Calorie Labelling in the Out of Home Sector in Scotland - Analysis of Consultation Responses: Final Report

Scottish Government
Riaghaltas na h-Alba

Contents

Executive Summary

In Spring 2022, the Scottish Government undertook a public consultation, Mandatory Calorie Labelling in the Out of Home Sector in Scotland, to gather views on its proposals to make the provision of calorie information mandatory at the point of choice in Out of Home (OOH) settings. The consultation ran from 8 April 2022 until 1 July 2022. This report presents findings from an independent analysis of the responses.

The consultation received 660 valid responses. Responses were submitted by 574 individuals and 86 organisations or groups. Organisational responses included public sector organisations (29%), out of home providers (21%), industry representative bodies (15%), third sector organisations (12%), manufacturers (3%) and retailers (3%). The remaining 16% of organisational responses were by organisations defined as 'other'.

The majority of respondents opposed the introduction of mandatory calorie labelling. Some of the prevalent cross-cutting themes across responses were as follows:

- The policy should be avoided as it has the potential to encourage and/or compound disordered eating and associated physical and mental health risks;

- Calorie labelling alone does not provide a sufficiently robust indication of the nutritional value of food and drink items;

- The policy could have an insignificant or unsatisfactory impact when considering the relative costs of implementation;

- Public health messaging may be a more effective way of tackling existing health inequalities and problems. Educating people (providers and consumers) around nutrition more generally may be worthwhile (rather than focusing on calorie content alone);

- Mandatory calorie labelling may be particularly difficult for small and micro-businesses to implement and maintain, especially those who operate flexible/regularly changing menus;

- Lack of staff time and lack of experience/training in nutrition may be the biggest barriers to implementation, alongside costs associated with implementation; and

- Monitoring and regulation will be challenging and should be 'soft touch' in the early days to mitigate against businesses' fears of being penalised.

- Regulatory alignment with England was seen as desirable.

Among those who were in support of the policy being introduced, the following themes cut across responses to this consultation:

- The introduction of mandatory calorie labelling may provide consumers with transparency;

- The availability of calorie labelling to consumers may encourage customers to make healthier choices;

- The introduction of mandatory calorie labelling could encourage out of home food providers to alter their offer to make it healthier; and

- Mandatory calorie labelling could maximise consumer control over the choices they make.

1.   Introduction and background

In Spring 2022, the Scottish Government undertook a public consultation, *Mandatory Calorie Labelling in the Out of Home Sector in Scotland,*[1] to gather views on its proposals to make the provision of calorie information mandatory at the point of choice in Out of Home (OOH) settings. The consultation ran from 8 April 2022 until 1 July 2022. This report presents findings from an independent analysis of the responses.

Policy Context

The consultation fulfils a pledge by Scottish Government made in the 2021 Out of Home Action Plan.[2] That plan builds on commitments made in the 2018 Diet and Healthy Weight Delivery Plan,[3] and recommendations made by Food Standards Scotland (FSS) to Scottish Ministers in 2019.[4]

Eating OOH has been associated with obesity and there is evidence that food obtained from fast-food outlets,[5] or takeaways is associated with higher calorie intakes.[6] Available data shows that the food we eat OOH contains more calories per 100g than the food we eat within the home (205 kcals per 100g versus 169 kcal per 100g).

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[1] Scottish Government- Mandatory Calorie Labelling in the Out of Home Sector

[2] Scottish Government- Diet and healthy weight: out of home action plan

[3] Scottish Government- A Healthier Future: Scotland's Diet and Healthy Weight Delivery Plan

[4] Food Standards Scotland- Diet and Nutrition: Recommendations for an out of home strategy in Scotland

[5] Nago et al (2014) Association of out-of-home eating with anthropometric changes: a systematic review of prospective studies. Crit Rev Food Sci Nutr.

[6] Goffe at al (2017) Relationship between mean daily energy intake and frequency of consumption of out-of-home meals in the UK National Diet and Nutrition Survey, *International Journal of Behavioral Nutrition and Physical Activity*

Mandating calorie labelling at the point of choice is one potential way to support the OOH sector to make a key contribution in improving Scotland's dietary health.

For the purposes of the proposal, the OOH sector is defined as including:

- Cafes, all types of restaurants, takeaways, pubs/bars, bakeries, sweet and dessert shops, vending machines, workplace canteens, hotels, mobile caterers, leisure and entertainment venues;

- Supermarkets, delicatessens and convenience stores who provide "food on the go";

- Places where we purchase food and non-alcoholic drinks when commuting or travelling;

- Manufacturers and suppliers of food to the OOH sector;

- Food delivery services, including online services;

- OOH businesses in the public sector, including food provided for staff and visitors in prisons, military settings, and adult care and health care settings; and

- Any other venue or outlet that sells non-prepacked food ready for immediate consumption.

Pre-packed food is not within the scope of the proposals as there are already requirements to provide nutrition information for pre-packed foods.

The proposals do not include schools or early learning and childcare settings. Meals served for those residing in prisons, military settings, adult care settings and for patients in hospital are considered and the consultation sought views on these.

Public sector organisations are considered within scope, however, the consultation sought views on where the introduction of the requirement may be challenging in the public sector.

An exemption for OOH provided by a charity in the course of its charitable activities is also being considered by Scottish Government.

There are around 41,000 outlets in Scotland that fall within the Out of Home definition set out above. In 2019, 98% of the population living in Scotland purchased food and drink OOH at some point, with the average person in Scotland visiting a OOH food provider four times per week.[7]

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[7] [Food Standards Scotland-GB and Scotland: Out of Home Market](#)

The consultation

The consultation papers set out proposals for the provision of mandatory calorie labelling in the OOH sector in Scotland and also some proposed exemptions.

Specifically the consultation sought views on whether the provision of calorie information in OOH settings at the point of choice should be mandatory. In addition to this, views were sought on:

- the manner in which calorie information would be presented so that it is easily and equitably accessible and understood

- the advice and guidance that OOH businesses may require to ensure that there is parity in provision of calorie information across the sector

- identifying any unintended consequences and impact on health and other inequalities that may arise from mandating calorie information at the point of choice in OOH settings and measures potentially required to mitigate the unintended consequences and impacts

- whether there should be any exemptions to the application of requirements for the provision of calorie information in OOH settings

The consultation contained 22 questions -12 open and 10 closed questions with space to provide further comments. The questions covered the following:

- Implementing mandatory calorie labelling (Q1-2)

- Application of mandatory calorie labelling (Q3-4)

- Types of food and drink and possible exemptions (Q5-8)

- How and where information is displayed (Q9-12)

- Costs to business (Q13)

- Timescale and Support for Implementation (Q14 and Q15)

- Enforcement (Q16-17)

- Impact Assessments (Q18-21)

- Additional Comments (Q22)

Annex 1 contains a complete list of the consultation questions.

Aim of this report

This report presents a robust analysis of the material submitted in response to the consultation. The structure of the report follows the structure of the consultation paper and considers the response to each consultation question in turn.

Annexes 1-3 provide further detail about the consultation questions, the responses, the respondents, and the views expressed.

Approach to the analysis

The analysis sought to identify the most common themes and issues that arose. The report does not report on every single point raised in the consultation responses. All responses, where the respondent gave permission for their comments to be published are available on the Citizen Space website.[8]

Some respondents made comments in relation to a question without ticking a response at the relevant closed question. If the respondent's reply to the closed question could be inferred from their written comments (for example, if their comments began with the words 'yes' or 'no', or if their comments clearly indicated that they agreed or disagreed with a certain proposal), analysts replaced the missing data for the tick-box question with the implied response - i.e. the response was imputed.

There was not always a straightforward relationship between respondents' choice of answer to the closed questions and their comments in the accompanying qualitative comments. Upon further examination of the qualitative comments, it was clear that, in many cases, respondents (especially individual respondents) ticked 'no' to closed questions throughout in order to re-emphasise their opposition to the policy as a whole. Where this is evident this is commented on throughout the report.

Comments made in response to each question were analysed qualitatively. Counts of the number of responses to the qualitative comments in relation to each question are presented throughout the report. The aim was to identify the main themes and the range of views expressed in relation to each question and highlight clear differences by respondent type where this was applicable.

Equal weighting was given to all responses. This included the full spectrum of views, from large organisations with a national or UK remit or membership, to individuals' viewpoints.

This analysis report quotes and paraphrases some of the comments received in order to illustrate key points and themes. However, this should not be taken as an indication that these comments will be acted upon or given greater credence than others in taking the policy proposals forward.

Comment on the generalisability of the consultation findings

As with all consultations, the views submitted to this consultation should not be considered as representative of the views of the wider public. Anyone can submit their views to a consultation, and individuals (and organisations) who have a keen interest in a topic - and the capacity to respond - are more likely to participate in a

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[8] Mandatory calorie labelling in the out of home sector in Scotland

consultation than those who do not. This self-selection means that the views of consultation participants cannot be generalised to the wider population. For this reason, the main focus in analysing consultation responses is not to identify how many people held particular views, but rather to understand the range of views expressed and the reasons for these views.

2.   About the respondents and responses

Number of responses received

The consultation received 664 responses in total. This included three duplicate responses and one blank response. After these responses were removed, the analysis was based on 660 responses.

Diffley Partnership and KSO Research exported responses from Citizen Space into Microsoft Excel and manually added non-Citizen space responses for data cleaning, review and analysis.

About the respondents

Responses were submitted by 574 individuals and 86 organisations or groups.

The types of organisation that responded were as follows[9]:

- Out of home food provider (n=18)
- Manufacturer (n=3)
- Retailer (n=3)
- Industry representative body (n=13)
- Third sector (n=10)
- Public sector (n=25)
- Other (n=14).

Many of the organisations in the 'Other' category were bodies representing health professionals.

Organisation size was also collected from organisations. However, most did not provide an answer to this question

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[9] Respondents selected categories within the consultation questionnaire, a breakdown of the organisations within each group is available at Annex 3.

3. Implementing mandatory calorie labelling

Q1. Implementing mandatory calorie labelling

Question 1 – Should mandatory calorie labelling at point of choice, for example, menus, menu boards or digital ordering apps in the OOH sector in Scotland be implemented?

Overview

The consultation asked respondents whether they thought that mandatory calorie labelling should be introduced at the point of choice in the OOH sector.

The closed element of question 1 received a total of 660 responses (574 individuals and 86 organisations). The majority of those who responded to this question did not think that mandatory calorie labelling should be introduced (79%) while 18% thought that it should be implemented. A further 3% said that they did not know.

Individuals displayed higher levels of opposition to the implementation of mandatory calorie labelling (83%) than organisations (50%). Among organisations, out of home providers displayed higher levels of opposition to the implementation of mandatory calorie labelling than other organisation types. Manufacturers and retailers displayed the highest level of support for the introduction of mandatory calorie labelling while industry representative bodies, public sector and third sector bodies had more mixed views on the introduction of the policy.

In total, 603 respondents (523 individuals and 80 organisations) provided responses explaining their answer to question 1.

Views opposed to the introduction of mandatory calorie labelling at the point of choice

The most common view expressed in opposition to the introduction of mandatory calorie labelling was the potential negative impact on those with and recovering from eating disorders. Many respondents felt that mandatory calorie labelling would make eating out more difficult for those who have suffered or are suffering from eating disorders. Many of these responses included personal testimony of suffering from eating disorders and the potential triggering impact such a policy could have on recovery.

Related to this view, many respondents expressed the view that the introduction would have an impact on mental health and highlighted the potential dangers to children in particular that the policy would have in terms of encouraging calorie counting:

> *"As a sufferer of an eating disorder, this whole idea upsets me greatly. I am always in fear of relapse, and this is such a trigger for me. The whole enjoyment in going out for food will be stolen from me."* [Individual]

"The young people we spoke to highlighted the potentially dangerous impact of mandatory calorie labelling for people living with or recovering from eating disorders. They felt clear calorie labelling on all Out of Home Sector foods at the point of choice could lead to those living with disordered eating to develop or redevelop calorie calculation habits detrimental to their health and wellbeing. Research from [organisation] shows that mandatory calorie labelling poses clear risks to people with eating disorders, all while there is limited evidence that calorie labelling achieves its intended outcome." [Organisation, Third Sector]

Many respondents focused on whether introduction of the policy would deliver on reducing obesity or encouraging people to make healthier choices. Respondents challenged the evidence presented in the consultation paper and pointed to the implementation of the policy in the USA as evidence that the policy may not have the desired effect. This view was prominent among individuals who were opposed to the introduction of mandatory calorie labelling but was also shared by a number of organisations, particularly in the public and third sector. For example:

"We understand the motivation behind the mandatory calorie labelling as a way of reducing overall calories purchased and consumed OOH as a response to the increasing rates of people living with overweight and obesity but the evidence to support this is lacking. Despite some studies presented in the rapid evidence review showing statistically significant results, the calorie reduction is not literally significant in terms of being enough to reduce a person's weight" [Organisation, Public Sector]

Among respondents focused on the policy not achieving its aims there was a feeling that the policy would not address issues around education or poverty which are contributors to the poor dietary choices of many in Scotland.

Another view expressed was that the introduction of calorie information was not sufficient enough in terms of providing people with information on the nutritional value of a meal. Among these responses some challenged the elevated status this policy would give calories as a signifier of nutrition:

"It gives incomplete and largely irrelevant information about the food. It's not about its nutritional content or its processing so its not a move about health at all. It's about shaming and appearing to take action to help health. It is not that at all." [Individual]

Many responses raised concerns about the potential costs to business that implementing the policy would have. In particular, out of home providers noted the pressures on the hospitality sector coming out of COVID-19 and the impact this policy could have on these businesses. For example:

"As a sector the last 25 months have been incredibly challenging. The current situation involves many staff shortages across the sector and

at this present time implementing these mandatory changes will only bring about additional unmanageable asks for business owners and managers."[Organisation, Out of Home Provider]

Another view raised by respondents was that they thought the policy was intrusive on people's choices and was indicative of government policy increasingly unduly interfering in personal choice.

Other views that were expressed by those opposed to the policy included:

- that menus containing calorie information should be available on request as opposed to being the default;

- eating out is a treat or social activity and the policy takes away from this experience;

- the policy would be too complicated to implement;

- choices made at home were a greater contributor to obesity than choices made OOH; and

- organisations such as manufacturers, retailers and businesses called for regulatory alignment with England.[10]

Views in support of introduction of mandatory calorie labelling at the point of choice

The most common view expressed in favour of the introduction of mandatory calorie labelling at the point of choice was that providing this information would give consumers in Scotland the information to make healthier choices.

