

Ending the sale of energy drinks to children and young people

Consultation Analysis

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Report by Craigforth HCAS Ltd

Contents

Executive summary	i
1. Introduction	1
Background.....	1
Profile of respondents	1
Analysis and reporting	2
2. Mandatory measures	3
3. Proposals for implementation, enforcement and evaluation	14
Exemptions to the policy.....	14
Enforcement of the policy	17
Evaluating the policy.....	23
4. Impact assessments	27
Business and Regulatory Impact Assessment	27
Health Inequalities Impact Assessment.....	32
5. Any other comments	35
Annex 1 - Organisations responding to the consultation	38
Annex 2 - Number of respondents answering each question.....	40

Executive summary

Introduction

1. From 29 October 2019 to 4 February 2020, the Scottish Government undertook a public consultation on [Ending the sale of energy drinks to children and young people](#).
2. The aim of the consultation was to inform consideration of whether there is sufficient cause and evidence to support mandatory measures to end the sale of energy drinks to young people and, if so, what those measures should be. It should be noted that, as with all consultation exercises, respondents tend to have a particular interest in the subject area and that consultation responses are not representative of the views of the population as a whole.

The respondents

3. In total, 119 responses were submitted, of which 81 were from individual members of the public and 38 were from groups or organisations. A breakdown of the number of responses received by respondent type is set out in the table below.

Respondents by type

	Total
Education or young people focused organisation	4
Health focused charity or campaign organisation	5
Health professional union or royal college	4
NHS, Health and Social Care Partnership (HSCP) or local authority	7
Manufacturer or manufacturer representative body	6
Retailer or retailer representative body	8
Other	4
Total organisations	38
Individuals	81
All respondents	119

Overview of findings

Question 1: Should sales of energy drinks to young people under the age of 16 be banned?

4. Just over half (53%) of respondents who answered the question agreed that the sales of energy drinks to young people under the age of 16 should be banned, while 32% thought the mandatory age limit should be 18 and 8% thought that there should be no age restriction. Overall, therefore, a substantial majority (85%) thought there should be a ban on sales to young people and 8% thought that there should not. Of the remaining 7%, 1% were unsure and 6% selected “other”.
5. Among individual respondents there was a marked preference for a ban on sales under the age of 16 (60%), rather than 18 (31%), with 6% opposing a mandatory ban and 3% selecting “other”. Among organisations, opinion was more evenly divided with 35% favouring a ban under the age of 16, 32% under 18, and 13% opposing a ban based on age. A further 3% of organisational respondents said they were unsure and 16% chose “other”¹.
6. While a majority of NHS, HSCP or local authority respondents were in favour of a ban on the sales of energy drinks to under 16s, education or young people focused organisation respondents, health focused charity or campaign organisation respondents and health professional union or royal college respondents were more likely to support the age limit being set at 18.
7. Manufacturer or manufacturer representative body respondents were most likely to think that there should be no mandatory age restriction on the sales of energy drinks. While a small number of retailer or retailer representative body respondents indicated a preference for a ban on sales to under 16s, the majority either selected “other” or did not answer the closed question.
8. Around three quarters of respondents (72%) provided an additional comment at Question 1, including 97% of organisations.

Reasons for a mandatory ban on the sales of energy drinks to children and young people

9. Individuals and respondents from across most organisation types cited a range of health-related concerns relating to consumption of caffeine and/or sugar.

¹ Figures do not sum to 100% due to rounding.

