

TITLE OF REPORT: **Consultation on proposal to end the sale of energy drinks to children**

Purpose of the Report

1. To consult the Health and Wellbeing Board on the proposed response to the Department of Health and Social Care's consultation on the proposal to end the sale of energy drinks to children.

Background

2. The Department of Health and Social Care launched an online consultation in August 2018 on the proposal to end the sale of energy drinks to children. This was announced as part of Childhood Obesity: a plan for action, chapter 2. The aim of the policy is to prevent excessive consumption of high-caffeine energy drinks by children.
3. Energy drinks are soft drinks that contain higher levels of caffeine than other soft drinks and may also contain a lot of sugar (though low or zero calorie energy drinks are available). One study found that regular energy drinks contain, on average, 60% more calories and 65% more sugar than other regular drinks and may therefore contribute to obesity and dental problems in children.
4. Evidence suggests that excessive consumption of energy drinks by children is linked to negative health outcomes: affecting children's physical and mental health as well as sleep latency and duration. Research has found that adolescents (aged 12 to 18) who consume energy drinks several times a day are 4.5 times more likely to report experiencing headaches, 3.5 times more likely to report sleeping problems, and 3.4 times more likely to report experiencing tiredness than adolescents who do not consume energy drinks.
5. Manufacturers are currently required by European Law to label all energy drinks containing over 150mg of caffeine per litre as 'not recommended for children'. Despite the warning labels children are still consuming these drinks; recent evidence shows that more than two thirds of UK children aged 10-17, and nearly a quarter of those age 6-9 are energy drink consumers.
6. The Government has heard strong calls from parents, health professionals, teachers and some industry bodies and retailers for an end to the sale of high

caffeine energy drinks to children. Many large retailers and supermarkets have voluntarily stopped selling energy drinks to under 16's but there are still many retailers who continue to sell these drinks to children. Legislating to end the sale of high-caffeine energy drinks to children would create a level playing field for businesses and create consistency, helping ensure that children do not have access to energy drinks in any shop.

The consultation

7. The Government is aware that the evidence base around energy drinks and their effects is complex. The aim of the consultation is to gather further views and evidence on the advantages and disadvantages of ending the sale of energy drinks to children, and on alternative options, before making a decision. They are also seeking views on how a restriction on sales of energy drinks to children would be enforced in a way that is fair and proportionate, and on the implementation period, in the event that they decide to take such an approach.
8. The consultation covers the following:
 - Whether ending the sale of energy drinks to children by all retailers is the right approach to take
 - Would the energy drinks in scope be any drink, other than tea or coffee, which contain over 150mg of caffeine per litre
 - Whether the age limit for a restriction on sales to children should be 16 or 18 years of age
 - Should the restriction be implemented by all retailers in England, including on-site and online sales
 - Should the sale of energy drinks from vending machines also be restricted
9. Please see appendix one which details the draft public health response to the consultation questions.

Recommendations

10. It is recommended that the HWB Board:
 - Comment on the draft response and offer any further evidence or views, where appropriate
 - Agree the response to the consultation prior to online submission on 21st November 2018

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**Department of Health and Social Care
Consultation on proposal to end the sale of energy drinks to children**

Questions for consultation

1. Should businesses be prohibited from selling high-caffeine energy drinks to children?

YES

Please explain your answer:

A survey conducted across 16 European countries found that young people aged 10 to 18 years in the UK consumed more energy drinks on average than their counterparts in other countries (3.1 litres per month, compared to around 2 litres) (Nomisma-Arete Consortium 2013). Two-thirds (68%) of young people surveyed in the UK had consumed energy drinks in the past year and 13% were identified as high chronic consumers (i.e. consuming 4-5 times a week or more), compared with an average of 8% across Europe.

Around half (53%) of the young energy drink consumers reported co-consumption with alcohol. This finding is supported by a recent survey on smoking, drinking and drug use among 11 to 15-year-olds in England (NatCen Social Research and National Foundation for Educational Research 2015). The 2014 survey included questions about energy drinks for the first time; 69% of respondents said they had consumed energy drinks and 6% said they had consumed them with alcohol (increasing to 15% of 15-year-olds). Young people mixing energy drinks with alcohol are an increasing focus of concern.