This view was expressed by both individuals and organisations in the public and third sector as well as industry representative bodies. For example:

> "It is vital that the public can make informed choices about food. Improved, informative labelling should be given more emphasis so that the consumer is aware of how many calories and adverse food sources are in out of home foods, just as they can with foods purchased for consumption in the home." [Organisation, Other]

Several respondents expressed the view that requiring calorie information would be beneficial in terms of giving people choice and control when selecting what they eat in an OOH setting. Benefits were outlined for those who were currently trying to lose weight and the lack of transparency of the current system was noted as an issue when making choices in OOH settings.

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[10] The Calorie Labelling (Out of Home Sector) (England) Regulations 2021 (the Regulations) came into force from 6 April 2022.

Another reason given in support of the policy from retailers and manufacturers was that the introduction of the policy would create a level playing field between retail and the out of home sector when it comes to information provided to consumers.

Other responses highlighted the potential for the introduction of the policy to encourage OOH providers to make alterations to their offer in terms of portion size of calorie content:

> "One important indirect consequence of calorie labelling on menus could be a reduction in calories across the menu, which has been observed in academic research and also self-reported by those in the sector already trialling it." [Organisation, Third Sector]

Among those who expressed support for the policy, a desire for regulatory alignment with England and avoiding a one size fits all approach for all sizes of business was a consistent theme.

Q2. Exemptions from mandatory calorie labelling by sector

Overview

Question 2 - Should any of the sectors listed be exempt from mandatory calorie labelling? If yes, please explain why.

The consultation asked respondents whether they thought that any of the organisations listed in Section 1.2 of the consultation document should be exempt from mandatory calorie labelling and why.

The organisations listed at Section 1.2 were as follows:

- Cafes, all types of restaurants, takeaways, pubs/bars, bakeries, sweet and dessert shops, vending machines, workplace canteens, hotels, mobile caterers, leisure and entertainment venues;

- Supermarkets, delicatessens and convenience stores who provide "food on the go";

- Places where we purchase food and non-alcoholic drinks when commuting or travelling;

- Manufacturers and suppliers of food to the OOH sector;

- Food delivery services, including online services;

- OOH businesses in the public sector, including food provided for staff and visitors in prisons, military settings, and adult care and health care settings; and

- Any other venue or outlet that sells non-prepacked food ready for immediate consumption.

Of the 637 respondents (561 individuals and 76 organisations) who provided a response to the closed element of this question, 70% thought that some of the organisations listed should be exempt from mandatory calorie labelling while 23% did not and 7% said they didn't know.

A higher proportion of individuals (72%) expressed the view that any of the sectors listed should be exempt than organisations (59%). Among the responses who felt there should be exemptions, there was a significant number of respondents who felt all of the sectors listed should be exempt as they disagreed with the policy as a whole.

Among organisational responses, out of home providers that responded were particularly likely to agree that some exemptions should be in place, while industry representative and third sector bodies were also more likely to agree with some exemptions. Views were more mixed across public sector organisations.

In total, 450 individuals and 67 organisations provided responses explaining their answer to question 2.

Views expressed in agreement with exemptions

Many respondents felt that there should be exemptions in place for small businesses such as catering vans, small cafes and bakers as opposed to any specific sector. This view was prevalent among small and micro businesses who responded to the consultation.

Among the reasons given for the exemption of small businesses was that the introduction of the policy would place a disproportionate burden on these businesses in terms of time and cost. Within this group of responses there was also a focus on the bespoke nature of the offering in many small OOH food providers which would make implementing the policy difficult on a practical basis given the frequency of menu changes:

> "It's asking too much of small business owners to calculate the calories of every item on their menu. Especially when things change daily." [Individual]

Another concern raised was with the introduction of the policy in healthcare or public sector settings as many people eating in these settings do not have an option to eat elsewhere. Others felt that the potential impact of the offering in the public sector was over-emphasised in the consultation document:

> "93% of respondents to [organisation's] survey did not support the introduction of mandatory calorie labelling on menus in public sector settings, with respondents commenting reasons such as that it was an "even worse decision as there is already little choice for some people in these environments." [Organisation, Third Sector]

> "OOH in the public sector. There is a misconception about the opportunities of scale that these businesses have. In many cases the

meals are made individually. The recipes used would need to be analysed. Who does this? Dietitians already overstretched and in short supply and the catering staff are unlikely to have the time or skill to do this accurately" [Individual]

Other less commonly expressed views by those who agreed with exemptions were that the policy should only apply to pre-packaged food in OOH settings and that the policy should only apply to large chains.

Views expressed in disagreement with exemptions

The main sentiment among those who felt that there should be no exemptions was that if the policy was to be introduced then there should be consistency across all sectors and business sizes in order to best achieve the goals set out for the policy:

> "We know from evidence that the majority of items purchased OOH are high in fat, salt and sugar and that we are consistently failing to meet Scottish Dietary Goals. Micro and small businesses also make up a significant proportion of OOH outlets in Scotland and account for a large proportion of OOH visits, so it is important that they are not exempt from the regulations." [Organisation, Third Sector]

> "For people to make healthier choices they need to have access to the full nutritional information not just calories and believe it is important that this is provided by every sector producing food." [Individual]

A small number of respondents expressed the view that any exemptions available may lead to some OOH providers seeking to re-designate themselves in order for exemptions to apply to them.

However, a number of respondents qualified that while they did not think that there should be sectoral exemptions, exemptions should apply for small businesses due to the disproportionate burden the implementation of the policy would have on them.

4.   Application of mandatory calorie labelling

Q3. Size of business that mandatory calorie labelling should apply to

Question 3 - To which size of business in scope of the policy, should mandatory calorie labelling apply?

- All businesses
- All except businesses with fewer than 10 employees (micro)
- All except businesses with fewer than 50 employees (small and micro)
- All except businesses with fewer than 250 employees (medium, small and micro)
- None
- Other

Overview

Of the 647 responses (573 individual and 74 organisational) to this question 65% of respondents stated that they felt that the policy should not apply to businesses of any size and 13% thought that it should apply to all businesses. The large number of responses stating that the policy should not apply to any businesses was largely driven by respondents who were opposed to the policy as a whole.

A further 5% felt that mandatory calorie labelling should apply to all except micro businesses (those with fewer than 10 employees), 6% to all except small and micro businesses (fewer than 50 employees) and 6% to all except medium, small and micro businesses (fewer than 250 employees). A further 3% said other and 1% said they did not know.

Organisational responses were more varied with only 20% of organisations saying that it should apply to no businesses (compared to 71% of individuals) and 22% saying that if mandatory calorie labelling is introduced it should apply to all business (compared to 12% of individuals). Industry representative bodies in particular expressed that they felt the policy should only apply to businesses with more than 250 employees.

In total, 330 individuals and 68 organisations provided responses explaining their answer to question 3.

All businesses

The main sentiment among those who indicated that 'all businesses' should be in scope was that the potential public health benefits of having a uniformly applied policy would outweigh any time or cost concerns associated with the implementation process. While it was recognized that challenges were likely to exist for smaller businesses, improved public health was seen as the main priority which should drive forward any decisions on how the policy was applied.

There were also perceptions that exclusions based on business size would risk reducing the overall impact of the policy change, especially given that a large majority of fast-food outlets/shops might be classified as micro, small or medium sized. Including 'all businesses' was seen by this cohort as the most fair and transparent approach. Comments were made that unless the policy was uniformly applied it may be exploited by some and that if some businesses were exempt, the effect of calorie labelling would be diluted.

The need for consistency was also raised, i.e., that consumers (and staff working in the industry) may be confused if some outlets were excluded and others were not. There were also suggestions that if smaller, local or independent businesses were exempt and larger, chain organisations were not, this may lead to consumers abandoning the former as a result of lack of information being provided:

> "I appreciate it will be harder for smaller businesses, but honestly if I'm out and there is a choice between a local business who doesn't have calories labelled and a chain restaurant who does, I'd go with the chain." [Individual]

Many who endorsed application to all businesses recognized that there may be legitimate concerns around the staffing and costs involved in implementation for smaller businesses and felt that there should be government support to offset this cost for small and micro businesses (discussed more below). Specific suggestions to help support smaller businesses included:

- a standard tool, devised or officially recommended by the Scottish Government to help smaller businesses in calculating calorie counts;

- nutritional analysis package access and training;

- government subsidies to help smaller businesses with implementation;

- an additional/longer implementation period for small businesses (with a possible phased approach that gives more time for implementation to small and micro businesses); and

- greater awareness raising among smaller business owners to highlight the benefits of the policy change.

All except micro businesses

Among those who felt that micro businesses should be excluded (i.e., those with fewer than 10 employees), the main argument was that they would have insufficient resources to allow them to implement the change. The main costs were seen as those associated with staff time, technology and materials required to obtain accurate calorie counts and infrastructure, including changing signage/menus (especially in outlets/venues that change their menu daily or on a frequent basis).

The proposed change was described as a "hoop to jump through" and "red tape" which would potentially add pressure to existing workloads at a time when small outlets were already struggling with COVID-19 recovery. It was also seen as being unfair and to disproportionately impact on smaller businesses compared to large, chain or franchise outlets.

An observation was also made that size of business may be less relevant than ownership, and that loopholes should be avoided such that franchises of big chains could be exempt just because the individual outlet has less than 10 employees.

All except those with fewer than 50 employees

The main arguments among those who felt that businesses with fewer than 50 employees should be exempt were largely the same as those put forward for micro businesses, i.e., burden of additional work, struggles associated with costs and reactivity/sustainability as menus change. Other arguments that were asserted included that this change may inadvertently limit or restrict the 'healthier' options provided by independent outlets if they feel that their hands are forced:

> "…should the policy proposal proceed to implementation it is our view that small and micro businesses should be excluded…This proposal may result in the potential incentive for businesses to buy in preproduced/packaged foods (with calorie labelling already undertaken by the supplier) instead of preparing fresh food from scratch (thus necessitating the need to calculate calories per portion), which is likely to be case for many smaller and more sustainable operations."
> [Organisation, Other]

Again, a small number of respondents stressed that the impact would be disproportionately negative for smaller businesses and that smaller businesses may also be less accountable than larger operations for the existing health challenges being faced by the nation.

All except those with fewer than 250 employees

Those who supported exemptions for businesses with fewer than 250 employees again cited administrative and cost burdens as their main justification, stressing that medium, small and micro businesses would be disproportionately affected. While it was recognised that 'large' businesses would more easily be able to absorb the costs, businesses of less than 250 were still considered vulnerable.

Several (including respondents representing large businesses) also supported restrictions on businesses of this size on the basis that it would be consistent with legislation introduced in England. This would be particularly beneficial and would minimise any confusion for companies that operate across UK jurisdictions:

> "Mirroring the exemption in England for businesses with less than 250 employees will obviously help small independent operators avoid further regulations and increased costs at a time when SMEs in particular are facing unprecedented challenges on the road to recovery

from the COVID-19 pandemic. In addition, small independent operators do not have the advantage of being able to simply adopt practices or gain knowledge from others in the same way as Scottish operators can within a UK wide national chain." [Organisation, Industry Representative Body]

Again, businesses of this size were seen as providing more variability which might otherwise be constrained if calorie labelling was enforced. Smaller businesses may not use standard recipes and use of nutritional analysis programmes/tools may not be familiar, it was felt. The policy should not inadvertently constrain healthy options, it was stressed:

> "Small businesses are often flexible, changing their menus to what local/seasonal produce is available at that time they wouldn't be able to keep up calorie counting with every menu changes/special they put on! It's not the same food day in day out!" [Individual]

Several respondents who supported the 250-employee threshold also suggested that the policy should be applied to larger businesses first and then rolled out to smaller businesses in a phased approach once there was more capacity for support. One respondent suggested that, if all businesses were included from the start, there may be a huge enforcement burden, and possibly a high level of non-compliance and ineffective implementation which could discredit (and undermine) the policy.

One respondent also suggested that greater clarity may be required around who would be counted as an employee in this context, (e.g. waiting staff, kitchen staff, delivery staff, suppliers) and another questioned how 'size' would be determined for business with variable employee numbers (i.e. some businesses will employ more staff in holiday periods/during different seasons which may mean that they move between categories of 'business size' over time).

No businesses

Among those who indicated that mandatory calorie labelling should not apply to any business, the main arguments largely mirrored those to earlier questions in the consultation, i.e., that this policy was potentially damaging to consumers, was seen as 'micro-managing' people's lives and would lead to too much focus on calories rather than healthy diets and lifestyles in the round.

Encouraging outlets to provide healthy balanced meals and healthy portion sizes instead was again encouraged, with individual choice and autonomy in decision making being seen as crucial.

Several respondents who did not support the application of mandatory calorie labelling also made more general comments that the policy would be too difficult, costly and time consuming for all types of business (regardless of size). This was raised as a particular concern given that many businesses were already struggling to recover from the pandemic. Others again indicated that size of business should

again never be a key consideration in implementing policy, and that the overall aim of healthier eating should instead be prioritised in any decisions.

Others questioned how any such policy could be properly policed and monitored and how accuracy of information would be regulated and assessed.

Investment in better public health messaging/education around healthy eating was also seen by several as being more effective at tackling health concerns (including messaging regarding the importance of being active), as well as making healthy food more affordable to all.

Other comments made by just a small number of respondents each included that:

- the red, amber, green traffic light system should be used instead, as this was perceived as working well in supermarkets, etc.;

- labelling should be mandatorily applied to menus only;

- businesses should be allowed to choose for themselves whether they wish to display calorie content;

- optional labelling/access to calorie information (possibly through QR coding) may be preferable (i.e., information provided only where the consumer asks for it); and

- the policy should apply to large chains and factory producers of food only.

Other exemptions, suggested by just one or two respondents each included charitable organisations and home-based outlets, such as independent cake bakers.

Again, a small number of respondents used this question to reiterate that they felt that stating calories alone was too narrow a measure, and that more robust and detailed information would be needed to give trust to consumers. Across respondents who gave differing responses to the closed question, a cross-cutting theme was that calorie labelling alone would be insufficient to tackle public health concerns regarding weight and that better public health messaging and education was needed to accompany the policy change.

