken forward through the NHS Long Term Plan. Interventions set out in the strategy will aim to alleviate pressure on the health system, as well as support the Government's objective to increase healthy life expectancy and reduce ill health-related labour market inactivity.
>
> Our approach will be rooted in the best understanding of the evidence to tackle the major conditions that contribute to the burden of disease in England, namely:
>
> Cancers
>
> Cardiovascular diseases, including stroke and diabetes
>
> Chronic respiratory diseases
>
> Dementia
>
> Mental ill health
>
> Musculoskeletal disorders
>
> These areas account for around 60% of total disability adjusted life years in England. Tackling them is critical to achieving our manifesto commitment of gaining five extra years of healthy life expectancy by 2035, and our levelling up mission to narrow the gap in healthy life expectancy by 2030.[110]

The Health Secretary added that "this work combines our key commitments in mental health, cancer, dementia and health disparities into a single, powerful strategy".

The Government subsequently said, "as material for the Major Conditions Strategy will cover many of the same areas as the Health Disparitites White Paper (HDWP), we will no longer be publishing the HDWP".[111]

The Government has previously stated that by "focusing on the major conditions that contribute to early death and reduce years of good health, as well as the behaviours that drive those conditions like smoking, poor diet and alcohol consumption, which disproportionately impact some places and communities, we will make progress on reducing health disparities".[112]

In December 2022 the Parliamentary Office of Science and Technology (POST) published a short briefing on diet-related Health Inequalities. This further

[110] Written Ministerial Statements, HCWS514, 24 January 2023

[111] See HL6215, 16 March 2023

[112] See PQ112093, 21 December 2022

noted that the topic is the focus in the Government's Food Strategy and part of the Levelling Up agenda.

5 The childhood obesity plan

Below, we have provided an overview of the Government's obesity policy, as set out in its chapters of its childhood obesity plan and a further obesity plan. Substantive discussion on key policies, and stakeholder responses to them, are provided in the subsequent sections of this briefing.

5.1 Chapter One

In August 2016, the Government published its childhood obesity plan, Childhood Obesity, A Plan for Action (also referred to as 'Chapter One').[113] The Government said that it aimed to significantly reduce England's rate of childhood obesity within the next ten years, and that a long term, sustainable change would only be achieved through the active engagement of schools, communities, families and individuals. A summary of the main commitments outlined in Chapter One are provided below in box one.

Box one: Summary of the main government commitments from Chapter One

- Introduce a soft drinks industry levy across the UK
- Launch a sugar reduction programme, led and run by PHE, to remove sugar from products children eat the most
- Review the nutrient profile model to ensure that it reflects the latest government dietary guidelines
- Encourage local authorities to adopt the Government Buying Standards for Food and Catering Services, and ensure full uptake of these in central government departments
- Re-commit to the Healthy Start scheme

[113] DHSC, Prime Minister's Office, 10 Downing Street, HM Treasury, and Cabinet Office, Childhood obesity: a plan for action, 18 August 2016

- PHE to develop advice for schools to help them understand what help is available with regards to spending the Primary PE and Sport Premium on specific interventions
- Continue investing in walking and cycling to school, and producing a Cycling and Walking Investment Strategy
- Introduce a voluntary healthy rating scheme for primary schools
- Ofsted to undertake a thematic review on obesity, healthy eating and physical activity in schools.
- Launch a campaign to raise awareness of voluntary guidelines for early years settings to help them meet Government dietary recommendations.[114]

Reports of an earlier draft

Following the publication of Chapter One in August 2016, there were criticisms from campaigners and health organisations that it was a 'watered down' version of a draft plan, reportedly seen prior to publication.[115]

Channel 4 reported that the Dispatches programme had obtained a document which it said "demonstrates how Theresa May's government dismantled David Cameron's obesity strategy in 36 days".[116] Dispatches reported that the draft strategy contained plans to reduce childhood obesity by half in the next ten years, introduce calorie labelling in the out of home sector, introduce restrictions on volume price and location promotion on HFSS foods and introduce restrictions on HFSS food advertising.

5.2 Chapter Two

The Government published Childhood obesity: a plan for action, Chapter 2 in June 2018.[117] It opened with a national ambition to halve childhood obesity rates by 2030 and significantly reduce the health inequalities that persist. The Plan spoke of a joint effort needed to achieve this:

> Achieving this is not going to be easy. It will require us all to get behind this ambition to play our part in making healthier decisions, providing healthier options and creating healthier environments. As Government we are

114 DHSC, Prime Minister's Office, 10 Downing Street, HM Treasury, and Cabinet Office, Childhood obesity: a plan for action, 18 August 2016
115 British Medical Journal, Clinicians underwhelmed by "watered down" childhood obesity strategy, 22 Aug 2016
116 Channel 4, The Secret Plan to Save Fat Britain: Channel 4 Dispatches, 31 October 2016
117 DHSC, Childhood obesity: a plan for action, Chapter 2, 25 June 2018

> committed to playing our part but recognise that this will require sustained collaboration across the political divide, across society and across public and private sector organisations.[118]

The Government made commitments to consult on a number of issues, including the sale of energy drinks to children and introducing a 9pm watershed for HFSS food advertising. A number of these consultations have already taken place and are referenced in later sections of this paper.

A summary of the main commitments outlined in Chapter Two are provided below in box two.

Box two: Summary of the main government commitments from Chapter Two

- Update the School Food Standards to reduce sugar consumption
- Promote a national ambition for every primary school to adopt an active mile initiative, such as the Daily Mile
- Invest over £1.6 million during 2018/19 to support cycling and walking to school
- Consider whether self-regulation of online advertising rules by the CAP alongside the Advertising Standards Authority (ASA) continues to be the right approach, or if legislation is necessary
- Consider the sugar reduction progress achieved in sugary milk drinks as part of its 2020 review of the milk drinks exemption from the SDIL, and their inclusion in the SDIL if progress is insufficient
- Consider further use of the tax system to promote healthy food

[118] DHSC, Childhood obesity: a plan for action, Chapter 2, 25 June 2018

5.3 Chapter Three

Chapter Three was published in July 2019, as part of the Government's prevention green paper; Advancing our health: prevention in the 2020s.[119] The Government said that it was seeking views on proposals to tackle the causes of preventable ill health in England and outlined their plans in a number of areas including precision medicine, being smoke-free and facilitating leading health research.

A summary of the main commitments outlined in Chapter Three are provided below in box three.

Box three: Summary of the main government commitments from Chapter Three

- Ban the sale of energy drinks to children under the age of 16
- Commission an infant feeding survey to provide information on breastfeeding and the use of foods and drinks other than breastmilk in infancy
- Challenge businesses to improve the nutritional content of commercially available baby food and drinks
- Explore how the marketing and labelling of infant foods can be improved
- Consult, by the end of 2019, on how the success of the current front-of-pack nutritional labelling scheme can be built on following our departure from the European Union
- Consider the extension of the SDIL to sugary milk drinks
- Aim to reduce population salt intake to 7g per day, and in 2020, publish revised salt reduction targets for industry to achieve by mid-2023 and report on industry's progress by 2024

Proposals outlined by Chapter Three included a number of measures to address baby and infant nutrition. These included the commissioning of an infant feeding survey, exploration of how to improve the marketing and labelling of infant food, and a challenge to business to improve the nutritional content of commercially available baby food, with PHE to publish industry guidance in early 2020.[120] Following calls to see the SDIL extended to milk

[119] Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 July 2019

[120] ccc

based drinks,[121] [122] the Government said that it would consider this "if evidence shows that industry has not made enough progress on reducing sugar".[123]

5.4 The 2020 obesity strategy

In July 2020, the Government published its policy paper, Tackling obesity: empowering adults and children to live healthier lives.[124] The Government identified obesity as "one of the greatest long-term health challenges this country faces", and expressed concern about the "consistent evidence that people who are overweight or living with obesity who contract coronavirus (Covid-19) are more likely to be admitted to hospital, to an intensive care unit and, sadly to die from Covid-19 compared to those of a healthy body weight".[125] The global Covid-19 pandemic had increased general concern about levels of obesity and those who are overweight when it became apparent that obesity increases the risk of an individual becoming seriously ill.[126]

The Government committed to taking a range of actions, as summarised below in box four.

Box four: Government commitments from 2020 obesity strategy

- Introduce the Better Health campaign delivered by PHE
- Expand weight management services available through the NHS, and accelerate the expansion of the NHS Diabetes Prevention Programme
- Publish a 4-nation public consultation to gather views and evidence on the current "traffic light" food labelling system
- Introduce legislation to require large out-of-home food businesses to add calorie labels to the food they sell
- Consult on the intention to make companies provide calorie labelling on alcohol
- Legislate to end the promotion of HFSS foods by restricting volume promotions such as "buy one get one free", and the placement of these

121 Huffington Post, Jamie Oliver wants the Government to extend sugar tax to include milk drinks, 1 May 2018
122 BBC News, Sugar Tax: George Osborne says it should include milk drinks, 5 April 2018
123 Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 July 2019
124 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020
125 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020
126 NHS, Who's at higher risk from coronavirus, accessed 7 June 2023

foods in locations intended to encourage purchasing, both online and in physical stores in England

- Ban the advertising of HFSS products shown on TV and online before 9pm, and consult on how to introduce a total HFSS advertising restriction online

6 Restricting volume, price and location promotions for HFSS foods

Following several calls in recent years to limit the promotion of HFSS foods, the Government is now in the process of implementing restrictions.

6.1 Background

In 2015, PHE published a report, Sugar Reduction: The evidence for action.Sugar Reduction: The evidence for action. Here, PHE recommended that a successful sugar reduction programme should include a mechanism to:

> Reduce and rebalance the number and type of price promotions in all retail outlets including supermarkets and convenience stores and the out of home sector (including restaurants, cafes and takeaways).[127]

The House of Commons Health Committee endorsed PHE's recommendation on restricting promotions in its November 2015 report, Childhood obesity – bold and brave action.[128] The Committee itself recommended the Government introduce "strong controls on price promotions of unhealthy food and drink".