Data from retrospective analyses of poison centre data indicated that consumption of energy drinks by children and young people may be linked to adverse health outcomes. Of the 2.4 million calls to the National Poison Data System in the USA between 2010 and 2011, 4854 calls were related to energy drink exposure cases and 46% of these involved children under six years old (Seifert, Seifert et al. 2013). However, adolescents reported the largest proportion of moderate or major effects such as cardiac rhythm disturbances and hyperthermia. Similar studies conducted in Australia and Italy have reported a range of symptoms that included hyperactivity, palpitations, fainting, abdominal pain, agitation, flushing, tachycardia, delirium, vomiting (Gunja and Brown 2012, Vecchio, Chiara et al. 2013).

Evidence from large-scale, often school-based surveys demonstrated that reported use of energy drinks by school-aged children was generally high and that it was associated with a number of unhealthy behaviours. Positive associations with smoking or susceptibility to smoking, alcohol use (including binge drinking and heavy drinking) and substance use (including marijuana and prescription drugs) have been observed in several studies.

(Gambon, Brand et al. 2011, Locatelli, Sanchez et al. 2012, Cotter, Jackson et al. 2013, Gallimberti, Buja et al. 2013, Hamilton, Boak et al. 2013, Petrova, Duleva et

al. 2013, Azagba and Sharaf 2014, Larson, DeWolfe et al. 2014, Terry-McElrath, O'Malley et al. 2014).

Energy drinks have no therapeutic benefit, and many ingredients are understudied and not regulated. The known and unknown pharmacology of agents included in such drinks, combined with reports of toxicity, raises concern for potentially serious adverse effects in association with energy drink use. Children and young people are not always aware of the fact that energy drinks are stimulants, nor are they aware of the effects they can have on their body and that the effects on children and young people can vary.

Consumption of energy drinks can lead to a variety of different behaviours including lack of concentration and hyperactivity which can impact far wider than just the person who has consumed the energy drink e.g. in a classroom setting. Consumption of energy drinks among adolescents is associated with potentially negative health and behavioural outcomes which include sensation seeking behaviour, use of tobacco and other substances and binge drinking which are all associated with a greater risk for depression and injuries that may require medical treatment.

We are already facing challenges in Gateshead around obesity and healthy weight where 9.6% of 4-5 year olds and 24.6% of 10-11 year olds living in Gateshead were obese in 2016/17. The proportion for 4 -5 year olds is the same as the England average of 9.6%. However, the proportion for 10-11 year olds is significantly higher than the England average of 20.0%.

Of children attending Gateshead schools, 22.0% of 4-5 year olds and 38.5% of 10-11 year olds were classified as overweight or obese (excess weight). Whilst the proportion for 4-5 year olds is similar to the England average of 22.6%, the proportion for 10-11 year olds is significantly higher than the England average of 34.2%

Child obesity data at ward level suggests that there are variations across Gateshead, with higher rates in a number of the more deprived areas and lower levels in less deprived areas.

Whilst the levels of overweight or obese children in Gateshead cannot be solely attributed to the sale of energy drinks given the easy availability of these drinks in shops and other outlets, not limiting these sales can only potentially add to the challenge of reducing obesity rates. A reduction in obesity rates could be expected to yield savings to the NHS and other organisations.

Research has highlighted that children and adolescents with eating disorders, especially anorexia nervosa, may regularly consume high amounts of caffeine including energy drinks to counter caloric-restriction– associated fatigue, suppress appetite etc. and given that children and adolescents with eating disorders have a propensity for cardiac morbidity/mortality consumption of high-caffeine energy drinks may put them at further health risks.

FUSE research indicated that whilst children/young people were generally well informed about the fact that energy drinks usually contain high volumes of caffeine and sugar the caffeine content, in particular, was often highlighted as being the main difference between energy drinks and other types of beverage. There

appeared to be less knowledge about how much sugar or caffeine was in these drinks. Even when this information was included on the label there were concerns that some children/young people might have difficulty interpreting what it meant.

There were 193 hospital episodes for teeth extractions (one or more primary or permanent teeth) for the 5-19 age group in 2016/17 (99 aged 5 to 9, 56 aged 10 to 14, and 38 aged 15-19). Again, whilst these cannot be solely attributed to the sale of energy drinks given the high sugar content levels in these drinks this is another potential contributory reason why energy drinks should not be sold to under 18's.