Only a small number of respondents indicated that they felt they did not have sufficient knowledge or expertise to provide an informed response to this question.

Q4. Inclusion of public sector institutions

Question 4 - We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy?

Overview

Question 4 asked respondents whether hospitals, prisons, adult care settings and military settings should be included within the scope of the policy.

Overall, individual respondents were more likely to feel that all of the institutions listed should not be in the scope of the policy, this was largely driven by many who felt the policy should not be introduced at all.

Among organisational respondents, views were more nuanced with a majority opposed to hospitals and adult care settings being in the scope of the policy but a more mixed response in terms of prisons and military settings.

It should also be noted that in the first weekend there was an issue with the question on the online consultation platform. This did not allow for respondents to pick 'yes', 'no' or 'don't know' for any more than one institution. This was resolved by the Scottish Government after the first weekend of the consultation being open.[11] Where this issue affected a response and the respondent indicated their preference in their open response the closed response was corrected to reflect the views expressed.

In total, 420 individuals and 63 organisations provided responses explaining their answer to question 4.

No to all settings

Using the corrected data, those who said 'no' in all contexts mainly did so on the basis that they disagreed with the principle of mandatory calorie labelling overall. Among this cohort, the main concerns were that institutions should be 'safe spaces' that protected adults in their care and that exposure to calorie information may be harmful to their physical and mental health, especially those with eating disorders. People in prisons, adult care settings and especially hospitals were seen as being particularly vulnerable, with mandatory calorie labelling in these settings potentially hindering recovery for some:

> "All of these are harmful places to display calories on menus, particularly hospitals due to the often fragile mental state that hospital patients could be in." [Individual]

Several respondents highlighted that autonomy of choice for adults in such settings was often constrained and so displaying calorie information would make no difference to the choices people made.

Several respondents again stressed that calorie information when presented as a standalone measure was misleading and that labelling would only be appropriate in such settings if a fuller picture of nutritional value was provided. Many also argued for prioritising healthier and more nutritionally balanced meals being made available in such settings.

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[11] Once this error was identified all 108 respondents who this affected were contacted and provided with the opportunity to answer.

Similarly, views were expressed that the money spent on mandatory calorie labelling regulation would be better spent on improving services and improving the food offered in public institutions.

One respondent suggested that calories should not be displayed overtly in any of these settings, but that information should be available elsewhere, e.g. online or upon request, if desired. In all cases, they suggested that mandatory calorie labelling should not be provided to anyone without their consent.

Two respondents suggested that all such institutions were perhaps being wrongly defined as 'out of home' and that care homes in particular should not be considered 'out of home' for permanent residents.

One respondent suggested that the government could influence the healthiness of food delivered in all these settings through other policies and that there was an inspection function already in place to monitor implementation. Another suggested ensuring the implementation of the Health Promoting Health Service, and equivalent, across institutions would have a larger impact than providing calorie information in such contexts.

All settings

Overall, sentiments were expressed that food in such institutions should already be nutritionally balanced and so mandatory calorie labelling was superfluous. Only a minority of respondents supported mandatory calorie labelling in all of the public institutions listed and this was mainly in the basis that all adults should have equitable access to calorie information regardless of their personal circumstances.

To exclude such institutions was seen by this cohort as being discriminatory and not providing information to vulnerable adults, in particular, was seen as undermining their agency. All adults should be able to make informed choices, it was felt. Being able to see the calorie context of food being consumed, especially where it had not been selected through personal choice, was seen as especially important to help with individuals' awareness:

> "People within these settings have as much right to know what they're being fed as anyone else. Arguably those who have no external choices such as prison inmates or residents on care homes should have the choices they can make optimised by offering maximum knowledge." [Individual]

Other reasons given in support for roll-out of the policy to all settings was that this may help hospitals, care homes and prisons better meet the nutritional needs of those in their care, and also that implementation should be relatively easy to achieve in institutional settings, where food choices are limited/already controlled.

An argument was also put forward that a more nuanced approach may be required in these settings:

"In principle, we support each of these public sector institutions being included in the policy but we acknowledge that they are distinct settings with distinct needs. Therefore, it may be more appropriate to undertake specific impact assessments for these population groups to understand the needs within each setting and the impact of the policy." [Organisation, Third Sector]

Similarly, there may be some additional challenges to achieving mandatory calorie labelling in such institutions, it was felt, and the timescales involved in some of these settings may require to be longer than in others.

Don't Know

Among those who indicated 'Don't know' in response to all or most establishment types, the main comments were that it would depend on specific individuals' needs. If someone needed the information to assist with a particular health concern then it would be supported, but if having the information could be detrimental (such as for someone with an eating disorder), then it was not supported.

Similarly, it was suggested that information should only be present if the person that is deciding is empowered to choose:

"…I don't think it is that helpful for someone in prison to see calories and see they are higher than they would like, for example, and not have as many options to choose something else. Whereas somewhere like military settings where that is usually an important aspect of people performing their job well, it might be useful." [Individual]

The main sentiment was that decisions on labelling in institutions should be driven by individual need and autonomy, rather than uniform policies being applied. In the interests of autonomy and to allow informed decision making, several respondents did, however, suggest that calorie counts should be available on request to adults in all settings.

A small number of respondents indicated that they had insufficient experience, knowledge or familiarity with such settings and so felt unable to comment, that this question was best answered by those based in such settings and that a specific impact assessment should be carried out for these population groups understand the needs within each setting and the impact of the policy before implementation.

One respondent suggested consistency with the definition of 'Mass Catering' in the Calorie labelling in the out of home sector: implementation guidance for The Calorie Labelling (Out of Home Sector) (England) Regulations 2021, i.e. "Calorie labelling is not required in certain establishments when food is provided 'in-house'. However, where the food at that establishment is provided by another organisation with 250 or more employees (such as a contract caterer), calorie information must be displayed."

Others simply commented that they assumed that food and nutrition in such settings (especially care homes) would already be regulated, i.e. that The Care Inspectorate already have standards in relation to nutritional care.

Hospitals

In the main, mandatory calorie labelling in hospitals was not supported as most perceived this was an institution where people were often at their most vulnerable. The majority of public sector respondents disagreed with mandatory calorie labelling in hospital settings, mainly on the basis that improving health and recovery were the main priorities for patients. Only two public sector organisations that supported the policy on the whole also supported mandatory calorie labelling in hospitals. One of these maintained that choice should always remain the priority and the other suggested that all settings should provide information, especially public sector ones where 'health promotion opportunities' can also be delivered. This view was caveated, however, that there may be a risk of 'overloading' patients who are ill with information and that further work may be required on 'labelling' within hospitals.

Many individuals expressed the assumption that nutritionally sound meals would already be provided in this context:

> "People in hospitals should be focused on recovering, not worrying about the calories in their food. To my knowledge, all of these settings have measures in place to serve healthy food anyway - that is more important than the numbers." [Individual]

A small number of respondents suggested that mandatory calorie labelling in hospitals may be appropriate for staff, visitors and other members of the public (in cafes, etc.) but would not be suitable for patients. The main reason for this was that they felt calorie controlled diets may not always be appropriate for those with certain medical conditions and also that calorie labelling was unlikely to be a priority for anyone in a hospital setting for a primary health need.

Prisons

Again, applying the policy in prisons was largely not supported on the basis that adults in this setting were likely to have no choices available to them. A number of public sector organisations who supported mandatory calorie labelling on the whole also supported it in prison settings, but no specific reasons for this agreement were given.

Very few respondents supported mandatory calorie labelling in prisons, with one suggesting that it may be appropriate for those serving longer sentences who would be concerned around their lifestyle choices and making informed decisions around their diet. Another highlighted that The Physical Health of People in Prison NICE guideline (NG57) states that people living in prison should be offered information about the benefits of a healthy diet and healthier food options available in the prison. Providing calorie information would facilitate this, they perceived, but this may require staff training and standardised portion sizing.

One respondent suggested that mandatory calorie labelling in this context may help support health improvement work within prison settings and may present a new opportunity to engage with prison catering services.

Several respondents commented that they did not know enough about prison settings to be able to comment or indicated that other more specialist guidance should be in place for specific settings.

Adult Care Settings

A small number of respondents expressed a presumption that meals provided in adult care settings would already be closely monitored or regulated to ensure that they met adults' needs, and so mandatory calorie labelling would be superfluous.

Others suggested that presenting calorie information to those in such establishments may also be unnecessary if it was unlikely to be understood or result in any kind of behaviour change (in terms of choice of food consumed, etc.) This would be the case for those living with dementia, some terminal illnesses, complex mental health needs, etc.:

> "The hospital and care setting require that person to be well enough to understand what is being presented to them. They may be too ill or mentally uncapable of processing this information." [Individual]

Overall, views again reflected that the focus should simply be on providing nutritionally valuable meals for adults in this context and/or that a nuanced approach to different settings may be required.

Military Settings

Again, several respondents commented that they did not know enough about military settings to be able to comment.

Among the small number who supported mandatory calorie labelling in this context (including some public sector organisations and third sector organisations), this was largely because of perceptions that the physical nature of the job may require individuals to carefully monitor their food intake (a view offered by individuals). Counter views were also expressed, however, that this was a context where individuals' calorie needs would significantly vary depending on their military role, i.e. from people in largely sedentary/desk based jobs to those whose daily work entails prolonged and intense physical activity. As such, a general rule would not be suitable.

Two respondents suggested that research had recently been published which showed a significant increase in disordered eating in military populations and suggested that mandatory calorie labelling may exacerbate this (although no reference to the specific research was given).

Overall

Overall, most respondents did not support mandatory calorie labelling in any of the above settings, while others felt insufficiently knowledgeable to comment and

suggested that discussion with stakeholders in relevant sectors may be more appropriate. Several of the public sector respondents advocated a nuanced approach required in each setting.

5. Types of food and drink and possible exemptions

Q5. Pre-Packed for direct sale foods

Question 5 - The intention is that pre-packed for direct sale (PPDS) foods would fall within the scope of the policy. Do you agree with that proposal?

Overview

A total of 638 respondents provided an answer to the closed element of question 5. The majority (54%) of those who responded to this question did not think that PPDS should fall within the scope of the policy while 33% thought that it should. A further 13% said that they did not know.

Again, there was a significant cohort of respondents who did not think that PPDS should be within the scope of the policy because they did not think that mandatory calorie labelling should be implemented at all.

A higher proportion of organisations thought that PPDS should fall within the scope of the policy (61%) compared to individuals (30%). Across different types of organisations there was varying degrees of support for this; while OOH providers were least likely to think this should fall within the scope of the policy, a majority of industry representative bodies thought that it should.

In total, 297 individuals and 59 organisations provided responses explaining their answer to question 5.

Views against the inclusion of PPDS

As noted above, the majority of respondents did not agree that PPDS should fall within the scope of the policy. Reasons given for this were fairly consistent with responses to previous questions.

Again, several respondents expressed concerns around the negative and triggering impact this could have on individuals with eating disorders, particularly given that PPDS foods are regularly sought after by consumers. This sentiment was summarised by one respondent who argued that:

> "…applying calories to prepacked food will, in my own experience, cause adverse effects to those suffering from an eating disorder. By attaching the calories to the food item, it makes the number

unavoidable for the consumer, and can cause individuals with eating disorders to fixate on it, making eating out an unenjoyable and upsetting challenge instead of a fun occasional treat." [Individual]

Another perspective was that the policy could have an insignificant or unsatisfactory impact when considering the relative costs of implementation. A few respondents were already familiar with the presentation of calories on PPDS labels but queried how effective they are when used in isolation:

"This really already happens but not sure it has the impact desired without a public health campaign and funding for education and the availability of affordable healthy options for those in low incomes this is likely to have little to no impact." [Individual]

Views in favour of the inclusion of PPDS

Those who believed that PPDS should be included in the scope of policy felt that this would enhance the ability of people to make healthier food choices.

Various individuals mentioned that whilst most products in supermarkets provide calorie information alongside ingredients and allergens, data on the latter two points are sufficient for small businesses, such as small bakeries selling wrapped sandwiches or pastries. However, others expressed that there was no reason why PPDS should fall outside the scope of the policy, particularly where its exclusion might cause ambiguities:

"Such products should be required to display calorie information and it should be the responsibility of the original producer/supplier of the products to ensure the correct calorie information is displayed. Exempting PPDS would just create a loophole and may encourage the use of more packaging in order to avoid labelling." [Organisation, Third Sector]

As alluded to above, many respondents stated that they believed that PPDS food already had nutritional information listed in many settings.

Q6. Food and drink exemptions

Question 6 - Should the foods and drinks listed below be exempt from calorie labelling?
- Non-standard menu items prepared on request
- Alcoholic drinks
- Menu items on sale for 30 days or less
- Condiments added by consumer

Overview

The consultation asked respondents whether certain food or drinks should be exempted from the policy: non-standard menu items, alcoholic drinks, menu items for sale for 30 days or less and condiments added by the consumer.

The consultation paper sets out that the Scottish Government envisages that all of these food or drink items would be exempt from the scope of the policy.

Overall, the majority of organisations and individuals who responded to these questions (total number of responses for each element can be seen in Annex 1) felt that all of the items listed should be exempt from the policy in line with the position set out in the consultation paper. There were similar levels of support for the exemption of non-standard menu items (80%), menu items for sale for 30 days or less (72%) and condiments added by the consumer (75%). There was greater variation in views on the exemption of alcoholic drinks, as 59% of respondents felt that these should be exempt from calorie labelling.

In total, 318 individuals and 60 organisations provided responses explaining their answer to question 6.

Views seeking exemptions

A key recurring point was that the inclusion of these items would be impractical across the sector and would create substantial additional work for service providers:

> "Non-standard [menu items] is extreme for restaurants to have to figure out; and accuracy will suffer severely for these." [Individual]

Similarly, respondents expressed that the need to calculate calories on non-standard items and condiments would be stressful and onerous on consumers and service providers.

In particular, calorie counting minor 'add-on' items such as condiments was considered unnecessary, and even excessive, by a number of respondents. There were specific practical concerns around (in)accuracy when applying calorie labelling to condiments, given that consumer choice and preference play a significant role in portion sizes, making standardisation difficult.

Moreover, there were worries that providing information to this level of detail would have a negative impact on those suffering from eating disorders.