In August 2016, the Government published its childhood obesity plan, Childhood Obesity, A Plan for Action (Chapter One). Media reports suggested that an earlier draft version of the Plan had included detailed plans to require supermarkets to remove unhealthy food and drink from prominent locations such as check-outs and end of aisles, and limit supermarkets' use of price promotions on unhealthy foods.[129] The published Plan did not contain these commitments.

In its response to the Health Committee's report (September 2016), the Government did not commit to restricting promotions, rather, explained:

> The Government recognises that it is an established part of market practice for retailers, and sometimes producers, to encourage consumers to switch to their stores and products on the basis of the deals they offer. This practice is a welcome part of competitive markets, and can help deliver better deals for

[127] PHE, Sugar reduction: from evidence into action, published 22 October 2015

[128] House of Commons Health Committee, Childhood obesity- brave and bold action, 30 Nov 2015, HC 465- I 2015-16

[129] Clinicians underwhelmed by "watered down" childhood obesity strategy", *British Medical Journal*, 22 August 2016 and The Secret Plan to Save Fat Britain: Channel 4 Dispatches", Channel 4, 31 October 2016

> consumers. Many supermarkets offer promotional deals on fruit, vegetables and healthy products and these are welcome and to be encouraged.[130]

The Government said its obesity strategy focussed on "other measures that will have a strong impact on childhood obesity".

In 2017, the Health Committee published its report Childhood obesity: follow-up in March 2017.[131] It expressed disappointment that the Government had not regulated to "provide the 'level playing field' on discounting and price promotions which industry representatives themselves have told us is necessary for the greatest progress".

The Committee urged the Government to "regulate to further reduce the impact of deep discounting and price promotions on sales of unhealthy foods", while acknowledging the action taken by some retailers to "rebalance their promotions away from unhealthy food and drink".

The Government published its response to this Committee report in January 2018.[132] It did not commit to introducing additional limits on price promotions, but commented:

> We welcome the action taken by forward thinking retailers which shows that all organisations can take action on discounting and price promotions. For example, Sainsbury's has moved away from multibuy-offers such as two-for-one, and committed to using their store layouts to promote healthier diets, including the use of end-of-aisle. The childhood obesity plan continues to drive this shift in the market and help people make healthier choices.
>
> Monitoring of progress by PHE towards achieving the 20% sugar reduction in 2018 and 2020, with an additional detailed report in March 2019, will be achieved through the continued use of sales weighted average sugar levels and reviewing changes in product sales towards lower or no added sugar products. If businesses over promote high sugar products they will be less likely to achieve the sales weighted average sugar level per 100g for the 20% reduction.[133]

The Health Committee published a third report, Childhood obesity: Time for action in May 2018.[134] Again, it called for Government to regulate to restrict discounting and price promotions on HFSS foods.

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130 DHSC, Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015-16, Cm 9330, 9 September 2016

131 House of Commons Health Committee, Childhood obesity: follow up, HC 928-7, 2016-17, March 2017

132 Department of Health, Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17, Cm 9531, January 2018

133 Department of Health, Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17, Cm 9531, January 2018

134 House of Commons Health Committee, Childhood obesity: Time for action, 30 May 2018, HC 882-8, 2017-19

The Government responded to the Committee report in January 2019.[135] It announced a consultation on banning price promotions, and on restricting the placement of HFSS foods by location in the retail and out of home sector by legislation.

6.2 Restrictions on volume price and location promotion of HFSS foods

The Government held a consultation on restricting promotions of HFSS food between January and April 2019, asking for feedback on restricting volume-based price promotions, and the placement of, HFSS food and drink at key selling locations.

In July 2020, the Government published its policy paper, Tackling obesity: empowering adults and children to live healthier lives.[136] Here, it committed to to legislate to end the promotion of HFSS foods by restricting volume promotions such as "buy one get one free", and the placement of these foods in locations intended to encourage purchasing, both online and in physical stores in England.

The Government published its response to the consultation in December 2020, announcing that it would introduce promotion restrictions in England. [137]

The Government said it would introduce restrictions on where HFSS foods could be placed in store and online and restrict volume price promotions (such as buy one get one free offers). [138]

The Government has produced guidance on the restrictions.[139] This provides detailed information on their application, and definitions of related terminology, while we have provided a brief overview below.

When do the restrictions come into force?

The Government initially set out an intention to introduce restrictions from April 2022,[140] but this has been delayed on several occasions.

135 DHSC, Government response to the Health and Social Care Select Committee report on Childhood obesity: Time for action, CP23, 30 January 2019

136 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 Jul 2020

137 DHSC, Restricting promotions of products high in fat, sugar and salt by location and by price: government response to public consultation, 28 December 2020

138 DHSC, Restricting promotions of products high in fat, sugar and salt by location and by price: government response to public consultation, 28 December 2020

139 DHSC, Restricting promotions of products high in fat, sugar or salt by location and by volume price: implementation guidance, accessed 5 June 2023

140 DHSC, Promotions of unhealthy foods restricted from April 2022, published 28 December 2020

In July 2021, the Government said it had considered industry's response to the proposed timing for implementation of **volume price and location promotions**, and had made the decision to extend implementation from April 2022 to October 2022, to allow businesses enough time to prepare.[141]

The Food (Promotion and Placement) (England) Regulations 2021 ('the Regulations') were subsequently laid in Parliament in December 2021, with an intended commencement of October 2022.

The restrictions on **location promotions** did subsequently come into force in October 2022. However, the restrictions on volume price promotions have been further delayed.

In May 2022, the Government announced that restrictions **on volume price promotions** would be delayed by one year, and instead come into force in October 2023.[142] The Government said this was in light of an "unprecedented global economic situation and in order to give industry more time to prepare for the restrictions on advertising". The Government said the delay would allow it to "review and monitor the impact of the restrictions on the cost of living in light of an unprecedented global economic situation".

In June 2023, the Prime Minister announced that the Government would further delay volume price promotions by another two years – now requiring their implementation by October 2025.[143] A Government press release stated the extension would "allow the government to continue to review the impact of the restrictions on the consumers and businesses in light of the unprecedented global economic situation".

The Government is required to publish a post-implementation review of the regulations every five years and publish a report setting out its conclusions.

Restrictions on volume price promotions

Volume price promotions are defined in Government guidance as:

- A multibuy promotion, being the express offer of a financial incentive for buying multiple items compared with buying each item separately (including '3 for the price of 2', '3 for £10' or 'buy 6 and save 25%').
- A promotion that indicates that an item – or any part of an item – is free (including '50% extra free' or 'buy one get one free'). Other

141 DHSC, Promotions of unhealthy foods restricted from October 2022, published 21 July 2021

142 DHSC, Government delays restrictions on multibuy deals and advertising on TV and online, 14 May 2023

143 Prime Minister's Office, 10 Downing Street, The Rt Hon Rishi Sunak MP, and The Rt Hon Steve Barclay MP, PM backs public's right to choose with delay to BOGOF restrictions, 17 June 2023

examples include 'buy 300g and save 10%' and '50% extra free when you buy 500g'.[144]

The guidance explains that a multipack sold as a single item is not necessarily the same as a multibuy promotion. However, multipacks would fall in scope of the volume price promotion restrictions if its packaging promoted its price of a single multipack in comparison with separate individual packs eg. '6 for the price of 4', or '50% extra free'. The restrictions would also apply to multiple purchases of the multipacks themselves, for example, 'buy 2 multipacks and get one multipack free', or '20% extra for the same price'.

The restrictions will not apply to discount offers for multiple items intended to be consumer together as, or as part of, a single meal eg a meal deal, or dine in for two offer.[145]

Free drink refills

The 'out of home' sector (such as restaurants) is generally exempt from the restrictions. However, free refills of sugary drinks are subject to the volume price promotions restrictions.

Restrictions on location promotions

In store

Under the Regulations, businesses must not place HFSS foods in certain areas of their physical stores.

Businesses with 185.8m^2(2,000sq ft) or greater of 'relevant floor area' are in scope of the restrictions. The Government's guidance explains which areas of the store are not considered part of the relevant floor area. This includes areas used for food preparation, storage or back of store areas and concessions.

Businesses must not place HFSS foods at:

- Any area within 2m of the checkout facility.
- Any area within 3m of a designated queuing area or a queue management system.
- The ends of aisles.
- Store entrances.

144 DHSC, Restricting promotions of products high in fat, sugar or salt by location and by volume price: implementation guidance, accessed 5 June 2023

145 TaylorWessing, New regulations crack down on the fight against foods high in fat, sugar and salt, 7 February 2022

- A covered external area.

Online

The Regulations also prohibit qualifying businesses from promoting HFSS foods online, and in apps, in locations equivalent to those in stores. These locations are defined as:

- The homepage of a website.
- When a consumer is searching or browsing for products other than the HFSS foods in scope of the Regulations (with some exemptions).
- While a consumer is searching or browsing for specified foods, unless the specified food falls within the same category.
- On a page not opened intentionally by the consumer, such as a pop-up page.
- On a 'favourite products' or 'recommended for you' page, unless the consumer has previously purchased the specified food (in store or online), or intentionally identified it as a favourite product.

Which foods do the restrictions apply to?

The categories, as listed in Schedule 1 of the Regulations, are listed in brief below:

Category 1: Prepared soft drinks containing added sugar ingredients.

Category 2: Savoury snacks whether intended to be consumed alone or as part of a complete meal and pork rind-based snacks.

Category 3: Breakfast cereals including ready-to-eat cereals, granola, muesli, porridge oats and other oat-based cereals.

Category 4: Confectionery including chocolates and sweets.

Category 5: Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products.

Category 6: Cakes and cupcakes.

Category 7: Sweet biscuits and bars based on one or more of nuts, seeds or cereal.

Category 8: Morning goods, including croissants, pains au chocolat and similar pastries, crumpets, pancakes, buns, teacakes, scones, waffles, Danish pastries and fruit loaves.

Category 9: Desserts and puddings, including pies, tarts and flans, cheesecake, gateaux, dairy desserts, sponge puddings, rice

pudding, crumbles, fruit fillings, powdered desserts, custards, jellies and meringues.

Category 10: Sweetened (whether with sugar or otherwise) yoghurt and fromage frais.

Category 11: Pizza (except plain pizza bases).