10. Physical issues identified most frequently as associated with consumption of energy drinks were sleep disturbance, headaches, tooth decay, type 2 diabetes and obesity. Behavioural issues highlighted included hyperactivity, lack of concentration, aggressive or disruptive behaviour, increased symptoms of anxiety, depression, mood swings and irritability.
11. A small number of respondents suggested that mandatory restrictions could create a more level playing field for retailers compared to the current voluntary restrictions under the [British Soft Drinks Association Energy Drinks Code of Practice](#).
12. Reasons for a mandatory ban on sales to under 16s: The most frequently given reason for supporting a mandatory ban on sales to under 16s was that this would align with policy in the rest of the UK. A number of retailers or retailer representative bodies and NHS, HSCP or local authority respondents highlighted this issue. It was also argued that in Scotland a child legally becomes an adult at 16, and can, for example, vote, get married or join the armed forces. Other points raised included that mechanisms are already in place for preventing sales of other products to under 16s, and that a mandatory age of 18 would put energy drinks into the same category as tobacco and alcohol, potentially undermining messages about the health harms associated with these products.
13. Reasons for a mandatory ban on sales to under 18s: Individuals, health focused charities or campaign organisations, and health professional unions or royal colleges were most likely to give a reason in support of a mandatory ban on sales to under 18s. The reasons given most frequently were that this would be in line with the age limit in force for the sale of alcohol or tobacco and would be simple to implement because retailers already have procedures in place in order to restrict sales of alcohol and tobacco.
14. Other comments included a suggestion that, in line with UNCRC Article 1, 18 is the legal age of adulthood, and also that a mandatory age of 18 would be in line with other European states that have implemented restrictions. Setting the age limit at 18 would also help to address an issue of proxy purchase for younger pupils by 16 and 17-year olds that could arise if the age limit were set at 16. The issue of 16 and 17-year olds not carrying appropriate ID was also highlighted.

Reasons there should be no mandatory ban on the sales of energy drinks to children and young people

15. A small number of manufacturers or manufacturer representative bodies argued that energy drinks are not the major source of caffeine in the diet of children in

Scotland. A small number of individual respondents argued that Government should not be involved, that banning a substance makes it more attractive or that measures such as education and portion size reduction should be tried first.

16. Other comments included that there is a lack of suitable scientific evidence to support restrictive measures against energy drinks, and no credible evidence for negative effects of energy drink consumption in children and adolescents.

Question 2: If implemented, are there any places where energy drinks are currently sold, that should be exempt from mandatory age restrictions?

17. Just over four fifths of respondents (81%) commented at Question 2, including 87% of organisations.
18. The most common position across a majority of organisation types was that there should be no exemptions. This view was particularly common among respondents who advocated a mandatory age limit of 18.
19. It was argued that for a ban to be effective it should be applied to all retailers in order to avoid loopholes, create a level playing field and avoid some firms being given an unfair commercial advantage. Parallels were drawn with the rules in place to prevent sales to young people of other age-restricted products such as cigarettes and alcohol.
20. In relation to vending machines specifically, the most frequent position across a majority of organisation types was that energy drinks should be banned from vending machines. Vending machines were seen as difficult to monitor or regulate and to create potential loopholes for the sales of energy drinks to children. An approach that limits the sales of energy drinks from vending machines to areas where there are few children was opposed. It was argued that an outright ban would be the most effective way to prevent sales in places where there is no age verification on entry.
21. A small number of manufacturer or manufacturer representative bodies and retailer or retailer representative bodies argued that restrictions on vending machines are unnecessary. These respondents pointed to existing voluntary codes of practice and considered banning sales from all vending machines to be disproportionate.

Question 3: Please comment on our proposals for enforcing any requirements that are implemented.

22. Around three fifths of respondents (59%) commented at Question 3, including 84% of organisations.
23. The most frequently made point was that enforcement requirements for energy drinks should follow those for tobacco or alcohol. There was also a call for engagement with local authorities, trading standards and other relevant representative bodies to ensure that proposals for enforcement and implementation are pragmatic, reasonable and well-resourced.
24. Further comments in relation to specific aspects of enforcement included the following:
 - Enforcement authority and activity: There was support for enforcement by local authorities and trading standards and it was noted that trading standards have a broad range of experience around enforcing age restrictions.
 - Verifying age: Lack of ID was predicted to cause problems for young people – and for the retail staff who have to serve them.
 - Offences: A small number of respondents suggested that it should be made an offence to purchase an energy drink for someone else under the age restriction, or that it would be appropriate for the Scottish Government to give consideration to doing so.
 - Fixed penalty and compliance notices: There was support for use of fixed penalty notices, which were seen to be an effective tool for dealing with breaches and it was observed that fines could be imposed as part of either civil or criminal sanctions.
 - Developing guidance: There was support for developing ministerial guidance to be issued to local authorities and for an implementation guide for retailers. This, combined with proactive education and awareness raising, was suggested to be a better approach than resorting to criminal enforcement.