Several respondents expressed the view that, given that the harms of alcohol extend beyond the number of calories in alcoholic drinks, it should be part of a different public health campaign rather than subject to this legislation.

Views not seeking exemptions

Many who felt that there should be no exemptions stated that if the policy was to be rolled out then it should apply to everyone, so that information is readily available for all purchases in OOH settings. Several respondents believed that blanket coverage was required in order for real impact to be achieved.

Several respondents felt that alcohol should not be exempt from the policy, noting that calorific information would be useful and practical due to the short ingredient list and that alcoholic drinks tend to be higher in calories than people realise.

Therefore, the inclusion on alcoholic drinks would have a positive impact within the policy.

Q7. Exemptions for menus marketed for children

Overview

Question 7 - Should menus marketed specifically at children be exempt from calorie labelling?

The consultation asked respondents whether menus marked specifically for children should be exempt from calorie labelling. A total of 645 respondents (572 individuals and 73 organisations) provided a response to the closed element of question 7.

The majority (76%) of those who responded to this question thought that menus marketed specifically at children should be exempt from calorie labelling. Around a fifth (19%) felt that these menus should not be exempt, while 5% said they did not know. Many of those opposed to mandatory calorie labelling in principle agreed that children's menus should be exempt.

Most individuals (78%) and a slight majority of organisations (53%) felt that these menus should be exempt. A higher proportion of organisational respondents said don't know (22%) than individual respondents (3%). Industry representative bodies were particularly likely to agree that children's menus should be exempt while third sector organisations who responded to this question gave mixed responses.

In total, 401 individuals and 64 organisations provided responses explaining their answer to question 7.

Views in favour of an exemption for children's menus

A view that was repeatedly raised regarding the presence of calories on children's menus was that this could have a negative impact on children's relationship with food and heighten the risk of children developing eating disorders. The perceived negative influence of parents'/carers' 'control' over their child/ren's calorie intake - in terms of shaping future relations with, and anxieties around, food - was also mentioned:

> "I do not know a single adult who counts the calories of their child's food. I think this is wrong and runs the risk of the child developing an unhealthy relationship with parents and/or food. I think children should be taught about healthy eating, but not calorie counting especially since most eating disorders develop during adolescence." [Individual]

Instead, several respondents argued that there were other, more suitable, ways of promoting healthy eating and diet among children. Examples of alternative methods to promote healthy eating included educating children on where their food comes from and how to incorporate foods of a 'rainbow' of colours into their diet, encouraging regular physical activity, and serving nutritionally balanced meals in settings frequented by children.

Views in favour of the inclusion of children's menus

Among those who felt that children's menus should not be exempt, there was some consensus that calorie information could be a useful tool for parents when making choices for their children in OOH settings:

> "Often food aimed at children is higher in calories. Displaying the nutrition would enable parent and carers to make the choice for them" [Individual]

Similarly, respondents felt that the availability of this information could allow children and parents to make informed choices in OOH settings and could teach children about a healthy diet. This was seen as a particular advantage in the context of high levels of childhood obesity.

An additional point raised by a third sector organisation was that these menus should not be excluded as discretionary foods were much more likely to be purchased out of home when children were present.

Q8. Calorie information on request for children's menus

Question 8 - Should businesses be required to provide calorie information about options on children's menus to parents and carers on request?

Overview

The consultation asked respondents whether businesses should be required to provide calorie information about options on children's menus to parents and carers on request. In total, 642 respondents provided a response to the closed element of this question (570 individuals and 72 organisations).

The majority (53%) of those who responded believed that businesses should not be required to provide this information on request. Around four in ten (37%) thought that this information should be provided on request, whilst a further 10% said they did not know.

Similar levels of individual (54%) and organisational respondents (49%) said that businesses should not be required to provide this information (54%) than organisations (49%). OOH providers and industry representative bodies in particular felt that businesses should not be required to provide this information.

In total, 318 individuals and 57 organisations provided responses explaining their answer to question 8.

Views expressed

Many of the themes identified in question 8 were consistent with the views expressed in question 7. A few respondents reiterated that the availability of this information could encourage an unhealthy relationship with food and that there were more suitable alternatives to calorie information on menus, with the role of parents/carers also deemed influential:

"Education and advertisement about portion sizes would be better."
[Individual]

"Whilst I understand that parents will want the most nutritional meal for their children, forcing the child's decisions to be guided by a calorific number should not occur. Children should be able to go out for meals without having to think about their calorie consumption, and no parent should feel the need, unless for strictly medical purposes (e.g., diabetic child who needs to be aware so that they can regulate their insulin levels), to police what their child eats based on calorie count."
[Individual]

Others also felt that to mandate businesses to provide calorie information about options on children's menus on request was impractical, came with cost implications, and would add a further layer of complexity for business at the point of service. A few respondents suggested that whilst it may be that some businesses do this in response to their customer base, it should be for businesses - who may know their customers best - to decide. It was also recommended that only businesses of a certain size be mandated to provide this.

Another emerging theme was that there should be a wider range of nutritional information available than just calorie content. Others noted that it would be useful to have calorie information about options on children's menus available upon request so that if people - namely parents/carers - want to know then they have a choice to access this information.

6. How and where information is displayed

The consultation document discussed various ways in which calorie information could be displayed. The consultation paper referred to research showing that calorie information currently provided in out of home settings is inconsistent, and so the consultation proposed a standardised approach. This would involve including calorie information at all points of choice, in the same size and font as the price, to only present calorie information and to include a reference statement such as 'adults need around 2,000 calories a day'.

Questions 9a-9d requested views on each of the above presentation suggestions.

Q9a. Calorie information should be provided at all points of choice

Question 9a - What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be provided at all points of choice

Overview

Question 9a received 573 responses in total - 508 from individuals and 65 from organisations. Of the 65 organisational responses the largest number of responses came from public sector organisations followed by out of home food providers. In general, the response to this question was negative.

It is worth noting that there is significant overlap in many of the arguments presented below and people's overall opposition to the policy expressed in response to Question 1. This could be due to the definition of 'point of choice' being provided in the glossary of terms rather than in the section of the consultation associated with this question, or due to lack of engagement with the consultation document. This meant that the vast majority of respondents answered with views on whether or not calories should be presented on menus in general.

People should be able to opt-out

Many responses put forward the argument that menus with and without calories should be available in out of home settings on request if the policy went ahead:

> "On request only - either printed menu or a digital solution provided by the operator." [Organisation, Out of Home Provider]

> "Not necessarily - there should be a way for people to opt out of seeing calorie values when they choose their food." [Organisation, Public Sector Organisation]

Arguments against providing calorie information at all points of choice

The concern raised most frequently was the effect that this policy would have on those with existing eating disorders, and those recovering, and the way the policy could encourage disordered eating in others.

The cost to businesses was again identified by many respondents as a problem. Most pointed to the practicalities of training staff to calculate calories and reprinting menus. Others argued that this policy would discourage the public from eating out, and thus damage business earnings.

Other argued that a standardised approach was not appropriate and that businesses should have flexibility in terms of display. This was a view expressed by both individuals and respondents from industry representative bodies, out of home providers, public sector and third sector organisations. For example:

> "Businesses should be given as much flexibility as possible when it comes to displaying calorie information at the point of choice. Space, layout and customer flow are all factors that will be unique to business settings." [Organisation, Industry Representative Body]

Arguments in favour of providing calorie information at all points of choice

Respondents that supported the policy put forward two main arguments for this: that it would assist in informing healthy choices and that displaying calorie labelling at all or some points of choice would make the information easy to access.

Q9b. Calorie information should be displayed in the same font and size as the price

Question 9b - What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be displayed in the same font and size as the price

Overview

In total, 489 individuals and 59 organisations provided responses to question 9b.

Arguments against displaying calorie information in the same font and size as price

Most responses offered in opposition to this suggestion put forward that calorie labels should be smaller than the price. The reasons put forward were that having price and calories displayed in the same way exaggerated the importance of calories, would distort menus causing confusion for consumers, would increase costs to businesses, and that displaying in this way would make them unavoidable for those who may not wish to see them.

Other respondents suggested that more flexibility should be put forward in the presentation of this information to help businesses adjust. For example, the use of bold or italics could be used to either emphasise of deemphasise calories. A minority suggested that calories could be housed separately to menu items, such as through a QR code, on an index card, or on the back of the menu given that display space is often at a premium.

Arguments in favour of displaying calorie information in the same font and size as price

Of those that supported presenting calories in the same way as price, the main reasoning put forward was ease of reading and accessibility of the information for all to benefit. For example:

> "Calorie information should be in the same font and size as the price. It should also be clear and easy to read. Locating calorie information beside the price could result in this information being seen and used by more consumers. Consumers will almost always check the price before purchasing at the point of choice and so will also notice the calorie information, if it is located beside the price." [Organisation, Third Sector Organisation]

Other respondents suggested that this would allow for uniformity and that calories were as important as price and should be displayed as such.

Q9c. Calorie information should be provided in calorie only and not also kilojoule

Question 9c - What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be provided in calorie only and not also kilojoule

Overview

In total, 463 individuals and 62 organisations provided responses to question 9c.

Of those who provided a reason for their answers to 9c, the majority agreed with only including calories on menus.

Arguments in favour of displaying calories only

Respondents believed that there was a lack of understanding of kilojoules amongst the public and their inclusion would cause confusion. This tied into an expressed desire to keep things simple for consumers and avoid over-crowding on menu boards.

Two lesser expressed arguments were that since both units measure the same thing, it would be redundant to display both, and that displaying calories only would be practical as it mirrors English regulations so would not create additional costs in Scotland.

Arguments in favour displaying both Kcal and KJ

Among the minority of responses that expressed a desire to display both measurements there was a sense that displaying both gave further information to consumers which was positive.

A small number of respondents argued that kilojoules measure energy content and so may be less stigmatizing to display than calories and some suggested both measures could be provided to consumers on request.

Q9d. Calorie information should include the reference statement of "adults need around 2,000 calories a day"

Question 9d - What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should include the reference statement of "adults need around 2,000 calories a day"

Overview

In total, 495 individuals and 65 organisations provided responses to question 9d. Overall, responses to this question were overwhelmingly negative.

Arguments against the inclusion of a reference statement

The most consistent view expressed against the inclusion of this reference statement was the perception that this reference statement was inaccurate, misleading, and unsuitable for much of the population:

> "No, this is inaccurate - 2000 is for women, 2500 is for men, the above statement applies to just 50% of adults." [Individual]

Additionally, in relation to the eating disorder argument that featured throughout consultation responses, respondents specifically highlighted the way that the 2000 calorie mark could be used by some as a target for overeating, or by others as a target for undereating.

Another view expressed was that this information was redundant based on the perception that the vast majority of the population already know the recommended number of calories that an adult needs to consume per day from supermarket labelling. Furthermore, a small minority argued that it was not the responsibility of businesses to educate the population on this.

Arguments in favour of the inclusion of the reference statement

Among respondents that agreed with the inclusion of the reference statement argued that it was useful to contextualise calorie intake for the consumer to ensure people both eat less and enough. Within these responses some argued that this would ensure consistency with England and aid in the effectiveness of the policy as a whole. These arguments are neatly summarized in the following response from a third sector organisation:

> "Research has found that calorie labelling can help consumers to lower their calorie intake, especially when the information is provided alongside contextual information indicating recommended daily calorie intakes. Survey evidence also shows that information on recommended daily intake is supported by the public, with respondents stating that it is very or fairly important that an explanation of

recommended daily calorie intake is provided. Including a reference statement would, therefore, help to make calorie labelling more effective, particularly among consumers who have limited knowledge of recommended daily calorie intakes." [Third Sector Organisation]

Finally, both positive and negative responses made arguments that more information should be provided alongside the reference statement to ensure it does not mislead the public. For example, the statement should include the difference in guidance for gender and factors that can alter this such as height, weight, and activity levels.

Q10. Availability of menus without calorie information on request

Question 10 - Should businesses be required or provide the option to have menus without calorie information available on request of the consumer?

Overview

The consultation asked respondents whether they thought businesses should be required to provide the option to have menus without calorie information on request of the consumer. In total, 602 respondents provided a response to the closed element of question 10 (531 individuals and 71 organisations).

The majority (52%) of those who responded to the consultation thought that the option to have menus without calorie information on request of the consumer should be a requirement for businesses. A further 35% said that thought that it should be an option for businesses while 13% said they did not know.

A lower proportion of organisational respondents thought that it should be a requirement for businesses (35%) than individuals (55%) and more likely to think that it should be an option (49% compared to 33% of individuals).   Out of home providers and industry representative bodies were more likely to feel that this should only be an option for businesses whereas third sector organisations were most likely to say it should be a requirement for businesses followed by public sector organisations.

In total, 386 individuals and 62 organisations provided responses explaining their answer to question 10.

It should be a requirement for businesses

Many respondents, across individuals and organisations, stated that if the policy was introduced then the availability of menus without the calorie information should be a requirement to protect customers who suffer from eating disorders.

Many respondents stated that they felt that menus without calorie information should be the default and that menus with calorie information should be available on request. The main reason given for this was to protect those who suffered from eating disorders. Others highlighted that to offer these as the default with the

calorie labelled one available on request would overcome the burden of having to ask for the calorie-free menu, while still offering the menu with calories for those who wish to see it:

> "…to offer a calorie-free menu given as standard, with the option to ask for one with calorie information on. "A customer has to be mentally strong enough to request this [optional calorie-free menu]" and "it needs to be the other way round" were comments received by [organisation] on this proposal." [Organisation, Third Sector]

It should be an option for businesses

Many respondents who argued that providing menus without calorie labelling should be an option for businesses felt that to mandate two sets of menus would have a cost impact on business which would particularly negatively affect Small and Medium Enterprises (SMEs).

Some organisations, including OOH providers, felt that if they were being mandated to have calories on menus then it was unreasonable for them to also have to produce a menu without calories:

> "We took the decision as a business not to provide menus without calorie values on request. It was considered to add additional complexity and cost to the business. Despite serving several million guests since the calorie legislation came into effect in England, and against a media backdrop that heightened awareness of the potential impact of calorie labelling to those with past or present eating disorders, we have only had two requests for menus to be provided without calories." [Organisation, Out of Home Provider]

Several responses focused on the potential regulatory challenges of enforcement where two sets of menus are available and that if businesses offer a choice then the potentially positive impacts of mandatory calorie labelling could be mitigated by businesses offering calorie free menus as the default.