Category 12: Roast potatoes, potato and sweet potato chips, fries and wedges, potato waffles, novelty potato shapes (such as smiley faces), hash browns, rostis, crispy potato slices, potato croquettes.

Category 13: Products that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as a complete meal, or; products, other than products that contain pastry, in or with a sauce (but not a marinade, glaze, dressing, seasoning or similar accompaniment) that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as the main element of a meal or; breaded or battered products.

The restrictions only apply to food that is determined to be HFSS or 'less healthy', as defined by the 2004/2005 Nutrient Profiling Model.[146] [147]

The Government's guidance on implementing the restrictions provides more detail on which products fall in and outside of its scope.[148]

Which businesses do the restrictions apply to?

The restrictions apply to medium and large businesses, with 50 employees or more that offer prepacked food for sale in store and online, including franchises. They apply to all businesses of that size that sell food and drink to England, irrespective of whether the business itself is registered in England. Examples of qualifying businesses include supermarkets, online food retailers, convenience stores, petrol forecourts and service stations and retainers in visitor attraction or entertainment venues.

Several organisations and businesses are exempt from the restrictions, including educational institutions, some care homes, and food that is provided by a charity in the course of its charitable activities. The 'out of home' sector (such as restaurants and cafes) is also exempt, even if they sell prepacked HFSS food and drink.

146 DHSC, Restricting promotions of products high in fat, sugar or salt by location and by volume price: implementation guidance, accessed 5 June 2023

147 The Nutrient Profiling model was developed by the Food Standards Agency in 2004-2005, as a tool to help Ofcom differentiate foods and improve the balance of television advertising to children.

148 DHSC, Restricting promotions of products high in fat, sugar or salt by location and by volume price: implementation guidance, 1 June 2023

6.3 Stakeholder response to the restrictions

Tim Rycroft, then Chief Operating Officer at the Food and Drink Federation, said the restrictions would increase the cost of food for families and have harsh economic impacts for food and drink manufacturers who were already facing costs associated with the UK's departure from the EU, and consequences of the Covid-19 pandemic.[149]

Professor Graham MacGregor, Chair of Action on Sugar, welcomed the restrictions:

> This important policy, specifically targeting the most sugar-laden food and drinks packed with excessive calories, will provide a level playing field for responsible retailers, enabling them to promote healthier options to families.[150]

Caroline Cerny, the then Lead at the Obesity Health Alliance, said that "taking the spotlight off junk food means the only buy one get one free offers we see will be on healthier foods".[151]

Helen Kirrane, UK Head of Policy at Diabetes UK, said the restrictions are a "positive step towards helping people across the UK to make healthier choices when it comes to their food shop".[152]

An editorial by The Lancet Diabetes & Endocrinology expressed supported for efforts to achieve a healthier nation but raised concerns that the ban on food promotions and advertisements might result in higher prices and growing inequalities, which it said could themselves contribute to obesity and poor health outcomes.[153]

Response to the delayed implementation of volume price promotions

Referring to the Government's decision to postpone volume price restrictions by one year to October 2023, the Obesity Health Alliance (OHA) called it a "shocking U-turn by the Government that will have severe ramifications for children's health and fatally undermine any further efforts to address health disparities".[154] Barbara Crowther of the Children's Food Campaign was also

149 Food Manufacturer, Government clamps down on 'junk food' promotions, 4 January 2021
150 Action on Salt, Promotions on food and drinks high in fat, salt or sugar (HFSS) in retailers will be restricted from April 2022, 28 December 2020
151 Evening Standard, Buy one, get one free offers on junk food to be banned in supermarkets, 28 December 2020
152 Evening Standard, Buy one, get one free offers on junk food to be banned in supermarkets, 28 December 2020
153 The Lancet Diabetes & Endocrinology, Obesity and Covid-19: Blame isn't a strategy, 7 August 2020
154 OHA, A shocking U-turn on health: Our response to Government delaying restrictions on unhealthy promotions and advertising, 14 May 2022

critical, saying the delay "threatens the UK target to halve childhood obesity by 2030".[155]

Kate Halliwell, Chief Scientific Officer at the Food and Drink Federation expressed support for the delay:

> We welcome the UK Government's pragmatism during the cost of living crisis. At a time when both families and our manufacturers are struggling with high inflation, it makes sense to delay the restrictions on volume promotions for everyday food and drink products, including breakfast cereals, ready meals and yoghurts, as it risked further stretching already pressed household budgets.
>
> We also welcome the delay to the start of advertising restrictions, given the time it will take our industry to prepare for the change in law.[156]

Campaign group, Action on Sugar, objected to the Government's further decision to delay volume price promotions, from October 2023 to October 2025:

> We strongly condemn the unethical actions of the Government in delaying these restrictions. Currently, more than one in three children (38%) leave primary school with overweight or obesity. Any policies which could reduce this prevalence and prevent unnecessary health conditions should be championed and implemented without delay, particularly as the NHS is spending £6.5 billion annually on treatments for health conditions related to poor diets. [157]

155 Sky News, Cost of living: Ban on buy-one-get-one-free junk food deals delayed for a year, as PM accused of playing politics with kids' health, 14 May 2022

156 Food and Drink Federation, The Government delays ban on volume promotions and advertising, 14 May 2022

157 Action on Sugar, Government delays price promotion restrictions on less healthy food and drinks to 2025, 19 June 2023

7 The voluntary food reformulation and reduction programme

The Government has encouraged food manufacturers to sign up to a voluntary programme to facilitate the gradual lowering of sugar, salt and calories in everyday foods and the aim is to stimulate the production of healthier products, improving health without consumers needing to make dietary changes.[158]

OHID has published information and guidance about sugar, salt and calorie reduction and reformulation.[159] This includes information about foods that are in scope of each category of the programme.

7.1 The sugar reduction programme

Background

In 2015, PHE published its report, Sugar reduction: The evidence for action, which highlighted sugar consumption above the recommended amounts, in all population groups.

PHE considered it "unlikely that a single action would be effective in reducing sugar intakes", and set out a range of action which could be implemented as part of a successful program, including:

> Introduction of a broad, structured and transparently monitored programme of gradual sugar reduction in everyday food and drink products, combined with reductions in portion size.[160]

The Health Committee's 2015 inquiry into childhood obesity similarly recommended that Government introduce a centrally led reformulation programme to reduce sugar in food and drink.

The Government published its response to the report in September 2016, welcoming the Committee's report, its conclusions and recommendations.[161] The Government committed to:

158 PQ 181793, 24 April 2023

159 OHID, Sugar, salt and calorie reduction and reformulation, published 30 March 2017

160 PHE, Sugar reduction: from evidence into action, published 22 October 2015

161 DHSC, Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015-16, Cm 9330, 9 September 2016

- Lead a broad structured independently monitored sugar reduction programme to reduce sugar in children's diets, as well as broader work on reducing calories.

- Challenge all sectors of the food and drink industry to reduce, by 2020, overall sugar in products that contribute to children's sugar intakes by at least 20%, with a 5% reduction in the first year of the plan. The programme would be led and run by PHE.

The programme

In Chapter One of its childhood obesity plan (2016), the Government announced the launch of its sugar reduction programme - a "broad, structured sugar reduction programme to remove sugar from the products children eat most".[162]

The Government challenged all sectors of the food and drinks industry to reduce overall sugar across a range of products that contribute to children's sugar intakes by at least 20% by 2020, including a 5% reduction in year one.[163] The Government said this could be achieved through reduction of sugar levels in products, reducing portion size or shifting purchasing towards lower sugar alternatives. The Government cautioned that sugar reductions should be accompanied by reductions in calories and should not be compensated for by increases in saturated fat.

PHE (and subsequently OHID) have published periodic updates on the sugar reduction programme. The fourth and final report, Sugar reduction programme: report on industry progress 2015 to 2020, was published in December 2022.[164] It's headline findings included:

- For retailer own brand and manufacturer branded products (in home sector), overall, there was a 3.5% reduction in the sales weighted average total sugar per 100g in products sold between baseline (2015) and year 4 (2020).

- For out of home sector products, overall, there was a 0.2% reduction in the simple average total sugar per 100g in products sold between baseline (2017) and year 4 (2020).[165]

Commenting on the report's finding that the 20% target had not been acehived, the Government said that OHID was considering the next steps on

[162] DHSC, Prime Minister's Office, 10 Downing Street, HM Treasury, and Cabinet Office, Childhood obesity: a plan for action, published 18 August 2016

[163] DHSC, Prime Minister's Office, 10 Downing Street, HM Treasury, and Cabinet Office, Childhood obesity: a plan for action, published 18 August 2016

[164] OHID, Sugar reduction – industry progress 2015 to 2020, published 1 December 2022

[165] OHID, Sugar reduction – industry progress 2015 to 2020, published 1 December 2022

the programme.[166] It said it was expected that the Government's obesity policies would support efforts for sugar reduction.

Barbara Crowther, of the Children's Food Campaign, responded to the report's findings, which she said showed that industry is capable of reducing sugar levels.[167] However, she argued that the "pace of change is far too slow and uneven – just 3.5% overall against a target of 20%", and contrasted this to "the introduction of the mandatory Soft Drinks Industry Levy [which] led to an overall reduction of 46% in sugar levels, while not affecting the bottom line of the companies". Her comments were echoed by other food campaigners, who called on the Government to introduce mangatory targets for sugar reduction.[168]

7.2 The calorie reduction programme

The calorie reduction programme challenges retailers and manufacturers to reduce calories by up to 10%, and the eating out of home, takeaway and delivery sector to reduce calories by up to 20%, by 2024.

PHE set out its aim as moving energy intakes of the general population more towards current UK dietary recommendations through reductions in calories, either through reformulation or reduction in portion size, in mainly high calorie foods. [169] It estimated that 20% reduction in calorie intake from everday foods would prevent over 35,000 deaths and save the NHS and social care sector around £4.5 billion each over a 25 year period.

The programme is baed on sales weighted averages, meaning that it will focus on the top selling, everyday products that people buy most of the time and the businesses that produce them.

OHID has published guidelines for the food industry on how to achieve these reductions, and has also set out more information on the programme's scope and ambition.[170]

No progress reports have been published on the calorie reduction programme.