Question 4: Please comment on our proposals for evaluating any policies that are implemented.

25. Just under half of respondents (46%) commented at Question 4, including 74% of organisations.
26. Across the majority of respondent types, there was often agreement that the proposals are broadly appropriate.
27. Other comments included that engagement with children and young people throughout the process, including evaluation of impact, will be important. It was argued that in order to understand impacts on the health and wellbeing of

children and young people their views and opinions need to be sought, measured and followed over time.

28. Respondents also suggested additional aspects they thought should be evaluated. Most frequently it was suggested that unintended consequences – such as substitution with other highly caffeinated or high sugar products – should be monitored. Other suggestions included: assessing any post implementation rise in anti-social behaviour towards shop staff; monitoring levels of non-compliance, enforcement and penalties imposed; assessing how consumption is affected by socio-economic status and whether the policy has a differential impact; and exploring what drives consumption of energy drinks amongst young people.

Question 5: If you have implemented age restrictions for energy drinks, please describe any effect, positive or negative, that this has had on your business.

Question 6: If you do not have age restrictions in place for energy drinks, please describe any effect, positive or negative, that implementing such restrictions would have on your business.

29. Questions 5 and 6 were marked for retailers only. Six retailer or retailer representative body respondents answered one or both of the questions.
30. A retailer respondent reported that when they implemented a voluntary ban, they drew on the experience of restricting the sales of alcohol to under 18s to ensure their approach to energy drinks was equally robust by implementing a Think 25 policy. This included retraining all checkout staff to apply Think 25 to any customers trying to purchase energy drinks.
31. One retailer representative body respondent stated that members already enforcing a ban had seen a fall in sales whilst another reported that feedback from a small survey of their members had suggested the impact would be minimal on their businesses. Other comments included that the introduction of any measure of this type would require financial investment due to system changes and training requirements. Any mandatory age restrictions should be UK-wide so that retailers can treat the UK as one market, and that vending machines in workplace settings should not be subject to age restrictions because there are generally no under 16s on site.

Question 7: What, if any, impact do you think applying mandatory age restrictions to sales of energy drinks would have on businesses?

32. Just over half of respondents (53%) commented at Question 7, including 66% of organisations.
33. A small number of respondents, including some individuals, simply suggested either that they did not think mandatory age restrictions on the sales of energy drinks would have any impact on businesses or that any impact would be minimal. This was sometimes connected to a proportion of businesses already operating a voluntary ban on the sales of energy drinks to under 16s.
34. Volume of sales: an NHS respondent cited the recent evaluation of the Healthcare Retail Standard (HRS) which was reported to show that although overall sales fell following implementation of the programme, they have started to improve as new products have been trialled. Other comments relating to a limited impact on businesses included that children or young people will be likely to shift to other soft drink purchases should energy drinks not be available and that introducing a consistent approach across all retailers would create a level playing field for all sellers.
35. It was also suggested that there could be a positive benefit to local businesses around schools, as they could be part of the effort to promote improved health within their community. School meal services may gain extra customers in the case of young people whose primary motivation for leaving school at lunchtime was to purchase an energy drink.
36. Other types of impact: Concerns raised included that a mandatory age limit of 18 could lead to reputational damage to the energy drinks industry by incorrectly putting energy drinks into the same category as alcohol and tobacco. Also, that carrying out age verification checks would place a disproportionate burden on retailers, including through costs for staff training and the development of in store materials. There were also concerns about any divergence from the existing EU framework on energy drinks, particularly in the context of Brexit, and that additional regulation in Scotland has the potential to have an adverse effect on trade between Ireland and Scotland in particular.