Q11. Practical implications of being required to provide menus without calorie information on request

Question 11 - If businesses are required to also have menus without calorie information available on request of the consumer, what practical implications would this have for businesses?

Overview

In total, 410 individuals and 63 organisations provided a response to question 11.

Many respondents reiterated their feeling that menus without calorie information should be the default and that the introduction of mandatory calorie labelling would introduce cost and time implications as opposed to the additional requirement to provide menus without calorie information should the policy go ahead.

Practical implications

The additional printing costs of having to provide two sets of menus was raised as a practical consideration by many respondents, though many noted that any new requirement to mandate calorie information on menus would be the trigger to introducing these costs. This was particularly highlighted as an issue for small businesses:

> "There would be substantially increased costs in being forced to provide two sets of menus, as well as being impractical in some hospitality settings." [Organisation, Industry Representative Body]

Others noted that it was not possible to provide two sets of menus on digital displays at the same time and that to require two menus would add to the time taken to update menus when there were changes. Issues were also raised in terms of accessibility and access to two versions of Braille menu or menus in different languages.

Time implications and issues around understanding the rules related to offering menus without calorie information to customers were also raised, with potential for confusion:

> "This is likely to confuse, as which menu is to be given out? Keeping them separate? How is this communicated to staff? Does the consumer need to specify that they want the menu without calorie information?" [Individual]

A proposition suggested by a few respondents was that to avoid much of the additional cost and environmental impact associated with printing two sets of each menu, that QR codes could be used so that menus with or without calorie information could be accessed online.

Q12. Mitigating measures that could be adopted for consumers who may find calorie information upsetting

Question 12 - What other mitigating measures could be adopted for consumers who may find calorie information upsetting? - Please give us your views

Overview

In total, 442 individuals and 53 organisations provided a response to question 12.

Mitigating measures

Many respondents used this question to reiterate their opposition to the policy as a whole and stated that they felt the most appropriate mitigating measure would be not to introduce mandatory calorie labelling at all.

A large number of responses noted that offering menus without calorie information at the point of choice could be a potential mitigating measures such as on takeaway services, being able to specify that you require a menu without calories when

booking a table at a restaurant or being asked what type of menu you require on arrival.

Another mitigating measure raised by several respondents repeated points made in previous questions that menus containing calories should only be provided on request.

Other responses (including those from third sector organisations representing those with eating disorders) raised the view that providing links to resources for help with eating disorders on menus with calorie information could be one mitigating measure. Within this context there were calls for Scottish Government to work on a comprehensive package of guidance for organisations expected to implement this policy. The following quote illustrate some of these views:

> "[Organisation] recommends that the Scottish Government provides all OOH establishments included in this proposed legislation appropriate guidance relating to the implementation and effect of the inclusion of calorie labelling at the point of choice, including information on how people with eating disorders may be affected. This guidance should be produced in collaboration with experts in the field of eating disorders, including those with lived experience." [Organisation, Third Sector]

Another mitigating measure suggested was not including calorie information on large or external signage in OOH settings and providing calorie information as an appendix or separate sheet for those who wish to see it, rather than mandating menus with calories on.

A few responses noted a need to educate OOH establishments about the potential negative effects of the policy on those with eating disorders as a potential mitigating measure.

Another mitigating measure suggested was not to use signage referring to a need to consume 2,000 calories a day as this was not always appropriate, particularly for those suffering from or recovering from an eating disorder.

Other responses suggested using labelling referring to a choice as 'healthier, using a traffic light system or adopting a Health Star rating system such as that used in Australia as appropriate mitigating measures.

Several respondents questioned why any mitigating measures were needed in the context of high levels of obesity and raised the view that there was no requirement for any mitigating measures as the information should be available to everyone. A small number of respondents questioned why this information would be upsetting for people.

However, many respondents, particularly those who had raised issues regarding eating disorders throughout, felt that the question itself was an admission that the policy would do harm and that, rather than mitigating against the harms, the policy should not be implemented at all. Among this group of respondents many took

issue with the use of the word 'upsetting' and felt it minimised the triggering and potentially traumatic impact the policy could have on them:

> "Upsetting" does not begin to describe the trauma for someone with an incipient, full-blown, or recovering eating disorder. it is almost insulting to describe their mental anguish in this way, There is nothing will mitigate this pain except removing the instrument that causes it: don't put triggering information in front of someone with an eating disorder and ask them to make impossible choices." [Individual]

7. Costs to businesses

Question 13 - Please list any costs to businesses in addition to those listed that you think need to be considered in our economic evaluation

Overview

In total, 288 individuals and 59 organisations provided a response to question 13.

Many respondents used this question to reiterate their lack of support for the proposal at all. Several also stressed that the costs to businesses (especially small and micro businesses) was one of the main reasons why the policy should be avoided.

Costs to business

Among those who did directly answer the question that was asked, the main perceived costs to businesses that were directly associated with the policy were:

- Materials (paper, ink, printing, etc.) associated with updating labelling/signage/menus;

- Accessing nutritional analysis systems/appropriate software/license fees and associated infrastructure (IT resources, etc.);

- Staff time costs associated with generating accurate calorie information;

- Staff training costs (to familiarise themselves and understand the new requirements, training in how to accurately generate calorie values and training in how to explain calorie content to consumers, etc.);

- Paying specialists/nutritionists to carry out nutritional analysis where existing employees are unable to do so (and/or specialists for installing and maintaining analysis programmes); and

- Staff time for uploading calorie content information any digital platform (e.g. menus for online ordering, etc.).

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Among these, costs of staff time in calculating calorie contents was the most frequently mentioned concern (again, especially for and among small businesses) and was seen as unduly burdensome (especially for organisations that operate with volunteers).

There was no clear difference in views between those representing different types of organisations and, within sectors, a wide range of different costs were presented by individual respondents. For out of home providers and the one manufacturer who answered this question, concerns were arguably more linked to resources required to complete recipe analyses and calculation of nutritional values of the food and drink items supplied. Among industry representative bodies and public bodies, there was a slight emphasis on staff training and education costs, as well as staff costs associated with time to calculate calories and issues around staff recruitment and retention in the industry.

Overall, however, most respondents viewed that increased costs would arise as a result from a combination of all of the above:

> "Every aspect of this policy leads to additional costs: product testing, extra staffing, labelling, maintenance, staff training, printing. This is an additional financial burden that businesses should not be expected to absorb at a time when many are still recovering from the impacts of the pandemic." [Organisation, Industry Representative Body]

More nuanced concerns included that considerable time/cost would be required to calculate calories of each menu item where ingredients needed to be changed/substituted on particular days or changes made to standard menus at short notice. The lack of flexibility in the proposal was mentioned again in this regard.

A niche concern,especially among small businesses, was also that some businesses may be forced to adjust food quality and limit food choices as a result of the change. Some currently bulk buy products to keep prices low, with bulk buy products often having higher calorie contents. If businesses felt obliged to substitute such items for lower calorie alternatives (to keep their restaurants attractive and viable in a competing market), this may increase prices of menu items and costs to customers. Conversely, others who use high quality products may substitute them for low quality lower calories items which would also have negative consumer consequences.

The policy may also deter some businesses from using locally produced or seasonal produce, as to adjust menus to accommodate changing ingredients would be too costly and time consuming.

If costs of regular monitoring and labelling were too high, some smaller business may simply also choose to limit their menus to reduce burdens which in turn would limit consumer choice.

A more generic concern was that mandatory calorie labelling may be off-putting and deter customers, which would simply reduce their 'eating out' activity as a result, and thus have a knock-on impact on business revenues/profits.

Temporary business closures (especially for small businesses) to allow them to make the various required changes would also result in lost revenue, it was stressed. Longer term, some smaller and micro businesses may find it too difficult, with permanent closure as a result:

> "This will close down many small guest houses, cafes, etc. as it will make cooking a total nightmare. The cost in additional time will be enormous. Most will just give up." [Organisation, Out of Home Provider]

Similarly issues around recruitment and retention were raised by a few, such as concerns around staff leaving the industry because they find it too challenging.

Environmental costs were also highlighted by a small minority, including environmental impacts associated with more printing, paper, internet use, electricity consumption. Similarly, if businesses stopped using local produce due to concerns around costs and time with updating menus, this may have negative impacts on the environment (in terms of produce being brought in from further afield and needing to be transported, with associated emissions). Environmental concerns were also raised in relation to food waste, i.e. food waste for those items on the menu that people are put off ordering.

Health costs, in terms of potential for increases in disordered eating and associated mental and physical health outcomes were also raised.

Similarly, moral costs associated with removing consumer choice as to whether they are/are not exposed to calorie information was raised by a few:

> "The costs of consumers deciding they do not wish for that level of control. The higher costs and restricted choices are one of the factors that drove consumers to turn their back on pubs, the same thing could happen here and change or even destroy the already beleaguered food industry for good." [Individual]

Several respondents again stressed that they felt the focus should not be on the cost to businesses but should be on the negative impacts on people (i.e. personal health costs). Offering education rather than legislation around healthy eating was again encouraged, as the costs of raising nutritional awareness in the round may represent better investment and provide better returns to society as a whole.

Other comments made by just one or two respondents each included that funding would need to be provided by the government to support businesses, that there would be increased costs to the public purse in enforcing/monitoring the policy and that costings should have already been considered before the policy was proposed and that businesses (rather than the wider public) would be more able to comment on this question and so should be separately consulted.

Only a small number of respondents who supported the policy and gave a substantive response to this question put forward any new or different views from those above. The main additional comments were that:

- the costs outlined in the consultation document appeared to be comprehensive;

- costs could be mitigated if sufficient time was afforded to businesses of different sizes/capacity to respond to the change;

- it may be prudent to 'get past' the current cost of living crisis before businesses were asked to implement any new strategy that would cost them money;

- most businesses already had digital platforms which could be easily updated and so would require little in terms of time for updating; and

- any costs would be justified if they improved public health.

8.   Timescale and Support for Implementation

Q14. Support in addition to detailed written guidance

Question 14 - What support, in addition to detailed written guidance, would businesses need to implement calorie labelling effectively?

In total, 308 individuals and 67 organisations provided a response to question 14.

Financial support

The most frequently suggested support among respondents was financial support in the form of grants, subsidies or tax breaks to help businesses with implementation and ongoing monitoring. Financial aid would be necessary to help pay for additional staff training and time, as well as materials and infrastructure, it was felt. Re-imbursement of all such costs would also ensure that nothing was passed on to the consumer.

Linked to this were suggestions that the policy would need to be supported by additional free staffing resources for such things as administration, training and ongoing support rather than costs falling on small businesses.

Similarly, it was felt that financial help to provide access to nutritionists and other professionals would be key:

> "If the legislation came into effect, businesses may need to hire professional nutritionist to [accurately] calculate how many calories are in a dish. If the legislation is mandatory, the government should be prepared to contribute the cost of this to the business." [Individual]

Training

Training also featured strongly in responses, especially among those representing larger businesses, and this included training for businesses and their staff in:

- nutrition and health and how calories interact with both;

- how to carry out nutritional analysis and/or where to go to get this done, including how to use the free online resources for calculating calories;

- understanding portion sizes; and

- explaining calorie content to customers/consumers in a reliable and accurate way, while also avoiding potentially triggering or harmful explanations.

Training such as this should be delivered in a variety of different formats, it was suggested, including in person, online, via webinars, workshops, tutorials, online videos, etc. and must be available on an ongoing basis to assist with different stages of implementation and maintenance of the policy.

Written guidance

Several respondents simply stated that they agreed that written guidance would be necessary and specified that this should:

- provide a clear step-by-step guide with FAQs sent directly to businesses and in collaboration with representative trade associations;

- include specific guidance on the application of the provisions to customised items;

- have guidance on substitution of food options when the menu ingredient is not listed in the software; and

- include a clear presentation of how the enforcement framework will work in Scotland would be welcomed so retailers and suppliers can understand how to comply with the regulations.

Other practical support

Dedicated advisers working at the national level to help businesses through the process of implementation was also suggested. This was seen as especially important for those in the food trade who have poor literacy levels, for whom proving leaflets and web links would not be robust standalone solutions.

Suggestions for other practical supports included:

- provision of calorie calculators, or similar;

- free access to specialists/nutritionists for advice, including visits from professionals to assist with implementation/help businesses understand if they are adhering to the guidelines;

- access to laboratories for testing items for calorie content/ a government sponsored laboratory where businesses or groups could have the calorie content accurately provided, free of charge and in a timely manner to minimise litigation concerns;

- administrative support;

- templates/automatic print out formats for relevant calorie information;

- promotion of/awareness raising of the free online resources for calculating calories;

- a helpline provided by Food Standards Scotland (FSS) or another body to support businesses with implementation issues and to make FSS aware of any issues; and

- ongoing support to help businesses with monitoring.

Time was also again stressed as being important in supporting the proposal, with sufficient time being given to small and micro businesses (including independent operators) in particular to help with implementation. A phasing in period was again encouraged.

Other less frequently mentioned and indirect support suggestions included:

- a consumer facing communications campaign/activity from the Scottish Government to alert consumers to the change;

- light touch approach to enforcement in the early days of any regulation coming into force, with a focus on education and how to successfully implement calorie labelling before any penalties are applied; and

- a supportive approach from local authorities in helping businesses at the local level.

Further consultation during the development of the policy and official, written implementation guidance was also encouraged. One respondent suggested that the sector might also find it useful to establish a working group or a roundtable where stakeholders can engage in ongoing and constructive dialogue with the policy makers and eventually enforcers to exchange information, share expertise, experiences and best practices.

Where people did not agree with the policy proposal, suggestions were often linked to earlier comments about public health risks and disordered eating, with ideas that support might include:

- a list of dietitians and therapists available in the area to help those with disordered eating;

- access to support and training on helping customers who are distressed of otherwise negatively impacted by the information businesses would be required to provide (including training for staff on disordered eating); and

- training for businesses to ensure they adopt a neutral stance, to ensure people still enjoy their meal, and not feeling like someone is watching/judging their meal.

This cohort again stressed that calorie labelling on its own would not suffice and would require to be accompanied with further additional nutritional information and other supportive measures.

A reasonable proportion of respondents indicated that they "did not know" or had no suggestions. Other comments again included that this question would be better addressed specifically to business owners only to help fully understand their needs. Following implementation, it was suggested that businesses would also benefit from feedback and evidence around if the policy was working and impacting as desired.