High acidity levels in the energy drinks erode the tooth enamel, the glossy outer layer of the tooth. Damage to tooth enamel is irreversible, and without the protection of enamel, teeth become overly sensitive, prone to cavities and more likely to decay.

A 340ml serving of an energy drink can have an acid PH as low as 2.4 (water=7, battery acid=1) and as much as 13 tea spoons of sugar. Advice says children aged 11 or over and adults should consume no more than seven teaspoons of added sugar a day (30g) equal to less than a single can of Coca-Cola which contains 39g. Children are consuming energy drinks primarily for their taste rather than stimulant properties, hence experience health decrements as an unintended consequence.

2. Are there any other approaches that you think should be implemented instead of, or as well as a prohibition on sales of energy drinks to children, in order to address the issue of excess consumption of energy drinks?

YES

We think these measures should be implemented in addition to a prohibition on sales of energy drinks to children under 18:

Better awareness raising amongst children, young people and their parents about energy drinks and the effects they can have on a child/young person. This should include school based activities such as assemblies and classroom discussions. Teachers who took part in the FUSE research highlighted potential curriculum areas such as science, citizenship and PSHE where energy drinks could be used to provide a "real life " relevant case study in terms of health education for young people.

FUSE research indicates that children are keen to be involved in peer led interventions and training young people as advocates or experts on energy drinks who could provide advice for other children of a similar age. Children could be involved in the development of resources to raise awareness around the impacts/effects of energy drinks.

Marketing and branding of energy drinks needs to be considered. Currently they are marketed explicitly as a way to relieve fatigue and improve mental alertness illustrated by one well known marketing strapline "red bull gives you wings". As part of the FUSE research young people identified that the branding and packaging of energy drinks helped them to stand out and made them more attractive to children and young people. Some were identified as targeting boys in particular, through the brand names, size of the cans, the colours used on the packaging and the association with extreme sports.

Set a minimum price for energy drinks. Research undertaken by FUSE in County Durham with school children, September 2015, suggested that the relatively low cost and widespread availability of energy drinks represent key factors influencing such purchases by children/young people. It also highlighted that the purchase of energy drinks were at least partially motivated by straightforward economics – energy drinks were among the cheapest drinks available locally allowing them to purchase in greater quantities.

Introduce a “challenge” approach in all establishments that sell energy drinks in line with alcohol and tobacco challenge approaches.

3. Which age limit would be the most appropriate for a prohibition on sales of energy drinks to children?
- 16 years old
 - 18 years old
 - Any other (please specify)
 -

18 years old

Please explain your answer:

The age limit should be on the same basis as purchase of alcohol and tobacco given that energy drinks are stimulants and that they have no therapeutic benefit, and many ingredients are understudied and not regulated. The known and unknown pharmacology of agents included in such drinks, combined with reports of toxicity, raises concern for potentially serious adverse effects in association with energy drink use.

By law, energy drink labels must include the warning 'not recommended for children' and yet participants in the FUSE research as young as 10 years of age told us they could purchase these products in almost any shop, at affordable prices.

4. Should a prohibition on sales of energy drinks to children apply to any drink that contains over 150mg of caffeine per litre, except coffee and tea?

YES

Please explain your answer:

A single can of popular brands of energy drinks on the market can contain around 160mg of caffeine, while the European Food Safety Authority recommends an intake of no more than 105mg caffeine per day for an average 11-year-old.

5. Should a prohibition on sales of energy drinks to children apply to all retailers who operate in England, including online businesses and the out-of-home sector (cafes, restaurants, takeaways and so on)?

YES

Please explain your answer:

If prohibition on sales of energy drinks to children is not applied to all retailers then they will still be available for purchase at other outlets such as local cafés or

takeaways. Whilst the cost for purchasing at such retailers will be potentially higher this will not deter some children. The same restrictions should apply as for the purchase of alcohol and tobacco so there is a very clear message and this is understood by all retailers.

6. Should children be prevented from buying energy drinks from vending machines?

YES

Please explain your answer:

Children who are unable to purchase energy drinks in shops/other retail outlets would potentially revert to purchasing from vending machines and there would be no challenge associated with this purchase. The only thing that may deter children purchasing from vending machines would be the cost and availability e.g. vending machines may potentially be stocked with the higher price brands with a set price and no special offers/deals. In addition they would not be able to be bought in bulk due to the higher cost.