Question 8: What, if any, impact do you think implementing mandatory age restrictions to sales of energy drinks will have on people based on any of the following characteristics: age, sex, race, religion, sexual orientation, pregnancy and maternity, disability, gender reassignment, marriage or civil partnership, socioeconomic disadvantage.

37. Just under half of respondents (47%) commented at Question 8, including 53% of organisations.
38. Most frequently, respondents thought a ban would have a positive age-related impact. The benefits to children and young people tended to be described in terms of health benefits, including in relation to reduced rates of childhood obesity. It was suggested that if the mandatory age limit is set at 16, this could negatively impact 17-year olds since they are more likely to consume higher volumes of energy drinks.
39. An alternative perspective was that implementing a ban on sales to under 18s would unfairly restrict those aged 16 and 17 from choosing a safe, functional product.
40. After age, socioeconomic disadvantage was the protected characteristic on which respondents thought a ban could have an impact. Comments often focused on links between obesity and socioeconomic status and the resulting consequences for health inequalities. Research indicating that children eligible for free school meals are more likely to be frequent consumers of energy drinks was noted.
41. The other two characteristics identified as potentially relevant were pregnancy and maternity, partly because current UK Government advice recommends restricting caffeine intake during pregnancy, and disability, partly because people with a learning disability may not understand the health issues around consuming energy drinks.

Question 9: Please outline any other comments you wish to make.

42. Just over half of respondents (51%) commented at Question 9, including 82% of organisations.
43. Comments were fairly wide ranging with some reiterating support for or opposition to the policy. Points not covered elsewhere included that the Scottish Government should go beyond the actions currently proposed. For example, by taxing high caffeine energy drinks, placing restrictions on price promotions and multipack offers or by introducing minimum pricing.

44. Other suggestions included restrictions on advertising of energy drinks, including until after a 9pm watershed on television, or more generally across other media platforms, and on sports sponsorship by energy drink brands. Other issues highlighted included the need to focus on education about energy drinks, on the labelling of energy drinks and the need for an easily understood and straightforward definition for energy drinks.

1. Introduction

Background

- 1.1. This report presents the analysis of responses to the Scottish Government's consultation on [Ending the sale of energy drinks to children and young people](#). The consultation ran from 29 October 2019 to 4 February 2020.
- 1.2. The aim of the consultation was to inform consideration of whether there is sufficient cause and evidence to support mandatory measures to end the sales of energy drinks to young people and, if so, what those measures should be.

Profile of respondents

- 1.3. In total, 119 responses were submitted, of which 81 were from individual members of the public and 38 were from groups or organisations. The majority of responses were received through the Scottish Government's Citizen Space consultation hub.
- 1.4. Respondents were asked to identify whether they were responding as an individual or on behalf of a group or organisation. Organisational respondents were then allocated to one of seven categories by the analysis team. A full list of organisational respondents can be found in [Annex 1](#).
- 1.5. A breakdown of the number of responses received by respondent type is set out in Table 1 below.

Table 1: Respondents by type

	Total
Education or young people focused organisation	4
Health focused charity or campaign organisation	5
Health professional union or royal college	4
NHS, Health and Social Care Partnership (HSCP) or local authority	7
Manufacturer or manufacturer representative body	6
Retailer or retailer representative body	8
Other ²	4
Total organisations	38
Individuals	81
All respondents	119

² The Other group is made up of organisations which did not fall into any of the main respondent groups. These were the Advertising Standards Authority, Community Leisure UK, the Institute of Economic Affairs and Law Society of Scotland.