Q15. Timescale for implementation

Question 15 - From the publication of relevant guidance, what length of time would businesses need to prepare to implement calorie labelling effectively ahead of legislation coming into force?

Overview

Of all those who responded to question 15 (490 individuals and 68 organisations), 36% said that they did not know how long it would take for businesses to prepare for implementation and 22% said 'Other' (with several noting that they were not business owners and therefore felt they did not have sufficient experience to comment).

Of the organisations who responded 25% stated that they felt it would take 2 years to prepare for the legislation coming into force, 18% said 12 months and 16% said 18 months. A further 3% said 6 months while 12% said other and 26% said don't know. Across OOH providers and industry representative bodies there was a recognition that businesses would need at least 12 months to prepare and a higher number of each stating that 2 years would be more appropriate.

Individual responses were varied with more than a third (37%) who responded stating that they did not know how long businesses would need to prepare.

In total, 248 individuals and 58 organisations provided responses explaining their answer to question 15.

6 months

Very few suggested the shorter timescale of 6 months and among those who did it was because they perceived that the logistics of calculating calories and printing necessary signage/menus, etc. was relatively easy. This was considered to particularly be the case for larger chains already operating similarly in England.

Views were also put forward that a longer time period may lead to businesses simply leaving things to the last minute and that the response to the pandemic had proved that businesses could (if required) respond quickly to change.

12 Months

Those who suggested 12 months did so mainly on the basis that this was a "reasonable" timeframe that would accommodate businesses of different sizes including smaller businesses which may be seasonal and therefore closed for 6 months of the year.

A period of 12 months was seen as allowing businesses time to recover from the impacts of the pandemic before having to have the policy up and running, as well as giving them time to make the necessary adjustments (e.g. to menus) without impacting too much on existing capacity/staff responsibilities. It would also allow sufficient time for staff training.

A period of 12 months would also allow clear and frequent reminders to businesses about the legislation coming into force to allow them to prepare. A year would allow businesses to plan and budget for the next financial year, it was felt. It would also allow any outsourcing to be arranged such as if third parties are used to assist with generating calorie counts.

18 Months

Those who felt that 18 months was appropriate suggested that one year was too short and two years was too long, i.e. *"If longer businesses will put on back burner and forget about. If shorter, not enough time to digest info and make changes."* [Individual].

In addition to the points already raised above, 18 months was seen as being long enough to provide sufficient scope for 'preparation' including the purchase of necessary IT/software, recruitment and training of staff, and giving all those in the sector a chance to understand and absorb the policy and its implications.

2 Years

A reasonable proportion of respondents suggested a period of at least two years, on the basis that this would be complex for businesses to 'get right' and would require additional recruitment and infrastructure changes, as above. Supply chain issues were also mentioned, with a longer timescale perceived as necessary to help mitigate against this.

Other timescales and views

Other timeframes mentioned included 2-3 years, 3-5 years, 5 years and 'significantly longer'. It was also noted that the timescales in England[12] had not been "long enough", and that lessons should be learnt:

> "Industry would welcome as much time as possible to prepare, particularly given the multitude of issues the sector is currently facing. In England, the short timescale for implementation caused a number of problems due to the UK Government's underestimation of the complexity of the sector." [Organisation, Out of Home Provider]

Other comments and caveats included that:

- the timescales should be as long as possible to minimise burdens for businesses (and to allow for training, familiarisation, updating menus, etc.);

- timescales should be cognisant of the time that businesses need to recover from the pandemic and not compound an already difficult period of recovery;

- timescales should be long enough to allow businesses to 'use up' existing stock (e.g. labels) rather than waste what they already have;

- any timescale would only be achievable if relevant supports were put in place (and so would be dependent on how quickly necessary supports could be established);

- implementation would be easier in some settings compared to others (e.g. hospitals) and a flexible approach with different timescales for different businesses/organisations (of different sizes) may be appropriate;

- any decisions on timescales must also take into consideration other policy changes and demands being placed on the sector in the same period;

- regardless of timescales, a soft enforcement approach should be used for the initial bedding in period;

- the timescales imposed must take into account the need for local authorities (or others) to employ and train staff involved in enforcement;

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[12] The Calorie Labelling (Out of Home Sector) (England) Regulations 2021 (the Regulations) came into force from 6 April 2022. Businesses had 6 months to achieve full implementation.

- if the legislation was consistent with legislation in England it would be easier/quicker for cross-jurisdictional businesses to implement (but would take a lot longer if different rules applied in different countries); and

- timescales would necessarily be determined by the final scope of the regulations.

Among those who supported the proposal and answered this question, the main comment was that it should be implemented as soon as possible to help address the obesity crisis.

Again, several respondents suggested that business should be consulted separately/directly on this issue to get a more informed response. Many stressed that no timescale was desirable as the policy should not be implemented at all (i.e. 'never'). Comments were also made that the question was framed in a presumptive way and that this may not have been appropriate.

9. Enforcement

Section 10 of the consultation document set out that Scottish Government would work closely with businesses, regulatory bodies and local authorities (LAs) to ensure compliance with any calorie labelling requirements are monitored and enforced in a way that is fair and not overly burdensome. Enforcement approaches may include advice, guidance, inspections, monitoring and enforcement.

It also noted the importance of clarity in ensuring the effective implementation of mandatory calorie labelling. To support this, Scottish Government would plan to work with local authorities and industry in developing guidance to local authorities on matters for which they should have regard when discharging their functions.

Scottish Government would plan to work closely with the Convention of Scottish Local Authorities, Food Standards Scotland and others to assess resource implications.

Q16. Support in addition to detailed written guidance

Question 16 - Please comment on our proposals for enforcement and implementation outlined in section 10 - Please give us your views.

Overview

In total, 308 individuals and 60 organisations provided a response to question 16.

Support for enforcement and implementation proposals

Several respondents outlined broad support for the enforcement and implementation proposals set out in Section 10, with others stating that they were pleased to see proposals to act alongside businesses, regulatory bodies and local authorities:

"This is the best proposal I've seen in ages… We need change now. It will pay dividends in ten years when obesity would otherwise have swamped our NHS." [Individual]

"Given that in Scotland, local authority environmental health departments have responsibility for official controls relating to allergen rules and wider food information requirements, it is appropriate that local authorities enforce the enforcement and implementation of calorie labelling." [Organisation, Industry Representative Body]

Concerns with enforcement proposals

However, many respondents believed that local authorities were already under considerable cost and resource pressures and so the requirement to undertake additional enforcement would pose challenges for them.

Likewise, others put forward that enforcement would be costly and complicated relative to the impact of the policy.

Several respondents felt that the proposals set out in Section 10 were vague and that more information was required on how the calorie calculations themselves would be implemented (with the appropriate support), monitored and enforced.

Q17. Support in addition to detailed written guidance

Question 17 - How could any requirements be enforced in a way that is fair and not overly burdensome?

Overview

In total, 313 individuals and 56 organisations provided a response to question 17.

Many respondents expressed the sentiment that enforcement of these requirements would be costly and burdensome regardless of how they were implemented.

Views on enforcement

Several respondents highlighted a perceived need for support services to be in place to advise businesses on the implementation of proposals.

Moreover, a few respondents advised offering funding, resources and/or training to aid businesses with implementation, operating a light-touch enforcement approach during the initial implementation phase, and combining checks with existing regulatory compliance activities in OOH settings:

"Build a national database and provide up to date software to every business along with training." [Organisation, Out of home provider)]

"[It should be enforced] Similar to food safety inspections. Businesses will be told by an official what they need to change and how long they

have to make these changes. The official will then follow it up after the given time and fines will be given to those who have not made the changes in time (should they still be open and operating)." [Individual]

In terms of practical implementation *within* the sector, various respondents offered tangible examples of tools to aid implementation, including the development of nutritional templates and automatic calculators for a standardised approach to calculating calories on menus.

10. Impact Assessments

Q18. Impact of policy on protected characteristics

Q18 - What impacts, if any, do you think the proposed policy would have on people on the basis of their: age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership?

In total, 359 individuals and 54 organisations provided a response to question 18.

Age

The main view expressed in relation to age was that many young people would be vulnerable due to being perceived as highly impressionable, with views that the policy may lead to a rise in extreme calorie counting behaviours linked to disordered eating among young people (especially women) in particular. Other age related concerns included that:

- the number of calories individuals need varies by age and the policy may encourage people of different ages to eat too few (especially children for whom failure to consume enough food can impact on the developing body) or too many (which may lead to inappropriate weight at different life stages); and

- children in particular may be likely to misinterpret calorie information as providing a full picture of nutritional content.

Sex

The main theme in relation to sex was that the policy may disproportionately negatively impact on women, who were considered to be more likely to experience body shame and disordered eating behaviours. That being said, others perceived that mandatory calorie labelling would be bad for both men and women equally, as both can suffer from eating disorders.

The other main themes related to sex included that:

- females (especially younger females) may be more likely to feel social pressure to eat the least calorific items on menus (due to social pressures to be 'slim' to be attractive);

- men and women having different requirements depending on size, metabolism and activity levels can mean that people using the '2000 calorie' reference statement (alongside mandatory calorie labelling) may consume inappropriate numbers of calories;

- inappropriate calorie consumption possibly affecting menstrual cycles of females, with altered eating as a result of the policy potentially making this more prevalent; and

- middle aged and menopausal women who have a lack of oestrogen, menstruation and overall 'body balance' could be negatively impacted. Negative impacts included anxiety, body dysmorphia, and fad dieting.

Race

There were fewer comments overall in relation to race (compared to age and sex), the main comments being that:

- historically, calorie recommendations/BMI calculators have catered to white adults and may be inappropriate for people from other racial backgrounds to use as a guide;

- Black, Caribbean and African people, especially women, may experience weight stigma in higher proportions and may be disproportionately affected by the policy;

- some ethnic dishes may have higher calorie content and become stigmatized as a result of the policy (affecting businesses that sell an ethnic groups' cuisine); and

- additional information on menus may be confusing to people who do not speak English as their first language or who already struggle to read and understand information available in the OOH sector.

Religion

Again, there were relatively few comments made specifically in relation to religion, the main comments being that:

- some religions already have dietary restrictions and associated labelling which may be made more complex by the addition of further information; and

- while it is important to know what is in food to respect dietary and religious sensibilities, calorific value does not feature in this.

Sexual orientation

A common theme to emerge across responses was that there may be a predisposition to eating disorders among the LGBT+ community and that this would need to be considered if the policy was taken forward. One respondent suggested that the policy may affect gay men disproportionately, noting that they have higher percentages of eating disorders and disordered eating behaviours (although no link to specific evidence to support this claim was provided).

Pregnancy and maternity

There were few comments made in relation to pregnancy and maternity, the main concerns being that:

- Mandatory calorie labelling may inadvertently lead some pregnant and nursing women to eat less which may be harmful to the developing baby;

- the policy may exacerbate existing negative social judgements about what women should/should not consume during pregnancy, to their detriment; and

- post-partum mothers may potentially make poorer food choices based on calorie information alone (without wider nutritional data), due to wanting to lose weight/regain their pre-pregnancy shape/weight.

Disability

The main views in relation to disability were that the policy had the potential to be particularly negatively impactful on those with mental ill health, especially those with eating disorders (which many described as a disability in its own right). Other disability specific concerns included that:

- access to information for visually impaired/those with numeracy and literacy issues may be problematic and would need separate consideration during any implementation phase;

- people with disabilities tend to experience lower incomes and poorer health and so the policy may have more negative impacts on this group;

- individuals with specific learning difficulties are more likely to find the information confusing;

- obsessive calorie counting can particularly affect people on the autistic spectrum;

- many disabled people are already heavier compared to non-disabled and may be stigmatised or made to feel responsible for their disabilities alongside their weight;

- some people living with disabilities require additional calories to healthy adults and this policy may deter some from consuming enough; and

- eating disorders have a lifelong impact both mentally and physically, causing individuals to be disabled in either or both areas (and if the number of eating disorders increases, more individuals would be classed as disabled under the 2010 Equality Act).

Gender reassignment

The main concern raised in relation to gender reassignment was that transgender individuals may be more susceptible to eating disorders and therefore be more likely to be affected by mandatory calorie labelling.

Marriage/civil partnership

There were few comments made in relation to marriage and civil partnership, the main comments being that:

- eating disorders can put stress on intimate relationships and the policy may worsen this and cause more separations/relationship distress; and

- those in controlling marriages/partnerships may be scared to order certain food items for fear of being reprimanded.

Others who may be impacted by the policy

Others who it was may be more negatively affected by the policy included:

- people who are larger in size/already overweight and who may experience additional discrimination if the policy perpetuates social stigmas linked to body size; and

- those on low/no incomes and those experiencing poverty

The following quote provides an example of these views:

"Many people in the above categories are forced to live in less well off areas due to poverty/ discrimination. In these areas, there is often much less access to healthy alternatives and so putting calorie counts on meals would only serve as a reminder that they live in places where there only options are to eat unhealthy food, further reminded them of their social exclusion." [Individual]

Several respondents who did not agree with mandatory calorie labelling overall again commented that the policy would impact negatively on 'all' people.

A small number commented that an impact assessment of this kind did not seem appropriate (i.e. was an artificially 'woke' or 'politically correct' question) and/or felt

that the consultation should have given more attention to specific sub-groups throughout.

Positive comments

Very few respondents indicated that they did not anticipate any issues with the policy on an equalities basis. Similarly, very few gave views that the policy may impact positively on any group with protected characteristics, the exceptions being that:

- Mandatory calorie labelling could help those with certain disabilities or other medical issues with controlled diets to better monitor their calorie consumption. Specifically, the policy could positively impact people with diabetes to support them with information to maintain their weight and calorie intake and the policy could help older people and people at risk of developing dementia who are in need of increasing their calories intake when recommended by a healthcare professional;

- Mandatory calorie labelling may positively affect younger people as they will grow up with more knowledge of what they are eating; and

- Mandatory calorie labelling could help women in managing weight before pregnancy to aid fertility and healthy pregnancies and information on calories could help pregnant women raise calorie intakes in their last trimester when recommended to do so by a healthcare professional.