166 HL5182, 8 February 2023
167 Sustain, Calls for government action as sugar reduction target missed, accessed 7 June 2023
168 Food Matters Live, Critics call for new approach to sugar reduction as food industry misses voluntary targets, 2 December 2022
169 PHE, Calorie reduction: the scope and ambition for action, published 6 March 2018
170 OHID, Sugar, salt and calorie reduction and reformulation, published 30 March 2017

7.3 The salt reduction programme

The salt reduction programme challenges all sectors of the food industry to reduce the salt content in foods across over 100 food groups that contribute most to people's salt intakes.

It follows advice from SACN, published in 2003, that recommended population average salt intakes should be reduced to 6g per day to reduce the risk of high blood pressure and cardiovascular disease. [171]

Four previous sets of voluntary salt reduction targets for individual categories of food were published in 2006, 2009, 2011 and 2014.

In 2014, the then Department of Health published salt reduction targets for retailers, manufacturers and the out of home sector. These targets were originally developed under the Public Health Responsibility Deal,[172] and were republished under PHE in 2017.

The 2017 salt reduction targets covered 28 broad product categories, including meat products, bread, breakfast cereals, cakes and cook-in sauces. Individual salt content targets are set for each category.[173]

In 2018, PHE published its first detailed assessment of salt levels in food against reformulation targets. It showed that:

> Analysis shows that for foods consumed in-home (retailer own label and manufacturer branded products), just over half of average salt reduction targets have been met. Where maximum targets were set, 81% of products overall had sodium levels at or below their targets. For the out-of-home sector, 71% of products overall were at or below maximum per serving targets, although it should be noted that the out of home targets were generally set at a higher level than the main salt targets, reflecting the greater progress needing to be made. Comparison of sodium content per 100g showed that a greater proportion of out of home products had sodium levels above maximum targets set for all sectors than for the in-home sector.[174]

PHE suggested that overall, the salt reformulation programme, in combination with other interventions, had produced a reduction in average population salt intake:

171 SACN, Salt and health report, published 31 August 2003

172 The Public Health Responsibility Deal, launched in March 2011, intended to creater a partnership between government, health organisations and businesses, with the aim of improving population health. The Deal consisted of five networks; food, alcohol, physical activity, health at work and behaviour change. Each network established a set of pledges, which organisations could sign up to. Further information is available from The Health Foundation Policy Navigator, Public health responsibility deal, accessed 6 June 2023

173 PHE, Salt reduction targets for 2017, published 30 March 2017

174 PHE, Salt targets 2017: Progress report A report on the food industry's progress towards meeting the 2017 salt targets, December 2018

> To date, there has been no systematic assessment of the impact of the salt reduction programme on the salt content of foods. However, the available evidence shows that since the programme began in 2004 there has been clear progress. Along with consumer campaigning and a range of other interventions, the stepwise lowering of salt targets for foods by up to 54% between 2006 (when targets were first set) and 2014 (when the 2017 targets were published) is linked to a reduction in average population salt intake of 11% between 2005-06 and 2014.
>
> Average salt consumption for adults in 2014 was 8g per day, compared with the recommended 6g per day. Government has committed to putting forward realistic but ambitious goals to bring salt intakes down further, and PHE will work to achieve this.[175]

The current targets, which were set in 2020 to be achieved in 2024, cover 84 food groups that contribute most to people's salt intake.[176]

Chapter Three of the childhood obesity plan was published in July 2019, as part of the Government's prevention green paper; Advancing our health: prevention in the 2020s.[177] The Government set an aim to reduce population salt intake to 7g per day, and in 2020, publish revised salt reduction targets for industry to achieve by mid-2023 and report on industry's progress by 2024

7.4 Stakeholder comment on the voluntary reformulation programme

In an August 2016 blog piece, David Buck, Senior Fellow at the King's Fund commented on proposals set out in Chapter One of the childhood obesity plan (2016). Regarding the Government's commitment to calorie reduction through product reformulation, he said product reformulation was "a good thing", but warned, "the danger is that, like the last government's Responsibility Deal, which placed the onus on the industry to lead the way in tackling obesity, it will fail". Mr Buck cautioned that voluntary action needed to be backed up with "strong, swift and credible threats of regulation" in order to succeed.

The British Dietetics Association welcomed and expressed support for guidance on the reformulation and reduction programmes, but said that a combination of measures would be required to reduce the high prevalence of childhood obesity in the UK.

The Commons Health Committee followed up its predecessor's work in the last Parliament, and published its report Childhood obesity: follow-up in March 2017.[178] It welcomed the measures the Government had included in

175 PHE, Salt targets 2017: Progress report A report on the food industry's progress towards meeting the 2017 salt targets, December 2018

176 PHE, Salt reduction targets for 2024, published 30 March 2017

177 Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 Jul 2019

178 House of Commons Health Committee, *Childhood obesity: follow up*, HC 928-7, 2016-17, March 2017

Chapter One but were "extremely disappointed that several key areas for action that could have made the strategy more effective have not been included". The Committee urged the Government to "set out the policy proposals which it is prepared to implement if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity".

The Government published its response to the Committee's report in January 2018.[179] It welcomed action taken by several food manufacturers to reduce sugar content in their products, and said it was considering "a range of other available levers that could be put into place if the delivery of the structured and transparently monitored voluntary sugar reduction and wider reformulation programme does not match our expectation".

[179] Department of Health, Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17, Cm 9531, January 2018

8 Calorie labelling

8.1 Calorie labelling in the out of home sector

Background

Following the publication of Chapter One of the childhood obesity plan in August 2016, there were criticisms from campaigners and health organisations that it was a 'watered down' version of a draft plan, reportedly seen prior to publication.[180] This earlier draft supposedly said that Government would require restaurants, cafes and takeaways to put calorie information on menus.

Chapter Three of the childhood obesity plan was published in July 2019, as part of the Government's prevention green paper; Advancing our health: prevention in the 2020s.[181] The Obesity Health Alliance welcomed many of its proposals but called on the Government "to swiftly and fully implement" calorie labelling on menus.[182]

The DHSC consulted on plans to make places serving food and drink outside of the home display calorie information, between September and December 2018.[183] The Government published its response in July 2020, where it announced an intention to legislate to introduce calorie labelling for large businesses in England.

In July 2020, the Government published its policy paper, Tackling obesity: empowering adults and children to live healthier lives.[184] In it, the Government committed to introduce legislation to require large out-of-home food businesses to add calorie labels to the food they sell.

Requirements for calorie labelling

The Government introduced the Calorie Labelling (Out of Home Sector) (England) Regulations 2021 ('the Regulations'). The Regulations were laid in July 2021 and entered into force on 6 April 2022.

180 British Medical Journal, Clinicians underwhelmed by "watered down" childhood obesity strategy", British Medical Journal, 22 August 2016
181 Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 July 2019
182 OHA, Statement: prevention green paper, 23 July 2019
183 DHSC, Calorie labelling for food and drink served outside of the home, published 14 September 2018
184 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020

The Regulations impose a legal requirement for businesses in England with more than 250 employees, to display calorie information of non-prepacked food and soft drinks. Businesses within the scope of the requirements include restaurants, fast food outlets, cafes, pubs, supermarkets and home delivery services and third-party apps. The Government has encouraged smaller businesses, which are outside the scope of the Regulations, to adopt the requirements voluntarily.

Businesses are required to list the calories for each food item, as well as daily recommended calorie requirements. The information must be displayed on menus, online menus, third party apps, food delivery platforms and food labels at the point a customer is making their food and drink choices.

Businesses are able to provide a menu that does not contain the required calorie information, if expressly requested by a customer.

There are several exemptions to the requirements, including food for particular audiences (eg provided by charities as part of their activities), and food which is on the menu temporarily (less than 30 consecutive days and a total of 30 days in any year).

The DHSC has published implementation guidance to support the measures.[185] The Government has said it will review the implementation of the Regulations for large businesses within five years of them coming into force, and will consider extending the requirement to smaller businesses in future.[186]

Maggie Throup, then Parliamentary Under-Secretary at the DHSC, said:

> It is crucial that we all have access to the information we need to maintain a healthier weight, and this starts with knowing how calorific our food is. We are used to knowing this when we are shopping in the supermarket, but this isn't the case when we eat out or get a takeaway.[187]

Response to calorie labelling

In April 2021, the House of Commons Women and Equalities Committee published its report Changing the perfect picture: an inquiry into body image.[188] The inquiry sought to determine which groups were most at risk of developing poor body image, the factors driving its prevalence, and the impact of poor body image on the lives of those affected by it. The Committee also considered the role Government should play through health and other interventions to reduce the prevalence and impact of poor body image in the UK. As part of its recommendations, the Committee called for the Government to abandon plans to introduce calorie labelling in restaurants, cafes and

185 DHSC, Calorie labelling in the out of home sector: implementation guidance, published 17 September 2021

186 DHSC, Calorie labelling in the out of home sector: implementation guidance, published 17 September 2021

187 DHSC, New calorie labelling rules come into force to improve nation's health, 6 April 2022

188 House of Commons Women and Equalities Committee, Changing the perfect picture: an inquiry into body image, 9 April 2021, HC 274, 2019-21

takeaways "as these could negatively affect those with, or at risk of developing, eating disorders".

Beat, a charity supporting people with eating disorders, also expressed concern at the measurs which it said "risks causing great distress for people suffering from or vulnerable to eating disorders".[189] While recognised the importance of reducing obesity, it said that public health campaigns need to consider mental as well as physical health.

In August 2021, the Royal College of Paediatrics and Child Health (RCPCH), revised its position on the measures:

> In light of therecent increased prevalence of eating disordersand the concerns raised by our members and eating disorder specialists, we believe the negative impact of calorie labelling on menus in children and young people to be more significant than it was in 2018. Therefore, we have revised our position to that, while we continue to support calorie labelling in out of home settings as part of a package of measures to help children and young people achieve a healthy weight, we acknowledge there is a lack of evidence to support the effectiveness of calorie labelling to reduce obesity.[190]

Kate Nicholls, Chief Executive of UKHospitality expressed concern about the about the effect that mandatory calorie labelling might have on hospitality businesses, particularly in the wake of financial pressures caused by the Covid-19 pandemic.[191]

8.2 Alcohol calorie labelling

The Government's policy paper, Tackling obesity: empowering adults and children to live healthier lives committed to consulting on making companies provide calorie labelling on alcohol.[192] The consultation is yet to be launched.