Analysis and reporting

- 1.6. A small number of respondents did not make their submission on the consultation questionnaire and submitted their comments in a statement-style format. This content was analysed qualitatively under the most directly relevant consultation question.
- 1.7. Several respondents submitted extensive responses that can only be summarised very briefly in a report of this type. However, all responses were available in their entirety to the policy team at the Scottish Government.
- 1.8. The consultation paper specifically asked respondents to provide evidence to support their views. As part of the analysis process, all specific references, for example to research reports, have been collated and shared with the Scottish Government.
- 1.9. This report presents a question-by-question analysis of the comments made. Question 1 included both a closed and open element. Questions 2-9 were open questions.
- 1.10. Not all respondents answered all questions. In particular, Questions 5 and 6 were addressed only to those selling energy drinks, with eight respondents commenting at one or both of these questions. Otherwise, the proportion of all respondents commenting ranged from 81% at Question 2 to 46% at Question 4. Other than at the closed element of Question 1, the proportion of organisations answering each question was greater than for individuals.
- 1.11. The numbers of respondents who answered each of the open questions by respondent type are presented at [Annex 2](#).
- 1.12. As with all consultation exercises, it should be remembered that respondents tend to have a particular interest in the subject area and have capacity to respond. This self-selection means that consultation responses are not representative of the views of the population as a whole.

2. Mandatory measures

2.1. The consultation paper explains that provision of energy drinks to pupils is not permitted in schools in Scotland. Shops on NHS sites are also required to prohibit the sales of energy drinks to under 16s. Facilities run by Scottish members of Community Leisure UK have restricted energy drink sales on their premises. Measures include either age restrictions of 16 or an outright ban on sales, including from vending machines. Local authorities have adopted similar restrictions in the leisure facilities they manage. Many retailers prohibit sales of energy drinks to under 16s on a voluntary basis. Whether a mandatory age restriction should be enshrined in legislation is now being considered.

Question 1 - Should sales of energy drinks to young people under the age of 16 be banned?

- 2.2. Responses to Question 1 by respondent type are set out in Table 2 below.
- 2.3. In total, 53% of respondents who answered the question agreed that the sales of energy drinks to young people under the age of 16 should be banned, while 32% thought the mandatory age limit should be 18 and 8% thought that there should be no age restriction. Overall, a substantial majority (85%) thought there should be a ban on sales to young people and 8% thought that there should not. Of the remaining 7%, 1% were unsure and 6% selected “other”.
- 2.4. Among individual respondents there was a marked preference for a ban on sales under the age of 16 (60%), rather than 18 (31%), with 6% opposing a mandatory ban and 3% selecting “other”. Among organisations, opinion was more evenly divided with 35% favouring a ban under the age of 16, 32% under 18, and 13% opposing a ban based on age. A further 3% of organisational respondents said they were unsure and 16% chose “other”.³
- 2.5. It should also be noted, however, that a small number of respondents (primarily individuals) who selected “yes” – so indicated a preference for a ban on sales to under 16s – went on to note in their comments that they thought the age should be at least 16 or that they would also support 18.

³ Figures do not sum to 100% due to rounding.

Table 2: Question 1 Should sales of energy drinks to young people under the age of 16 be banned?

Respondent type	Yes	No – the age limit should be 18	No – there should be no age restriction	Unsure	Other	Not answered	Total
Organisations							
Education or young people focused organisation		2				2	4
Health focused charity or campaign organisation		4		1			5
Health professional union or royal college	1	3					4
NHS, HSCP or local authority	6	1					7
Manufacturer or manufacturer representative body	1		3		1	1	6
Retailer or retailer representative body	2				4	2	8
Other ⁴	1		1			2	4
Total organisations	11	10	4	1	5	7	38
% of organisations*	35%	32%	13%	3%	16%		
Individuals	48	25	5		2	1	81
% of individuals	60%	31%	6%		3%		
All respondents	59	35	9	1	7	8	119
% of all respondents	53%	32%	8%	1%	6%		

* Figures do not sum to 100% due to rounding

⁴ The Other group is made up of organisations which did not fall into any of the main respondent groups. These were the Advertising Standards Authority, Community Leisure UK, the Institute of Economic Affairs and the Law Society of Scotland.

- 2.6. While a majority of NHS, HSCP or local authority respondents were in favour of a ban on the sales of energy drinks to under 16s. Education or young people focused organisation respondents, health focused charity or campaign organisation respondents and health professional union or royal college respondents were more likely to support the age limit being set at 18.
- 2.7. Manufacturer or manufacturer representative body respondents were most likely to think that there should be no mandatory age restriction on the sales of energy drinks. While two members of the retailer or retailer representative body group indicated a preference for a ban on sales to under 16s, the majority either selected “other” or did not answer the closed question.