A small number of respondents again perceived that mandatory calorie labelling would not influence people's food choices (which would remain personal), and so felt that there would be no negative consequences for any group directly:

> "I only see positive impacts. People who want the information will have it, people who do not want it will simply ignore it. I see no negative impacts on people." [Individual]

Q19. Impact on people living with socio-economic disadvantage

Question 19 - What impacts, if any, do you think the proposed policy would have on people living with socio-economic disadvantage? Please consider both potentially positive and negative impacts and provide evidence where available

In total, 336 individuals and 54 organisations provided a response to question 19.

Among those who cited a positive impact for those living with socio-economic disadvantage the most common emerging theme was that the policy would allow people to make healthier and more informed choices about diet. While choices are more limited for those living with socio-economic disadvantage, it was suggested, giving calorie information would allow access to information to make healthier choices.

Others noted that any positive impacts were likely to be mitigated by the fact that people living with socio-economic disadvantage are often more constrained in their choices overall.

Again, some raised that those on low/no incomes and those experiencing poverty may feel guilt as a result of feeling that they have to shop in cheaper, lower nutrition supermarkets or live in areas where there is less access to healthy alternatives. This was raised as potentially serving as a reminder of their social exclusion.

Q20. Impact of policy on other communities or populations

Question 20 - Please use this space to identify other communities or population groups who you consider may be differentially impacted by this policy proposal. Please consider both potentially positive and negative impacts and provide evidence where available

In total, 268 individuals and 44 organisations provided a response to question 20.

Only two groups were identified by respondents as potentially benefiting from the policy: calorie counters and those who were not aware of the calories in their food.

Beyond the equality characteristics identified in questions 18 and 19, a myriad of other groups that would be negatively affected by the policy were identified.

By far, the greatest concern was for sufferers of eating disorders and their families and other mental illnesses. For example:

> "People with existing mental health conditions such as anxiety, bipolar disorder, depression and of course those who already suffer with eating disorders will be immensely affected by this. The Scottish government cannot claim to take mental health seriously and also enact this policy, one which would excessively harm those suffering with an eating disorder, which is statistically the most deadly form of mental health condition." [Individual]

There was also concern for those providing food, such as businesses and community groups, for example:

> "Small business - I am just about ready to give up with all the regulation, costs, stress, anxiety. Many more are already insolvent." [Organisation, Out of Home Food Provider]

> "Community groups or organisation proving catering or meals may struggle to find the resources to meet mandatory requirements. This means that those people who rely on these groups for food, socialisation would be disadvantaged." [Individual]

Counter to the goals of the policy to reduce obesity, overweight people were argued to be losers in this policy by many as it was believed it would increase stigmatization of larger bodies. For example:

> "Those with a high Body Mass Index (BMI) - calorie labelling reinforce sizes stigma and is therefore likely to have a negative impact. Making choices based on calories content may support self efficacy when they do this, but undermine it when they don't." [Organisation, Public Sector]

Additionally, those with other dietary requirements were perceived to be negatively affected if restaurants cannot alter orders on request as it would change the calorie content.

Finally, those who are visually impaired, faced literacy barriers, or were non-English speakers were again identified as groups that could struggle with the policy.

It should be noted that several respondents were dissatisfied with this question in the consultation as they argued that not giving people the choice on whether or not they would like to see calorie labelling would have a (negative) effect on everyone by design and felt the questionnaire asking them to pick out groups was designed to imply that the policy would be positive for the majority.

Q21. Potential unintended consequences to businesses, consumers and others

Question 21 - Please tell us about any other potential unintended consequences (positive or negative) to businesses, consumers or others you consider may arise from the proposals set out in this consultation, where available

In total, 263 individuals and 48 organisations provided a response to question 21.

Many of the responses to this question covered territory that was explored in previous questions such as negative impacts on those with disordered eating, additional costs to businesses and opinions given on whether the policy would be effective in meeting its aims.

Some themes that were identified as positives were that the policy could drive an increase in people approaching their GPs for more information on weight loss and drive the introduction of smaller portion sizes in OOH settings.

11. Additional Comments (Q22)

Question 22 - Please outline any other comments you wish to make on this consultation.

In total, 261 individuals and 52 organisations provided a response to question 22.

The responses to this question were largely negative with key themes related to eating disorders, business costs, mental health, perceived performative nature of

the policy, etc. being reiterated. Many personal eating disorder stories were shared, with explicit begging by sufferers and their families that this policy not go ahead.

Many respondents suggested other ways to deal with obesity. These were wide ranging, but suggestions consistently raised included education on nutrition from a young age, policies targeting poverty and inequality as the root causes of obesity and efforts to make healthy food cheaper rather than unhealthy food more expensive. As in questions above, various respondents also argued that other nutritional information that could be more beneficial for consumers, such as protein and salt labelling, or for the presentation of nutritional information in more nuanced ways.

Businesses and industry representative bodies also set out their concerns in more detail in this part of the consultation. The majority of these concerns repeated themes outlined in prior sections of this consultation, such as emphasising the difficulties faced by out of home food providers as a result of the cost of living crisis and the pandemic and sentiments that this policy would only add more challenges.

A minority of organisations discussed specific implementation details if the policy is put in place. For instance a manufacturer and an industry representative body suggested that if this policy is implemented, the same 20% tolerance on calorie analysis used in England is applied in Scotland. Additionally, a third sector organisation opposed to MCL put forward that in the event the policy is implemented the impact of MCL on those with eating disorders, their families, and the development of new eating disorders should be monitored and evaluated.

A minority stated that they hoped the policy went ahead and expressed hopes that the government would not be bullied by the food industry into allowing obesity to continue.

Finally, many respondents expressed distrust with the consultation process due to the design of the consultation questions. Paragraph 4.27 discusses technical issues with question 4 which may have contributed to this. Additionally, comments on the consultation overall argued that it was excessively long and detailed making it, in the view of these respondents, deliberately inaccessible. Finally there were criticisms of the phrasing of some questions as assuming calorie labelling will go ahead.

Annex 1: Consultation questions and response to individual questions

Question		Number of responses	% of total responses (base=660)
1	Should mandatory calorie labelling at point of choice, for example, menus, menu boards or digital ordering apps in the Out of Home sector (as listed in paragraph 1.2) in Scotland be implemented?	660	100%
	Please explain your answer	603	91%
2	Should any of the sectors listed in paragraph 1.2 be exempt from mandatory calorie labelling? If yes, please explain why	637	97%
	Please explain your answer	517	78%
3	To which size of business in scope of the policy, should mandatory calorie labelling apply	647	98%
	Please explain your answer	398	60%
4	We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy?	637	97%
	Please explain your answer	483	73%
5	The intention is that pre packed for direct sale (PPDS) foods would fall within the scope of the policy. Do you agree with that proposal?	638	97%
	Please explain your answer	356	54%

Question		Number of responses	% of total responses (base=660)
6	Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above)	637	97%
	Please explain your answer	378	57%
7	Should menus marketed specifically at children be exempt from calorie labelling?	645	98%
	Please explain your answer	465	70%
8	Should businesses be required to provide calorie information about options on children's menus to parents and carers on request?	642	97%
	Please explain your answer	375	57%
9a	What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be provided at all points of choice	573	87%
9b	What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be displayed in the same font and size as the price	548	83%
9c	What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should be provided in calorie only and not also kilojoule	525	80%
9d	What are your views on the proposed requirements shown below for the display of calorie information? - Calorie information should include the reference statement of "adults need around 2,000 calories a day"	560	85%
10	Should businesses be required or provide the option to have menus without calorie information available on request of the consumer?	602	91%
	Please explain your answer	448	68%

Question		Number of responses	% of total responses (base=660)
11	If businesses are required to also have menus without calorie information available on request of the consumer, what practical implications would this have for businesses?	473	72%
12	What other mitigated measures could be adopted for consumers who may find calorie information upsetting?	495	75%
13	Please list any costs to businesses in addition to those listed that you think need to be considered in our economic evaluation	347	53%
14	What support, in addition to detailed written guidance, would businesses need to implement calorie labelling effectively?	375	57%
15	From the publication of relevant guidance, what length of time would businesses need to prepare to implement calorie labelling effectively ahead of legislation coming into force?	558	85%
	Please explain your answer	306	46%
16	Please comment on our proposals for enforcement and implementation outlined in section 10. - Please give us your views	368	56%
17	How could any requirements be enforced, in a way that is fair and not overly burdensome? - Please give us your views	369	56%
18	What impacts, if any, do you think the proposed policy would have on people on the basis of their: age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment and marriage/civil partnership?	413	63%
19	What impacts, if any, do you think the proposed policy would have on people living with socio-economic disadvantage? Please consider both potentially positive and negative impacts and provide evidence where available	390	59%

Question		Number of responses	% of total responses (base=660)
20	Please use this space to identify other communities or population groups who you consider may be differentially impacted by this policy proposal. Please consider both potentially positive and negative impacts and provide evidence where available. - Please give us your views	312	47%
21	Please tell us about any other potential unintended consequences (positive or negative) to businesses, consumers or others you consider may arise from the proposals set out in this consultation. - Please give us your views	311	47%
22	Please outline any other comments you wish to make on this consultation. - Please give us your views	313	47%

Annex 2: Frequency analysis of closed questions

Question 1

Table A2.1- Should mandatory calorie labelling at point of choice, for example, menus, menu boards or digital ordering apps in the Out of Home sector (as listed in paragraph 1.2) in Scotland be implemented?

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Individuals	88	15%	477	83%	9	2%	574	100%
Organisations	34	40%	43	50%	9	10%	86	100%
Total	**122**	**18%**	**520**	**79%**	**18**	**3%**	**660**	**100%**

Table A2.1.1- Should mandatory calorie labelling at point of choice, for example, menus, menu boards or digital ordering apps in the Out of Home sector (as listed in paragraph 1.2) in Scotland be implemented?

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	3	17%	15	83%	0	0%	18	100%
Manufacturer	2	67%	1	33%	0	0%	3	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	6	46%	6	46%	1	8%	13	100%
Third Sector	5	50%	4	40%	1	10%	10	100%
Public sector	10	40%	13	52%	2	8%	25	100%
Other	6	43%	3	21%	5	36%	14	100%
Total	**34**	**40%**	**43**	**50%**	**9**	**10%**	**86**	**100%**

Question 2

Table A2.2- Should any of the sectors listed in paragraph 1.2 be exempt from mandatory calorie labelling? If yes, please explain why

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Individuals	403	72%	121	22%	37	7%	561	100%
Organisations	45	59%	25	33%	6	8%	76	100%
Total	**448**	**70%**	**146**	**23%**	**43**	**7%**	**637**	**100%**

Table A2.2.1- Should any of the sectors listed in paragraph 1.2 be exempt from mandatory calorie labelling? If yes, please explain why

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	14	78%	4	22%	0	0%	*18*	100%
Manufacturer	2	100%	0	0%	0	0%	*2*	100%
Retailer	2	67%	1	33%	0	0%	*3*	100%
Industry representative body	6	60%	3	30%	1	10%	*10*	100%
Third Sector	5	63%	3	38%	0	0%	*8*	100%
Public sector	10	45%	10	45%	2	9%	*22*	100%
Other	6	46%	4	31%	3	23%	*13*	100%
Total	45	**59%**	25	**33%**	6	**8%**	76	**100%**

Question 3

Table A2.3- To which size of business in scope of the policy, should mandatory calorie labelling apply

Respondent Type	All businesses		All except businesses with fewer than 10 employees (micro)		All except businesses with fewer than 50 employees (small and micro)		All except businesses with fewer than 250 employees (medium, small and micro)		None		Other		Don't know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Individuals	71	12%	24	4%	32	6%	19	3%	407	71%	16	3%	5	1%	573	100%
Organisations	16	22%	9	12%	5	7%	23	31%	15	20%	3	4%	3	4%	74	100%
Total	87	**13%**	33	**5%**	37	**6%**	42	**6%**	422	**65%**	19	**3%**	8	**1%**	647	**100%**

Table A2.3.1- To which size of business in scope of the policy, should mandatory calorie labelling apply

Respondent Type	All businesses		All except businesses with fewer than 10 employees (micro)		All except businesses with fewer than 50 employees (small and micro)		All except businesses with fewer than 250 employees (medium, small and micro)		None		Other		Don't know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	2	11%	4	21%	1	5%	5	26%	5	26%	2	11%	0	0%	19	100%
Manufacturer	0	0%	0	0%	0	0%	1	50%	1	50%	0	0%	0	0%	2	100%
Retailer	1	33%	0	0%	1	33%	0	0%	1	33%	0	0%	0	0%	3	100%
Industry representative body	1	9%	1	9%	0	0%	8	73%	1	9%	0	0%	0	0%	11	100%
Third Sector	3	43%	0	0%	0	0%	2	29%	1	14%	0	0%	1	14%	7	100%
Public sector	7	37%	3	16%	1	5%	3	16%	3	16%	1	5%	1	5%	19	100%
Other	2	15%	1	8%	2	15%	4	31%	3	23%	0	0%	1	8%	13	100%
Total	**16**	**33%**	**9**	**12%**	**5**	**7%**	**23**	**31%**	**15**	**20%**	**3**	**4%**	**3**	**4%**	**74**	**100%**

Question 4

Table A2.4- We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy?