8.3 Traffic light labelling

The Tackling obesity: empowering adults and children to live healthier livesalso said that the Government would gather views and evidence on the current "traffic light" food labelling system.[193]

189 Beat, Beat's response to Government plan for calorie counts on menus, accessed 6 June 2023
190 RCPCH, Mandatory calorie labelling in the out-of-home sector- consultation response, accessed 6 June 2023
191 Big Hospitality, Government urged to consult with hospitality on legislation to tackle obesity, 11 May 2021
192 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020
193 DHSC, Tackling obesity: empowering adults and children to live healthier lives, 27 July 2020

The Government held a consultation on 'traffic light' front-of-pack nutritional labels between July and November 2020.

The consultation website advises that the Government is analysing feedback to the consultation.[194]

The Health and Care Act 2022 allows the Government to make technical changes to food labelling and presentation requirements, following the UK's departure from the EU. The Act's Explanatory Notes refer to front of pack nutrition labelling and alcohol calorie labelling and explain that provisions in the Act would enable Ministers to enable these policies.

[194] Department of Health and Social Care,Department of Health (Northern Ireland),The Scottish Government, andWelsh Government, Front-of-pack nutrition labelling in the UK: building on success, last updated 13 August 2020, accessed 6 June 2023

9 The Soft Drinks Industry Levy (SDIL)

9.1 Background

Calls for the introduction of a tax on sugar-sweetened beverages (SSB) were made as early as 2015 by PHE,[195] and reiterated by the Commons Health Committee.[196]

In the 2016 Budget, the then Chancellor of the Exchequer George Osbourne, announced "a new soft drinks industry levy targeted at producers and importers of soft drinks that contain added sugar".[197]

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In Chapter One of the Childhood Obesity Plan (2016), the Government explained that the main purpose of the levy was to encourage reformulation and not to raise revenue.[199] Comments in the 2016 Budget echoed this, saying that the levy would be designed to encourage companies to reformulate their drinks.[200]

The levy was implemented through The Finance Act 2017 and came into effect on 6 April 2018. The provisions of the Act apply across the UK.

The two rates of SDIL are currently set at:

- Standard rate (18p per litre) applied to drinks with sugar content between 5 grams (g) and up to (but not including) 8g per 100ml.
- Higher rate (24p per litre) applied to drinks with sugar content equal to or greater than 8g per 100ml.[201]

195 PHE, Sugar Reduction, the evidence for action, Oct 2015
196 House of Commons Health Committee, Childhood obesity- brave and bold action,30 Nov 2015, HC 465- I 2015-16
197 HM Treasury, Budget 2016, 16 Mar 2016
198 HM Treasury, Budget 2016, 16 Mar 2016
199 HM Government, Childhood obesity: a plan for action,18 Aug 2016
200 HM Treasury, Budget 2016, 16 Mar 2016
201 HMRC, Soft Drinks Industry Levy statistics commentary 2022, updated 23 May 2023

9.2 Which drinks are subject to the SDIL?

The levy applies to drinks that meet all of the following conditions:

- It has had sugar added during production, or anything (other than fruit juice, vegetable juice and milk) that contains sugar, such as honey.
- It contains at least 5 grams (g) of sugar per 100 millilitres (ml) in its ready to drink ordiluted form.
- It's either ready to drink, or to be drunk it must be diluted with water, mixed with crushed ice or processed to make crushed ice, mixed with carbon dioxide, or a combination of these.
- It's bottled, canned or otherwise packaged so it's ready to drink or be diluted.
- It has a content of 1.2% alcohol by volume (ABV) or less.[202]

The levy also applies if the drink is a flavour concentrate.[203]

Several drinks are not included within the levy's scope. This includes drinks that are at least 75% milk, milk substitutes like soya or almond milk, those made with fruit or vegetable juice and do not have any other added sugar, and alcohol replacements. [204]

9.3 Has the SDIL been effective in delivering reformulation?

In its report on the sugar reduction programme (December 2022), OHID included results and analysis of the SDIL between 2015 and 2020. The report includes analysis of drinks with a sugar content of less than 5g per 100ml (which are exempt from the SDIL). This, the report notes, is important to include so that consumers switching from higher sugar drinks and any reformulation of products can be monitored.

202 HMRC, Check if your drink is liable for the Soft Drinks Industry Levy, last updated 12 April 2023

203 HMRC defines a flavour concentrate as a packaged liquid flavouring placed into a dispensing machine to be mixed with sugar, or other ingredients, which is then combined with water, carbon dioxide or crushed ice to dispense a drink directly to a consumer. See HMRC, Check if your drink is liable for the Soft Drinks Industry Levy, last updated 12 April 2023

204 HMRC, Check if your drink is liable for the Soft Drinks Industry Levy, last updated 12 April 2023

Overall, the report demonstrated that following the SDIL's introduction, the total sugar sales (the total volume of sugar sold, in tonnes) for the soft drink category as a whole, has reduced significantly:

> Overall, sales (in litres) of soft drinks classified within the 3 sugar tiers [including the tier of low sugar drinks which are exempt from the levy] of the levy have increased by 21.3% from 3,522,380 thousand litres in 2015 to 4,274,358 in 2020, which was due to an increase in sales of drinks containing less than 5g of sugar per 100ml.
>
> At the same time the total sugar sales from the soft drinks decreased by 34.3% from 135,391 tonnes in 2015 to 89,019 tonnes in 2020.[205]

It also demonstrated that the proportion of sales, and products, which are SDIL-exempt, has also grown. Crucially, demonstrating that manufacturers had responded to the Government's calls for them to reformulate their products:

> There has been a large shift in sales towards lower sugar products, as sales (in litres) of products with no levy attached (less than 5g sugar per 100ml) have increased by 65.7%, while sales of products with a levy attached have fallen by 81.6% for those in the 5g to less than 8g per 100ml group and by 57.4% for those in the 8g or more per 100ml group.
>
> [...]
>
> The proportion of sales with no levy attached has also increased from 66% to 89% while the proportion of products with no levy attached has increased from 48% to 81%.[206]

The Government considers that the SDIL "has been successful at encouraging the reformulation of soft drinks, with over half of all drinks that would otherwise have been in scope reducing their sugar content".[207]

9.4 Milk based drinks' exclusion from the SDIL

The Government responded to feedback to a consultation, held prior to the SDIL's introduction, about its application to drinks containing at least 75% milk or yoghurt.[208] The Government said it "continues to be of the view that the nutritional properties of milk justify a different approach to milk-based drinks in the levy" and said it would therefore exclude qualifying milk drinks from the levy. The Government reiterated this rationale in 2018.[209]

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205 OHID, Sugar reduction – industry progress 2015 to 2020, published 1 December 2022

206 OHID, Sugar reduction – industry progress 2015 to 2020, published 1 December 2022

207 HL5152, 9 February 2023

208 HMRC and HM Treasury, Soft Drinks Industry Levy – summary of responses, last updated 5 December 2016

209 Department of Health, Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17, Cm 9531, January 2018

In 2019, former Chief Medical Officer Professor Dame Sally Davies published her independent report into childhood obesity.[210] Among several recommendations, Dame Sally advised that the SDIL should be extended to sweetened milk-based drinks with added sugar. The Government has not published a formal response to Dame Sally's report.

The Health Committee made an identical recommendation in its 2017 report, Childhood obesity: follow-up .[211] In its response to the Committee's report, the Government committed to including milk drinks and juices that were excluded from the SDIL within PHE's sugar reduction and wider reformulation programme.[212] The Government said the Treasury would review the exclusion when the overall assessment of progress by industry towards achieving the 20% reduction in sugar was published.

In May 2018, unsweetened juice and sweetened milk based drinks were incorporated into the sugar reduction programme (discussed in section 7.1). OHID reported (December 2022) on the programme's overall progress between 2015 and 2020, though milk based drinks weren't incorporated into the programme until 2018. The report found that there has been a reduction of more than 20% in the simple average sugar content (grams per 100ml) in 5 of 6 categories, between baseline (2017) and year 2 (2020).[213] The report provides further results and analysis.

The same report provided an overview of the SDIL and noted that the government would "next consider the exemption for sugary milk and milk-substitute drinks after the next round of monitoring data is produced for these products, later in 2022".

Chapter Three of the childhood obesity plan was published in July 2019, as part of the Government's prevention green paper; Advancing our health: prevention in the 2020s.[214] The Government said it would consider the extension of the SDIL to sugary milk drinks "if evidence shows that industry has not made enough progress on reducing sugar"[215].

9.5 SDIL revenue

In the 2016 Budget, the Government said that the levy was expected to raise £520 million in its first year. The Budget also set out that Office for Budget Responsibility expected that this figure would fall over time. It was anticipated that as manufacturers reformulated their drinks to reduce sugar

[210] DHSC, Independent report: Time to solve childhood obesity: CMO special report, 10 October 2019
[211] House of Commons Health Committee, Childhood obesity: follow up, HC 928-7, 2016-17, Mar 2017
[212] Department of Health, Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17, Cm 9531, Jan 2018
[213] OHID, Sugar reduction – industry progress 2015 to 2020, published 1 December 2022
[214] Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 Jul 2019
[215] Cabinet Office and DHSC, Advancing our health: prevention in the 2020s, CP 110, 22 Jul 2019

content, fewer products would be subject to the SDIL, thus reducing the revenue generated by the levy.