Question 1 continued. Please describe any factors you have taken into consideration and provide any evidence you have to support a specific age restriction.

- 2.8. A total of 86 respondents (37 organisations and 49 individuals) made a further comment at Question 1. A large majority gave reasons in support of a mandatory ban on the sales of energy drinks to children and young people.
- 2.9. There was substantial overlap between the issues raised by those who supported a ban under the age of 16 and those who preferred a mandatory age restriction to be set at 18. To avoid repetition, the analysis below covers both sets of respondents together, ending with the reasons that respondents chose one age limit or the other, where this was explained. The analysis also includes the views of the health focused campaign organisation respondent who selected the “unsure” option, and who explained that their members agreed that there should be a ban but were divided on the age restriction they favoured. Likewise, the two education focused organisations who have been recorded as “not answered” did clearly favour a ban on the sale of energy drinks. One of these respondents reported results from their own survey showing relatively evenly divided opinions on this point. Points made by respondents who selected “other” or did not answer the question are included where most appropriate.

Reasons for a mandatory ban on the sales of energy drinks to children and young people

Health-related concerns

- 2.10. Respondents often cited a range of health-related concerns relating to consumption of caffeine and/or sugar. Individuals, education or young people focused organisations, health focused charities or campaign organisations,

health professional unions or royal colleges and NHS, HSCP or local authority respondents raised these concerns.

- 2.11. It was suggested that there is no evidence that caffeine or other stimulants found in energy drinks have any benefits in the diet of children and young people. It was also suggested that there is no evidence that energy drinks are safe, while there was reported to be limited but growing evidence of negative impacts. It was proposed that a precautionary principle⁵ should therefore be adopted.
- 2.12. A number of health focused charities or campaign organisations raised concerns about the amount of sugar in energy drinks, including a report that some contain the equivalent of 20 teaspoons of sugar in a 500-millilitre serving. It was also noted that while there has been a reduction in consumption of sugar-sweetened beverages in high income countries, energy drinks have not followed this pattern. In the UK, it was reported that around two thirds of children aged 10-17 consume energy drinks, with boys consuming more than girls.
- 2.13. The health concerns identified most frequently as being associated with the consumption of energy drinks were:
- Sleep disturbance
 - Type 2 diabetes and obesity caused by high levels of sugar with consequences including increased blood pressure, elevated risk of heart disease, stroke and some forms of cancer. Sleep disturbance was also reported to be associated with greater risk of obesity during childhood and adolescence
 - Headaches
 - Tooth decay caused by high levels of sugar and erosion of enamel as a result of the acidity of carbonated drinks.
- 2.14. In addition, there were reports that consumption of energy drinks may be associated with stomach aches, kidney disease, reduced calcium absorption in the small intestine and reduced calcium deposition in bones, and effects on development of neurological and cardiovascular systems. Emerging evidence of a link between use of alcohol and energy drinks was also reported and argued to be of concern since alcohol may cause a number of different types of cancer.

⁵ The precautionary principle enables decision-makers to adopt precautionary measures when scientific evidence about an environmental or human health hazard is uncertain and the stakes are high.

- 2.15. From a health inequalities perspective, an NHS respondent reported that evidence has shown universal interventions that change elements of people's environment are likely to be equally or more effective among disadvantaged groups where, in the case of energy drinks, higher levels of consumption are reported. There was also reference to evidence that indicates a link between lower socioeconomic status and higher rates of consumption of energy drinks and further research on this aspect was proposed.
- 2.16. The need to encourage young people to adopt healthy eating and drinking habits was also argued to be important, with a suggestion that banning the sales of energy drinks to young people would send a clear message regarding their potentially harmful effects. An NHS, HSCP or local authority respondent acknowledged that a ban may make drinks more desirable to children, possibly making them even more attractive when they are older. However, they reported that the existing sugar levy has not been sufficient to reduce demand, and that branded energy drinks represent one of the biggest pull factors away from school canteens.