Public Sector Institutions	Answer	Organisations		Individuals		Total	
		n	%	n	%	n	%
Hospitals	Yes	17	26%	117	20%	134	21%
	No	39	59%	432	76%	471	74%
	Don't Know	10	15%	22	4%	32	5%
	Total	**66**	**100%**	**571**	**100%**	**637**	**100%**
Prisons	Yes	21	33%	103	19%	124	21%
	No	20	32%	390	73%	410	69%
	Don't Know	22	35%	42	8%	64	11%
	Total	**63**	**100%**	**535**	**100%**	**598**	**100%**
Adult Care Settings	Yes	16	25%	106	20%	122	21%
	No	36	56%	393	75%	429	73%
	Don't Know	12	19%	22	4%	34	6%
	Total	**64**	**100%**	**521**	**100%**	**585**	**100%**
Military Settings	Yes	20	32%	104	20%	124	21%
	No	20	32%	385	74%	405	69%
	Don't Know	22	35%	33	6%	55	9%
	Total	**62**	**100%**	**522**	**100%**	**584**	**100%**

Table A2.4.1- We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy.   Should food in these settings be included within the scope of the policy? – Hospitals

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	6	40%	8	53%	1	7%	15	100%
Manufacturer	0	0%	1	50%	1	50%	2	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	2	33%	3	50%	1	17%	6	100%
Third Sector	2	29%	3	43%	2	29%	7	100%
Public sector	4	18%	16	73%	2	9%	22	100%
Other	1	9%	7	64%	3	27%	11	100%
Total	17	26%	39	59%	10	15%	66	100%

Table A2.4.2- We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy? – Prisons

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	4	27%	8	53%	3	20%	15	100%
Manufacturer	0	0%	1	50%	1	50%	2	100%
Retailer	1	33%	1	33%	1	33%	3	100%
Industry representative body	4	67%	0	0%	2	33%	6	100%
Third Sector	2	29%	2	29%	3	43%	7	100%
Public sector	8	42%	5	26%	6	32%	19	100%
Other	2	18%	3	27%	6	55%	11	100%
Total	**21**	**33%**	**20**	**32%**	**22**	**35%**	**63**	**100%**

Table A2.4.3- We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy? – Adult Care Settings

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	5	33%	9	60%	1	7%	15	100%
Manufacturer	0	0%	1	50%	1	50%	2	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	2	40%	2	40%	1	20%	5	100%
Third Sector	2	29%	3	43%	2	29%	7	100%
Public sector	4	19%	12	57%	5	24%	21	100%
Other	1	9%	8	73%	2	18%	11	100%
Total	16	**25%**	36	**56%**	12	**19%**	64	**100%**

Table A2.4.4- We are considering including food provided for residents and/or patients within the following public sector institutions within the scope of the policy. Should food in these settings be included within the scope of the policy? – Military Settings

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	4	27%	9	60%	2	13%	15	100%
Manufacturer	0	0%	1	50%	1	50%	2	100%
Retailer	1	33%	1	33%	1	33%	3	100%
Industry representative body	4	80%	0	0%	1	20%	5	100%
Third Sector	2	29%	1	14%	4	57%	7	100%
Public sector	8	42%	5	26%	6	32%	19	100%
Other	1	9%	3	27%	7	64%	11	100%
Total	20	**32%**	20	**32%**	22	**35%**	62	**100%**

Question 5

Table A2.5- The intention is that pre packed for direct sale (PPDS) foods would fall within the scope of the policy. Do you agree with that proposal? - Please explain your answer

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Individuals	168	30%	324	57%	75	13%	567	100%
Organisations	43	61%	21	30%	7	10%	71	100%
Total	**211**	**33%**	**345**	**54%**	**82**	**13%**	**638**	**100%**

Table A2.5.1- The intention is that pre packed for direct sale (PPDS) foods would fall within the scope of the policy. Do you agree with that proposal? - Please explain your answer

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	7	39%	10	56%	1	6%	18	100%
Manufacturer	1	50%	1	50%	0	0%	2	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	8	80%	2	20%	0	0%	10	100%
Third Sector	5	63%	2	25%	1	13%	8	100%
Public sector	13	68%	2	11%	4	21%	19	100%
Other	7	64%	3	27%	1	9%	11	100%
Total	**43**	**61%**	**21**	**30%**	**7**	**10%**	**71**	**100%**

Question 6

Table A2.6- Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above)

Food and Drink Item	Answer	Organisations		Individuals		Total	
		n	%	n	%	n	%
Non-Standard menu items prepared on request	Yes	58	83%	449	79%	507	80%
	No	8	11%	104	18%	112	18%
	Don't Know	4	6%	14	2%	18	3%
	Total	**70**	**100%**	**567**	**100%**	**637**	**100%**
Alcoholic drinks	Yes	38	55%	337	60%	375	59%
	No	25	36%	197	35%	222	35%
	Don't Know	6	9%	30	5%	36	6%
	Total	**69**	**100%**	**564**	**100%**	**633**	**100%**
Menu items for sale 30 days or less	Yes	48	69%	406	72%	454	72%
	No	18	26%	134	24%	152	24%
	Don't Know	4	6%	24	4%	28	4%
	Total	**70**	**100%**	**564**	**100%**	**634**	**100%**
Condiments added by consumer	Yes	50	69%	426	75%	476	75%
	No	18	25%	130	23%	148	23%
	Don't Know	4	6%	10	2%	14	2%
	Total	**72**	**100%**	**566**	**100%**	**638**	**100%**

Table A2.6.1- Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above) – Non-Standard menu items prepared on request

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	17	94%	1	6%	0	0%	18	100%
Manufacturer	1	100%	0	0%	0	0%	1	100%
Retailer	3	100%	0	0%	0	0%	3	100%
Industry representative body	8	100%	0	0%	0	0%	8	100%
Third Sector	4	50%	2	25%	2	25%	8	100%
Public sector	17	89%	1	5%	1	5%	19	100%
Other	8	62%	4	31%	1	8%	13	100%
Total	58	**83%**	8	**11%**	4	**6%**	70	**100%**

Table A2.6.2- Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above) – Alcoholic drinks

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	11	65%	5	29%	1	6%	17	100%
Manufacturer	1	50%	0	0%	1	50%	2	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	5	71%	1	14%	1	14%	7	100%
Third Sector	4	50%	3	38%	1	13%	8	100%
Public sector	7	37%	11	58%	1	5%	19	100%
Other	8	62%	4	31%	1	8%	13	100%
Total	38	**55%**	25	**36%**	6	**9%**	69	**100%**

Table A2.6.3- Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above) – Menu items for sale 30 days or less

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	15	83%	3	17%	0	0%	18	100%
Manufacturer	2	100%	0	0%	0	0%	2	100%
Retailer	3	100%	0	0%	0	0%	3	100%
Industry representative body	7	100%	0	0%	0	0%	7	100%
Third Sector	4	50%	3	38%	1	13%	8	100%
Public sector	9	47%	7	37%	3	16%	19	100%
Other	8	62%	5	38%	0	0%	13	100%
Total	48	**69%**	18	**26%**	4	**6%**	70	**100%**

Table A2.6.4- Should the foods and drinks listed below be exempt from calorie labelling? (please state your view for each of the above) – Condiments added by consumer

Organisation Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	16	89%	2	11%	0	0%	18	100%
Manufacturer	2	100%	0	0%	0	0%	2	100%
Retailer	2	67%	1	33%	0	0%	3	100%
Industry representative body	7	88%	1	13%	0	0%	8	100%
Third Sector	4	50%	3	38%	1	13%	8	100%
Public sector	13	65%	5	25%	2	10%	20	100%
Other	6	46%	6	46%	1	8%	13	100%
Total	50	**69%**	18	**25%**	4	**6%**	72	**100%**

Question 7

Table A2.7- Should menus marketed specifically at children be exempt from calorie labelling?

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Individuals	448	78%	107	19%	17	3%	572	100%
Organisations	39	53%	18	25%	16	22%	73	100%
Total	**487**	**76%**	**125**	**19%**	**33**	**5%**	**645**	**100%**

Table A2.7.1- Should menus marketed specifically at children be exempt from calorie labelling?

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	10	56%	4	22%	4	22%	*18*	100%
Manufacturer	1	50%	1	50%	0	0%	*2*	100%
Retailer	1	33%	2	67%	0	0%	*3*	100%
Industry representative body	6	86%	1	14%	0	0%	*7*	100%
Third Sector	3	33%	3	33%	3	33%	*9*	100%
Public sector	12	55%	4	18%	6	27%	*22*	100%
Other	6	50%	3	25%	3	25%	*12*	100%
Total	**39**	**53%**	**18**	**25%**	**16**	**22%**	**73**	**100%**

Question 8

Table A2.8- Should businesses be required to provide calorie information about options on children's menus to parents and carers on request?

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Individuals	213	37%	306	54%	51	9%	570	100%
Organisations	27	38%	35	49%	10	14%	72	100%
Total	**240**	**37%**	**341**	**53%**	**61**	**10%**	**642**	**100%**

Table A2.8.1- Should businesses be required to provide calorie information about options on children's menus to parents and carers on request?

Respondent Type	Yes		No		Don't Know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	4	22%	13	72%	1	6%	*18*	100%
Manufacturer	0	0%	2	100%	0	0%	*2*	100%
Retailer	2	67%	1	33%	0	0%	*3*	100%
Industry representative body	1	14%	5	71%	1	14%	*7*	100%
Third Sector	5	63%	3	38%	0	0%	*8*	100%
Public sector	11	52%	7	33%	3	14%	*21*	100%
Other	4	31%	4	31%	5	38%	*13*	100%
Total	**27**	**38%**	**35**	**49%**	**10**	**14%**	**72**	**100%**

Question 10

Table A2.9- Should businesses be required or provide the option to have menus without calorie information available on request of the consumer?

Respondent Type	It should be a requirement for businesses		It should be an option for businesses		Don't know		Total	
	n	%	n	%	n	%	n	%
Individuals	291	55%	173	33%	67	13%	531	100%
Organisations	25	35%	35	49%	11	15%	71	100%
Total	**316**	**52%**	**208**	**35%**	**78**	**13%**	**602**	**100%**

Table A2.9.1- Should businesses be required or provide the option to have menus without calorie information available on request of the consumer?

Respondent Type	It should be a requirement for businesses		It should be an option for businesses		Don't know		Total	
	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	2	11%	12	67%	4	22%	18	100%
Manufacturer	0	0%	1	50%	1	50%	2	100%
Retailer	1	33%	2	67%	0	0%	3	100%
Industry representative body	0	0%	9	100%	0	0%	9	100%
Third Sector	5	63%	3	38%	0	0%	8	100%
Public sector	10	56%	7	39%	1	6%	18	100%
Other	7	54%	1	8%	5	38%	13	100%
Total	**25**	**35%**	**35**	**49%**	**11**	**15%**	**71**	**100%**

Question 15

Table A2.10- From the publication of relevant guidance, what length of time would businesses need to prepare to implement calorie labelling effectively ahead of legislation coming into force? - Please explain your answer

Respondent Type	6 months		12 months		18 months		2 years		Other		Don't know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Individuals	33	7%	64	13%	26	5%	69	14%	116	24%	182	37%	490	100%
Organisations	2	3%	12	18%	11	16%	17	25%	8	12%	18	26%	68	100%
Total	**35**	**6%**	**76**	**14%**	**37**	**7%**	**86**	**15%**	**124**	**22%**	**200**	**36%**	**558**	**100%**

Table A2.10.1- From the publication of relevant guidance, what length of time would businesses need to prepare to implement calorie labelling effectively ahead of legislation coming into force? - Please explain your answer

Respondent Type	6 months		12 months		18 months		2 years		Other		Don't know		Total	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%
Out of home provider (e.g. fast food outlet, coffee shop, restaurant)	0	0%	5	28%	1	6%	6	33%	5	28%	1	6%	18	100%
Manufacturer	0	0%	1	50%	0	0%	0	0%	0	0%	1	50%	2	100%
Retailer	1	50%	0	0%	0	0%	1	50%	0	0%	0	0%	2	100%
Industry representative body	0	0%	1	10%	3	30%	5	50%	1	10%	0	0%	10	100%
Third Sector	0	0%	1	17%	1	17%	0	0%	1	17%	3	50%	6	100%
Public sector	1	5%	2	11%	4	21%	3	16%	1	5%	8	42%	19	100%
Other	0	0%	2	18%	2	18%	2	18%	0	0%	5	45%	11	100%
Total	**2**	**3%**	**12**	**18%**	**11**	**16%**	**17**	**25%**	**8**	**12%**	**18**	**26%**	**68**	**100%**

Annex 3: List of organisational respondents

Industry Representative Bodies (13)

Argyll Food Producers
Association of Convenience Stores
AVA: The Vending & Automated Retail Association
Federation of Small Businesses
Scottish Bakers
Scottish Beer and Pub Association
Scottish Grocers' Federation
SCOTTISH LICENSED TRADE ASSOCIATION
Scottish Retail Consortium
Scottish Wholesale Association
The British Takeaway Campaign
The Pizza Pasta & Italian Food Association
UK Hospitality Scotland

Manufacturers (3)

Nestlé UK & Ireland
Suntory Beverage and Food GB & I
Uradale farm

Out of Home Provider (18)

10 Dollar Shake Ltd.
Corner Cafe
Costa Limited
DRG Di Maggio's Restaurant Group
Forse of Nature
Gord Guest House, Shop and Cafe, Fetlar
Marston's Pubs
Maryfield House Hotel
Orkney Island Hotels Ltd
T A Francis & Son Bakers
The Cove
The Kandy Bar
Zest (St Andrews) Ltd
Note: A further five responses defined themselves as out of home providers without giving names

Public Sector (25)

Convention of Scottish Local Authorities
Dumfries and Galloway council
Forth valley eating disorders

Glasgow Health and Social Care Partnership
Health Improvement Team - NHS Shetland
Highland Eating Disorders Service
Hospital Caterers Association
National Health Service Scotland (NHSS)
NHS Ayrshire & Arran's Dietetic Health Promotion and Public Health Departments
NHS Dumfries & Galloway
NHS Fife
NHS Greater Glasgow & Clyde
NHS Highland, Community Nutrition and Dietetic Dept, RNI, Ness Walk, Inverness
NHS Lanarkshire
NHS Orkney Public Health Department
NHS Scotland National Hospitals Food Provisions Group (NHFPG)
NHS Tayside
Perth and Kinross Council
Queen Margaret University Students' Union
Scottish Eating Disorders Dietitians Clinical Forum
Scottish Food Enforcement Liaison Committee (SFELC) Executive
South Lanarkshire Council
Stirling Council
VisitScotland

Retailer (3)

Creetown stores
D M Stewart Ltd
Marks & Spencer plc

Third Sector (10)

Beat
Brain Health Scotland / Alzheimer Scotland
Bressay Development Ltd
Cancer Research UK
Diabetes Scotland
Nourish Scotland
Obesity Action Scotland
Scottish Youth Parliament
The State Hospital Board for Scotland
Voices of Experience (VOX) Scotland

Other (14)

East Neuk Cooks
Glasgow Centre for Population Health
Glasgow Food Policy Partnership (GFPP)
Just Eat

Public Health Special Interest Group, on behalf of the Scottish Directors of Public Health
Royal College of Paediatrics and Child Health
Royal College of Psychiatrists
Royal Environmental Health Institute of Scotland
The Body Joy Academy
The British Dietetic Association Scotland Board
The Royal College of Physicians of Edinburgh.
The Scottish Dietetic Leadership Network
Uber
University of Edinburgh Amnesty International Society