In the 2016 Budget, the Government set out that the revenue generated by the levy over the scorecard period would be used, in England, to:

- Double funding for the Primary PE and Sport Premium from £160 million per year to £320 million per year from September 2017.
- Provide "up to £285 million a year to give 25% of secondary schools increased opportunity to extend their school day".
- Provide £10 million per year to expand breakfast clubs in schools.[216]

Subsequently, at the 2017 Spring Budget, the then Chancellor Philip Hammond confirmed that revenue was expected to be lower as a result of reformulation. However, he said that the Government would fund the DfE up to the originally forecast £1 billion for the Parliament, to invest in school sports and healthy living programmes. [217]

In September 2022, the Government explained that revenue from the SDIL is not formally linked to any individual spending programme but said the Government has supported activity to promote childhood health and wellbeing.[218] The Government provided further detail:

> The Department's budgets were increased to allow for the doubling of the PE and sport premium to £320 million from the 2017/18 academic year. The Department has since maintained it at that level to support primary schools to make additional and sustainable improvements to the quality of their PE, sport and physical activity provision.[219]

Revenue from the SDIL was used to provide £100 million towards the DfE's Healthy Pupils Capital Fund in 2018/19.[220] Further information on this is available in the Library briefing, Physical education, physical activity and sport in schools.

216 HM Treasury, Budget 2016, 16 Mar 2016
217 HM Treasury, Spring Budget 2017: Philip Hammond's speech, 8 Mar 2017
218 PQ51632, 28 September 2022
219 PQ 51632, 28 September 2022
220 PQ 51632, 28 September 2022

10 Advertising of HFSS foods

10.1 Introduction

The rules applicable to advertising in the UK are found in both legislation and in self-regulatory industry codes of practice, namely the UK Code of Non-broadcast Advertising and Direct and Promotional Marketing (CAP Code) and the UK Code of Broadcast Advertising (BCAP Code). The Codes are enforced by the Advertising Standards Authority (ASA), the independent regulator of ads across all media, including online.

Responsibility for monitoring and regulating broadcast advertising is co-regulated by the ASA and Ofcom. The content and standards for broadcast advertising on television and on demand programme services (ODPS) are set out in the Communications Act 2003. Advertising on the internet is not currently subject to statutory regulation.

The Government believes that obesity is one of the greatest long-term health challenges the UK faces, with 1 in 3 children leaving primary school already overweight or living with obesity.[221] Around two-thirds (63%) of adults are above a healthy weight and of these, half are living with obesity.[222] In addition, evidence to suggest that excess weight puts individuals at risk of worse outcomes from coronavirus (Covid-19).[223]

Following public consultations in 2019 and again in 2020 on proposals for new restrictions on the advertising of HFSS foods, the Government published its response on 24 June 2021.[224] It announced that new advertising restrictions would be implemented as part of its ongoing commitment to tackle childhood obesity. Specifically, a 9pm watershed for advertisements of HFSS foods, applicable to television and UK on-demand programmes.[225] In addition, a new restriction on paid-for advertising of HFSS foods online.

221 NHS Digital, National Child Measurement Programme, England 2018/19 School Year [National Statistics], 10 October 2019, (accessed 2 June 2023)

222 NHS Digital, Statistics on Obesity, Physical Exercise, and Diet, England 2020, 5 May 2020, (accessed 2 June 2023)

223 Department of Health and Social Care, "Policy Paper: Tackling obesity: government strategy", 27 July 2020

224 Department for Digital, Culture, Media & Sport (DCMS) and the Department of Health and Social Care (DHSC), Introducing further advertising restrictions on TV and online for products high in fat, salt and sugar: government response, 24 June 2021

225 Department of Health and Social Care, New Advertising rules to help tackle childhood obesity, press release, 24 June 2021

Both advertising restrictions were legislated for in the Health and Care Act 2022 (but have not yet been brought into force). Detailed information on the background to both measures, and the policy rationale, is outlined below.

10.2 Current regulation

The ASA is independent of both the Government and the advertising industry. Its remit includes acting on and investigating complaints about adverts as well as proactively monitoring and acting against "misleading, harmful or offensive" advertisements, sales promotions, and direct marketing. If a complaint is upheld, the advertiser must withdraw or amend the advertisement and not use this advertising approach again. All ASA adjudications are published.

Adverts that appear in **non-broadcast media** (e.g. in newspapers, magazines, posters, on billboards, in commercial email, text messages and paid for space on the internet) must comply with the UK Code of Non-Broadcast Advertising, Sales, Promotion and Direct Marketing, known as the CAP code. The CAP code is maintained by the Committee of Advertising Practice. In 2011, the ASA's remit was extended significantly to cover marketing communications on companies' own websites and in other third-party space under their control (e.g. social networking sites like Twitter and Facebook).

Adverts that appear in the **broadcast media** (e.g. on television and radio) must comply with the UK Code of Broadcast Advertising, known as the BCAP code. The BCAP code is maintained by the Broadcast Committee of Advertising Practice.

Both Codes contain wide-ranging rules designed to ensure that all advertising is "legal, decent, honest and truthful", and socially responsible. The **broad principles** apply regardless of the product being advertised. In addition, the Codes contain **special rules** for specified "sensitive" products, such as alcohol, tobacco, and HFSS foods.[226] There are also specific rules for advertising to children. These special rules sit on top of the general Code provisions that all advertisements must not "mislead, harm or offend" - they add an extra layer of protection.

A separate briefing paper, Advertising to children, provides further information about the current advertising regulatory system in the UK.[227] It also provides government statistics on children's media habits and information on HFSS online advertising.

[226] To identify HFSS products, the ASA relies on Department of Health Food: HFSS Nutrient Profiling

[227] Advertising to children, House of Commons Library, CBP 8198, 13 January 2023, (accessed 2 June 2023)

10.3 Debate on HFSS foods advertising & past initiatives

In recent years, there has been an ongoing debate about the impact of online and television advertising of HFSS foods on levels of childhood obesity. Various campaign groups and health bodies have called for tighter restrictions.

TV advertising

In December 2003, the Government asked Ofcom to consider proposals for strengthening the rules on television advertising. In a Department of Health White Paper, published in November 2004,[228] the Government said there was a strong case to restrict further the advertising of HFSS products to children.

In November 2006, following consultation, Ofcom announced a ban on the scheduling of HFSS advertising during children's airtime and around programmes with a disproportionately high child audience (HFSS advertising would be permitted at other times).[229] On 22 February 2007, Ofcom published its Final Statement (pdf) on the introduction of these new restrictions.[230]

Since 1 July 2007, all advertising campaigns of HFSS products aimed at children must comply with "content rules", including rules banning the use of celebrities and characters licensed from third parties, promotional offers, and health claims. New "scheduling rules" were phased in from 1 April 2007. The final phase came into force on 1 January 2009, when all HFSS advertising was banned from children's channels. Ofcom's co-regulatory partners, the Broadcast Committee on Advertising Practice (BCAP) and the ASA, are responsible for implementing the new content and scheduling rules and securing compliance.

In July 2010, Ofcom published a Final Review on the effectiveness of the new restrictions, and concluded:

> We are therefore satisfied that the restrictions have served to reduce significantly the amount of HFSS advertising seen by children, and to reduce the influence of techniques in HFSS advertising that are considered likely to be particularly attractive to children.[231]

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228 Department of Health, Choosing Health: making healthier choices easier White Paper, November 2004 (not online)

229 For advertising purposes, HFSS products were defined by reference to a nutrient profiling model developed by the Food Standards Agency (FSA)

230 Ofcom, Television Advertising of Food and Drink Products to Children – Final Statement (pdf), 22 February 2020, (accessed 2 June 2023)

231 Ofcom, HFSS advertising restrictions - final review (pdf), 26 Jul 2010, (accessed 2 June 2023)

In November 2015, the Health Committee's report, Childhood obesity- brave and bold action (pdf),[232] included recommendations to:

- Restrict all advertising of HFSS foods and drinks to after the "9pm watershed".
- Extend restrictions on advertising to all other forms of broadcast media, social media and advertising, cinemas, posters, in print, online and advergames.
- Tighten loopholes around the use of non-licenced cartoon characters and celebrities in children's advertising.

Various health organisations support a 9 pm watershed including the Obesity Health Alliance (OHA)[233] and the British Medical Association (BMA).[234]

In April 2018, the BCAP announced an open Call for evidence to assist in its regulation of television advertising for HFSS foods and soft drinks.[235] This announcement was made before the Government confirmed in June 2018 that it would consult on the possibility of further restricting advertisements for HFSS products (see below).[236]

Online advertising

In response to wider societal concerns about childhood obesity, the Committee of Advertising Practice (CAP) held a public consultation between 13 May and 22 July 2016 on proposals to introduce new restrictions on the advertising of HFSS products to children.[237] The Committee suggested there was a need to bring non-broadcast media, including online spaces, into line with the rules for broadcast advertising.

Following this consultation, the CAP published a Regulatory Statement in December 2016 outlining its decision to impose the following restrictions in respect of non-broadcast advertising:

232 Childhood obesity- brave and bold action (pdf), House of Commons Health Committee, HC 465, session 2015-16, 30 Nov 2015

233 Restricting Children's Exposure to Junk Food Advertising – Obesity Health Alliance Policy Position (pdf), Obesity Health Alliance (OHA), February 2019, (accessed 2 June 2023)

234 Food advertising to children on TV: an open call for evidence, BMA response, British Medical Association (BMA), 16 May 2018, (not online)

235 BCAP call for evidence on food rules, Broadcasting Committee of Advertising Practice (BCAP), 4 April 2018

236 Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS), 18 March 2019 (last update 24 June 2021)

237 CAP Consultation: food and soft drink advertising to children – Introducing new restrictions on the advertising of food and soft drink products to children (pdf), Committee of Advertising Practice (CAP), 13 May 2016, (accessed 2 June 2023)

- Prohibit HFSS advertising from appearing in children's media (children defined as being under 16).
- Prohibit HFSS advertising in other media where children make up a significant proportion of the audience.
- Prohibit brand advertising (including, branding such as company logos or characters) that has the effect of promoting specific HFSS products, even if they are not featured directly.