7. If children are prevented from buying energy drinks from vending machines, how should this be done?

- All sales of energy drinks from all vending machines should be prohibited, regardless of the age of the person buying them

YES – if sales of energy drinks are not prohibited from all vending machines there would be no way to challenge children or young people and therefore they would still be able to purchase these freely.

- Sales of energy drinks from vending machines should be prohibited in specific locations with high child footfall, for example educational establishments, sports centres and youth centres

NO

- Other approach (please give details of the approach you are suggesting).

NO

8. If the sale of energy drinks to children is prohibited, would 12 months be an appropriate implementation period for all businesses?

NO

Please explain your answer:

Whilst we can appreciate that to implement this measure may take time we would ask that that careful consideration be given to implementing this proposal as soon as practicably possible. The longer implementation takes then we are potentially allowing more children/young people to access these energy drinks with the negative impacts they may have on their health for example.

9. If you are a business selling energy drinks, have you already imposed limits on sales to children?

Not applicable - for business completion

10. If you have not already limited sales of energy drinks to children, have you committed to do so or are you planning to do so in the future?

Not applicable - for business completion

11. If you have already limited sales of energy drinks to children, have you faced any obstacles this effectively?

Not applicable - for business completion

12. If you have already limited sales of energy drinks to children, please explain how this has affected your business, either positively or negatively, providing supporting evidence where possible.

Not applicable - for business completion

13. If you have any suggestions for how this requirement could be enforced in a way that is fair and not overly burdensome, please provide details.

Not applicable – for business completion

14. If you have any further evidence or data you wish to submit for us to consider for our final impact assessment, please provide it here.

Not applicable

15. If you have any further evidence or data that you would like to submit specifically on the likely cost that may occur to your business as a result of the proposal, please provide it here.

Not applicable - for business completion

16. Are there any other potential impacts of restricting the sale of energy drinks to children that you think we should consider?

None the restriction of sales to children can only be seen as a positive move in terms of reducing the potentially negative health and behavioural outcomes as outlined in the response to question 1.

17. Do you think that this proposal would be likely to have an impact on people on the basis of any of the following characteristics?

- Age – Yes potentially if a minimum price were introduced for energy drinks this would impact upon consumers of all ages, rather than affecting only children. The impact on adults could be considered disproportionate given the policy objective is to limit children’s consumption.
- Sex
- Race
- Religion
- Sexual orientation
- Pregnancy and maternity
- Disability
- Gender reassignment
- Marriage/ civil partnership

With the exception of the age protected characteristic we do not anticipate any negative impact of the proposal and, therefore, do not foresee any other group being disadvantaged by this proposal. We feel that the proposal will in fact only have a positive impact on all people under 18 regardless of any protected characteristics.

18. Do you think this proposal would help achieve any of the following aims?

- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.
- Where applicable, please provide more details on how you think the measure would achieve these aims.
- If you do not think this proposal would help achieve any of these aims, please explain why and whether the proposal could be changed to help achieve these aims.

We acknowledge that this proposal would not advance any of the aims. As mentioned at question 17 the only protected characteristic group that might be affected would be age but the negative impact on the older group is outweighed by the positive impact on children and young people.

19. Do you think that this proposal would be likely to have any impact on people from lower socio-economic backgrounds?

Yes but in a positive way such as contributing towards a reduction in overweight and obese children as outlined at question 1. The UK government has already announced a tax on sugary drinks as a step towards tackling childhood obesity, but energy drinks usually contain high amounts of both sugar and caffeine.

People from a lower socio-economic background are more likely to have dental decay so any reduction in this will reduce pain/infection risk and have wider implications such as less time off school/college and improved self-confidence with better aesthetics.

The FUSE research indicated that a number of school staff associated energy drink use with a certain demographic of young people where positive parental influence and supervision might be lacking.

20. If there are any further matters that you would like to raise or any further information that you would like to provide in relation to this consultation, please give details here.

Attach link to FUSE report: The HYPER (Hearing Young People's Views on Energy Drinks: Research) Study Final Report Septembers 2015