New rules on non-broadcast advertising of HFSS products[238] came into force on 1 July 2017 and apply to all media, including advertising in online platforms like social networks and techniques such as advergames. [239] The Department of Health (DH) nutrient profiling model to differentiate between HFSS and non-HFSS products.[240]

10.4 First consultation (March 2019): television watershed on advertising of HFSS foods

On 16 January 2018 there was a Westminster Hall debate on junk food advertising and childhood obesity.[241] The OHA published a briefing in which it called for tighter restrictions on the advertising of HFSS foods:

> Collectively we all agree we need to reduce children's exposure to junk food adverts to help reduce childhood obesity. Junk food adverts are adverts for products that are high in fat, sugar and salt (HFSS). We want existing regulations to be extended so that HFSS advertising is restricted until after the 9pm watershed.[242]

In its Childhood Obesity Plan, published in June 2018, the Government made a commitment to consult on the advertising of HFSS foods and the possible introduction of a 9pm television watershed.[243] It said it would also consider whether self-regulation of online adverts for HFSS products continues to be the right approach for protecting children.[244]

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238 Rules 15.4, 15.15 and 15.18 of the CAP Code

239 Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS), 18 March 2019

240 CAP Consultation: food and soft drink advertising to children, Regulatory statement (pdf), Committee of Advertising Practice (CAP), 8 December 2016, (accessed 2 June 2023)

241 HC Deb 16 January 2018 c247-271WH

242 Westminster Hall Debate: This House has considered the impact of junk food marketing on children's obesity (pdf), Obesity Health Alliance (OHA), 16 January 2018, (accessed 2 June 2023)

243 Department of Health and Social Care (DHSC), Childhood obesity: a plan for action Chapter 2, 25 June 2018

244 As above

The Government held this consultation from 18 March to 10 June 2019.[245] It sought views on a number of proposals originally set out in the action plan, including the introduction of a television "watershed". It said:

> We are concerned that despite existing restrictions, children see a significant level of HFSS adverts through the media they engage with the most and that this can shape their food preferences and choices and, over time, lead to obesity. This document seeks views on options across broadcast and online media in order to reduce children's exposure to HFSS advertising. We want to ensure that any future restrictions are proportionate and targeted to the products of most concern to childhood obesity. We also want to ensure that they can be easily understood by parents, so that they are supported in making healthier choices for their families.[246]

The consultation was informed in part by the research of Kantar Consulting, who had been commissioned by the DCMS to research levels of advertising to children of HFSS products in broadcast media and online.[247] An extract from the findings of Kantar Consulting research is reproduced below:

> On average, the viewing population of children aged 4-15 (9.36m) saw 7 minutes of food and drink advertising per week in 2017. This was down from 8.6 minutes in 2016. Within this, 2.3 minutes were found to be for HFSS products, 4.4% of the total weekly commercial advertising minutage they see on TV (the average individual child viewed 52 minutes of commercial TV advertising per week in 2017 SOURCE: BARB).[248]

It considered that "a watershed would likely reduce children's exposure to HFSS advertising by 2.50bn impacts (72%)". However, the OHA expressed concerns about Kantar's findings:

> [...] children and young people's actual exposure to digital HFSS marketing is, we consider, grossly underestimated by the Kantar analysis. Therefore, the savings and benefits to children's health, wider society and the public purse will be significantly greater than estimated in the Impact Assessment.[249]

Conversely, the Advertising Association (which represents UK advertisers, agencies and brands), wrote to the Government in August 2019 to suggest that the proposed restrictions would have little impact on children's diets.[250] It said:

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245 Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), Further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS), 18 March 2019, (last updated 24 June 2021)

246 Department of Health and Social Care and Department for Digital, Culture, Media & Sport, Further advertising restrictions for products high in fat, salt and sugar, 18 March 2019 (last updated 24 June 2021)

247 HFSS advertising exposure research, Kantar Consulting, March 2019 (subscription required), See Department of Health and Social Care and Department for Digital, Culture, Media & Sport, Consultation outcome - Evidence note, updated 24 Jun 2021

248 As above

249 How much unhealthy food and drink advertising do our kids actually see online?, Obesity Health Alliance (OHA), 10 June 2019, (accessed 2 June 2023)

250 AA writes to new ministers, Advertising Association, 5 August 2019, (accessed 2 June 2023)

> The Government's own analysis shows that the proposed restrictions would only remove around 1.7 calories per day from children's diets, even if they were to succeed, which the evidence does not actually support. There are a number of examples of industry supporting healthy lifestyle campaigns, from the Daily Mile which gets children more active by running or walking a mile a day, to Veg Power. It is our firm belief that working in partnership with industry gets better results, and on the obesity strategy, we urge a more collaborative approach.[251]

10.5 Tackling obesity strategy (July 2020)

On 27 July 2020 the Government published its obesity strategy, Tackling obesity: empowering adults and children to live healthier lives.[252] As part of its strategy the Government announced its intention to implement a 9pm watershed on television for HFSS advertising.[253] It said this aligned with the 2019 consultation feedback where 79% of respondents supported this proposal. The Government also announced other measures to help people live healthier lives, including:

- A new "Better Health" campaign.
- Increasing weight management services.
- Consulting on front of pack labelling.
- Requiring large out of home food businesses to add calorie labels to the food they sell.
- Consulting on introducing calorie labelling on alcohol.
- Legislating to end the promotion of HFSS foods by restricting volume promotions and placement in certain locations.

Linked to this obesity strategy is the Government's Sporting Future strategy, which focuses on how important it is that everyone has opportunities to be active for physical and mental wellbeing. The Government's school sport and activity action plan sets out how it intends to help increase children's activity levels, ensuring children enjoy being physically active and retain active habits throughout their lives.[254]

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251 As above

252 Department of Health and Social Care, Policy Paper: Tackling obesity: government strategy, 27 July 2020

253 As above

254 Department for Digital, Culture, Media and Sport, Department of Health and Social Care, and Department for Education, Policy paper - School sport and activity action plan, 15 July 2019

10.6 Second consultation (Nov. 2020): prohibition on paid for advertising of HFSS products online

In November 2020, the Government consulted on proposals to introduce a total restriction of online advertising of HFSS products.[255] This restriction to apply to all online marketing communications intended (or likely) to come to the attention of UK consumers, and which have the effect of promoting identifiable HFSS products. The rationale for this proposal was threefold:

- future-proofing the policy against changes in children's media habits which are shifting online,
- accounting for a lack of transparency and independent data for adverts served online,
- and addressing concerns about the efficacy of online controls which seek to target HFSS adverts away from children.

The Government said there was evidence (though not conclusive) that exposure to HFSS advertising could affect what and when children eat. Specifically, by increasing the amount of food children eat immediately after being exposed to an advert and by shaping longer term food choices from a young age.[256] Restricting HFSS advertising might also influence adult purchases and consumption and generate significant health benefits.[257] On the issue of health inequalities, the Government said:

> People who live in deprived areas have higher COVID-19 diagnosis and death rates and are more likely to be living with childhood and adult obesity. Studies suggest that children from the most deprived households spend more time online than those from the most affluent, and that HFSS adverts have a greater impact on those children who are already overweight or obese than non-overweight children. This indicates that children in more deprived communities are more likely to benefit from a reduction in HFSS advertising exposure.[258]

The Government regarded this consultation as an extension of its previous 2019 consultation.[259] It outlined its position as follows:

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255 Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, Total restriction of online advertising for products high in fat, sugar and salt (HFSS), 10 November 2020 (last updated 24 June 2021)

256 Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, Total restriction of online advertising for products high in fat, sugar and salt (HFSS), 10 November 2020 (last updated 24 June 2021)

257 As above

258 As above

259 Department of Health and Social Care and Department for Digital, Culture, Media & Sport, Further advertising restrictions for products high in fat, salt and sugar, 18 March 2019 (last updated 24 June 2021)

> Our objectives remain unchanged since the 2019 consultation. The main aim remains to reduce children's exposure to HFSS advertising, in order to help reduce their overconsumption of HFSS products. As part of this we also want to drive reformulation of products by brands, ensure that any potential future restrictions would be proportionate and targeted to the products of most concern to childhood obesity, and ensure that any potential future restrictions would be easily understood by parents, so that they can be supported in making healthy choices for their families.
>
> In addition, one of the key drivers for the Government proposing a total online restriction is "the absence of any independent, comprehensive, gold-standard and publicly available means of audience measurement online".[260]

In proposing a total restriction of online advertising of HFSS products, the Government said it wanted to build on existing regulatory structures in order to minimise disruption to industry and regulators and ensure that "online advertising regulation sufficiently incentivises compliance and drives rapid remedial action".[261]

Recognising the global nature of online media platforms and advertising, and the difficulty of applying statutory regulation to persons overseas (outside UK jurisdiction), the Government also sought views on the extent to which a total restriction of online advertising for HFSS products in the UK could be made to apply to online advertising served in the UK but originating from advertisers or intermediaries based overseas. It also sought views on whether this restriction would disproportionately affect UK-based companies.

The consultation ended on 22 December 2020. According to the Government, 74% of respondents to the consultation supported the proposal to introduce a total HFSS advertising restriction online.[262]

260 Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, Total restriction of online advertising for products high in fat, sugar and salt (HFSS), 10 November 2020 (last updated 24 June 2021)

261 As above

262 Department for Digital, Culture, Media & Sport (DCMS) and the Department of Health and Social Care (DHSC), Introducing further advertising restrictions on TV and online for products high in fat, salt and sugar: government response, 24 June 2021

10.7 Government response to 2019 & 2020 public consultations

On 11 February 2021, the Government published a policy paper on Integration and innovation: working together to improve health and social care for all, in which it restated its intention to introduce new advertising restrictions.[263] A new health and care bill was announced in the Queen's Speech in May 2021.

On 24 June 2021, the Government published its response to both the 2019 and 2020 consultations.[264] It said it would introduce simultaneously new restrictions on the advertising of HFSS products on television and online in the new "Health and Care Bill". The Government said that both measures would help reduce children's exposure to HFSS advertising.[265] The Public Health Minister, then Jo Churchill, explained the policy rationale:

> Current advertising regulations are not going far enough to protect children from seeing a significant amount of unhealthy food adverts on TV and existing regulation does not account for the increasing amount of time children are spending online.
>
> Analysis from September 2019 demonstrated that almost half (47.6%) of all food adverts shown over the month on ITV1, Channel 4, Channel 5 and Sky1 were for products high in fat, salt and sugar, rising to nearly 60% between 6pm and 9pm. Ofcom research suggests that children's viewing peaks in the hours after school, with the largest number of child viewers concentrated around family viewing time, between 6pm and 9pm.[266]

The measures form part of the Government's legislative response to tackling obesity. According to Government estimates, television and online advertising restrictions could remove up to 7.2 billion calories from children's diets per year in the UK which, over the coming years, could reduce the number of obese children by more than 20,000.[267]

263 Department of Health & Social Care, Policy Paper: Integration and innovation: working together to improve health and social care for all, 11 February 2021

264 Department for Digital, Culture, Media & Sport (DCMS) and the Department of Health and Social Care (DHSC), Introducing further advertising restrictions on TV and online for products high in fat, salt and sugar: government response, 24 June 2021

265 As above

266 As above

267 As above

10.8 Health and Care Act 2022

On 6 July 2021, the Health and Care Bill was introduced in the House of Commons. As anticipated, it contained new advertising restrictions to apply simultaneously to the whole of the UK:

- A 9pm watershed for advertisements of HFSS foods, applicable to television and UK on-demand programmes.
- A prohibition on paid-for advertising of unhealthy food and drink products online.

The Bill received Royal Assent on 28 April 2022. The advertising restrictions contained in the Health and Care Act 2022 (Schedule 18) were due to come into force on 1 January 2023. However, on 14 May 2022 the Government announced that their implementation would be delayed. Explaining the reasons for the delay, Julia Lopez, Media, Data and Digital Minister, said:

> We have listened to the concerns which have been raised and will not be bringing in restrictions on junk food advertising until confident that the time is right.[268]

However, Andrew Gwynne, Shadow Public Health Minister, was disappointed with the decision:

> Instead of cutting childhood obesity, preventing ill-health and easing pressure on the NHS, this chaotic government is performing another U-turn.[269]

As provided for in the Communications Act 2003 (Restrictions on the Advertising of Less Healthy Food) (Effective Date) (Amendment) (No. 2) Regulations 2022, and following consultation, the advertising restrictions are due to come into force **1 October 2025**.[270]

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268 Department of Health and Social Care, Government delays restrictions on multibuy deals and advertising on TV and online, 14 May 2022

269 Junk food: Ministers to delay ban on multi-buy deals, BBC News, 14 May 2022, (accessed 2 June 2023)

270 Department of Health & Social Care, Department for Digital, Culture, Media & Sport, and Department for Culture Media & Sport, Introducing further advertising restrictions on TV and online for products high in fat, salt or sugar – closed consultation, 9 December 2022

10.9 Situation in Scotland

The Scottish Government is also concerned about childhood obesity. On 2 July 2018, it published its own obesity strategy, A healthier future: Scotland's diet and healthy weight delivery plan, in which it called on the UK Government to further restrict the advertising of HFSS foods to children.[271]

Highlighting childhood obesity as a UK-wide challenge, the Westminster Government said it would work closely with the devolved administrations to ensure approaches are aligned as much as possible.[272]

271 Scottish Government, A healthier future: Scotland's diet and healthy weight delivery plan, 2 July 2018

272 HM Government, Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt (HFSS) (pdf), 18 March 2019

11 Tackling obesity in schools

11.1 Active lifestyles

Chapter One of the childhood obesity plan introduced a number of commitments to tackling obesity through work in schools.[273] These included the promotion of a national ambition for every primary school to adopt an active mile initiative such as the Daily Mile, the investment of over £1.6 million during 2018/19 to support cycling and walking to school and Ofsted's development of a new inspection framework for September 2019 which would consider how schools build knowledge across the whole curriculum, support pupils' personal development more broadly, including in relation to healthy behaviours.

Ofsted's School Inspection Handbook (last updated July 2022) states that, as part of pupils' personal development, schools should develop:

> pupils' understanding of how to keep physically healthy, eat healthily and maintain an active lifestyle, including giving ample opportunities for pupils to be active during the school day and through extra-curricular activities[274]

Chapter One also announced PHE's development of advice to schools for the academic year 2017/18, setting out how schools can work with other stakeholders to help children develop a healthier lifestyle. Expanding on the funding pledge in Chapter One, Chapter Two saw the Government commit to producing a Cycling and Walking Investment Strategy.[275] Published in 2017, the strategy set a target of increasing the percentage of children aged 5 to 10 that usually walk to school.

11.2 School food standards

Chapter One also published a commitment to campaign for all schools to commit to the School Food Standards, led by the Secretary of State for Education.[276] In its most recent guidance, the government states that compliance with theRequirements for School Food Regulations 2014is

273 HM Government, Childhood obesity: a plan for action, 18 Aug 2016
274 Ofsted, School Inspection Handbook, July 2022
275 Department for Transport, Cycling and walking investment strategy, 21 Apr 2017
276 Department for Education, Standards for school food in England, 8 Jan 2015

mandatory for all maintained schools including academies and free schools.[277]

The Library briefing on School meals and nutritional standards (England) provides wider information.

11.3 PE and sport premium

In Chapter Two of the obesity strategy, the Government said that it would review how the least active children are being engaged in physical activity in and around the school day, and how the Primary PE and Sport Premium is being used.

The PE and sport premium enables primary schools to make additional and sustainable improvements to the quality of the PE, sport and physical activity they provide.

Between 20 September and 12 October 2018, the Department for Education (DfE) surveyed a sample of primary schools in England to see how schools are using the PE and Sport Premium; their views on the outcomes it has had; and what if any difference the doubling of the Premium from September 2017 has had.

A research report on the survey results was published in July 2019. The report emphasised certain limitations of its analysis, including that the data was gathered in response to an on-line survey and the information provided was based on perceptions and had not been otherwise verified.

The report's key findings included that since 2016-17:

- Almost 90% of respondents thought that the confidence, knowledge, and/or skills of all staff in teaching PE had increased a little or a lot.
- More than 80% thought the level of competitive sport being offered had increased a little or a lot. Over 60% thought it had been increased for all pupils.
- Around 80% thought that the proportion of pupils doing 30 minutes of exercise a day in school had increased a little or a lot.
- Over 90% indicated that there was now a broader range of PE and sport being offered to all pupils.
- There had been an increase in the curriculum time spent in PE in around a third of schools.

[277] Department for Education, School food in England, August 2021

In terms of the use of the Premium, most commonly schools reported that they used it to buy new equipment or improve facilities, upskill existing staff, and/or increase extracurricular sport.

The main constraints in delivering physical activity were reported as "lack of space or facilities" (half of responses), and a lack of teacher skills and experience or confidence (a quarter of responses). Unprompted, a "notable minority" also specified a "lack of curriculum time."[278]

The Library briefing Physical education, physical activity and sport in schools provides further information on the use of the premium.

11.4 The healthy schools rating schemes

Chapter One of the childhood obesity plan announced a new scheme providing schools with an opportunity to demonstrate what they are doing to make their pupils more active.[279]

The Healthy Schools Ratings Scheme was published in July 2019.[280] Primary and secondary schools choosing to take part in the voluntary scheme can use the self-assessment criteria to generate a score, corresponding to a Gold, Silver, Bronze, or no award. The score is based on a school's activity around food education, compliance with the school food standards, time spent on physical education and the promotion of active travel.

The resulting report is sent only to school leaders, who can choose to share this or display their certificate, which the scheme encourages.

Chapter One advised that the scheme would be taken into account during Ofsted inspections, and would be referred to in the school inspection handbook.[281] The DfE's published scheme advises that schools "can notify Ofsted about the rating they have achieved", and that Ofsted inspectors "may wish to consider the scheme as evidence when reaching the judgement on 'personal development'".[282]

Schools Week said that this "appears to be a climb down on the previous plans", and also included comments from Jamie Oliver who said that the scheme should be made compulsory.[283] Then Parliamentary Under-Secretary of State at the DfE Nadhim Zahawi responded to a July 2019 Parliamentary Question on introducing a compulsory healthy schools rating scheme, saying

[278] Department for Education, Primary PE and Sport Premium Survey: Research Report, July 2019, pp6-9.
[279] Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, Childhood obesity: a plan for action, chapter 2, 25 Jun 2018
[280] Department for Education, Healthy schools rating scheme, 8 Jul 2019
[281] HM Government, Childhood obesity: a plan for action, 18 Aug 2016
[282] Department for Education, Healthy schools rating scheme, 8 Jul 2019
[283] "'Healthy schools' rating scheme finally published – nearly 2 years late ", Schools Week [online], 8 Jul 2019, (accessed on 25 May 2023)

"we do not believe that it is appropriate to introduce a new compulsory duty on schools in this area".[284]

11.5 Ofsted review on healthy eating and physical activity in primary schools

Chapter One of the childhood obesity plan advised that Ofsted would undertake a thematic review on obesity, healthy eating and physical activity in schools, providing examples of good practice and recommendations for improvement.[285]

Ofsted undertook research in autumn 2017 to develop a better understanding of what schools' can contribute to reducing child obesity in England, publishing its report Obesity, healthy eating and physical activity in primary schools in July 2018.[286]

The report highlighted the things that schools can do to help tackle childhood obesity, including "providing ample opportunity for children to take physical exercise during the school day – with lots of opportunities to 'get out of breath.'" The report cautioned, however, that, while the contribution of schools is important, they cannot alone have a direct and measurable impact on children's weight.[287]

Regarding physical activity in schools, the report's findings included:

- 69% of the 60 schools visited as part of the research had two or more hours of PE in the timetable each week
- Many schools also organised additional activities at the whole-school level; 13 schools, for example, organised a 'daily mile'
- Parents surveyed as part of the research wanted to see more time for PE in the curriculum
- Extra-curricular activated can be a good wat to broaden the opportunities for children to exercise but a quarter of parents said that their child could not access all the activities they wanted.[288]

The Library briefing Physical education, physical activity and sport in schools provides related information.

284 PQ 275120, 9 Jul 2019
285 HM Government, Childhood obesity: a plan for action, 18 Aug 2016
286 Ofsted, Obesity, healthy eating and physical activity in primary schools, 18 Jul 2019
287 Ofsted, Obesity, healthy eating and physical activity in primary schools, July 2018, p3
288 Schools not 'silver bullet' to tackling childhood obesity, Ofsted. 18 July 2018.

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