Behavioural issues

- 2.17. Behavioural issues associated with consumption of energy drinks were reported to include hyperactivity, lack of concentration, and aggressive or disruptive behaviour. Individuals, education or young people focused organisations, health focused charities or campaign organisations and health professional unions or royal colleges were amongst those highlighting these issues. Also highlighted were:
- Increased symptoms of anxiety
 - Depression
 - Mood swings and irritability
 - Attention seeking or sensation seeking behaviours including positive associations with risky behaviours such as binge drinking and substance abuse.
- 2.18. As a result, it was argued there are impacts on educational attainment, both for those consuming energy drinks themselves and for others. Respondents who identified themselves as teachers or as working in schools sometimes described seeing the effects of energy drinks on pupils. For example, an individual respondent commented that:
- “As a teacher, I see first-hand the impact these drinks have on the focus and attention of my pupils who consume the drinks before, during and after school. It is not a positive one and not only does it impact on

themselves but also their peers who are disadvantaged by having to deal with discipline issues that arise.”

- 2.19. A health focused campaign organisation cited evidence from their own survey showing teachers to be strongly in support of a ban on the sales of energy drinks to children and young people. A health focused charity noted that both research evidence and anecdotal reports from parents indicate that some children consume energy drinks as an alternative to breakfast and that evidence suggests that consumption of energy drinks is also associated with more regular consumption of fast food.

Existing sales and marketing

- 2.20. Comments on the existing voluntary restrictions imposed by retailers under the [British Soft Drinks Association \(BSDA\) Energy Drinks Code of Practice](#) came from a health focused campaign organisation, a health professional union and a small number of retailer or retailer representative body respondents.
- 2.21. The comments included a view from a retailer representative body that there is a good case for bringing these into legislation but that a common approach across the UK would be preferred. The health focused campaign organisation considered that a mandatory restriction would reinforce compliance and they were among a small number of respondents who suggested a mandatory restriction could create a level playing field for retailers. Despite the voluntary code, it was suggested that there are still many opportunities for young people to purchase energy drinks.
- 2.22. Although not marketed to children, the branding used on energy drinks was said to be attractive to children and young people and it was argued that marketing and dependence on the product lead to repeat purchasing. It was observed that energy drinks are marketed in a way that other caffeine containing drinks such as tea and coffee are not, and it was argued that packaging requirements should be more like those for cigarettes, for example plain packaging. (Potential implications of the proposed ban for advertising are noted at the end of this chapter.)

Reasons for a mandatory ban on sales to under 16s

- 2.23. The most frequently given reason for supporting a mandatory ban on sales to under 16s was that this would align with policy in the rest of the UK. A number of retailers or retailer representative bodies and NHS, HSCP or local authority respondents highlighted this issue.
- 2.24. The proposed extension of bans already in place in schools and on NHS sites was welcomed for bringing clarity for retailers and it was argued that

some retailers who have already implemented a voluntary ban think legislation will make this easier to enforce. It was noted that mechanisms for preventing sales to under 16s exist for other products such as lottery tickets, petrol and spray paints.

- 2.25. A retailer noted they had committed to a voluntary ban to under 16s in recognition of harmful effects of high caffeine levels on children under 16. While a retailer representative body commented that they would welcome more research on energy drinks purchasing by young people and the factors that determine consumption.
- 2.26. It was argued that in Scotland a child legally becomes an adult at 16, and can, for example, vote, get married or join the armed forces. Adopting 16 as the mandatory age limit was suggested to support the United Nations [Convention on the Rights of the Child](#) (UNCRC) Article 12 (the right to be heard) and the principle of 'no decision about me without me'. Further, it was suggested that education is required to help young people make healthy decisions for themselves.
- 2.27. With respect to ID it was suggested that although a passport or provisional driving licence could be used as proof of age, the Scottish Government should explore how the [Young Scot National Entitlement Card](#)⁶ could be used in the same way to ensure a smooth introduction of an age restriction.
- 2.28. It was also argued that the mandatory age should not be 18 because this would put energy drinks into the same category as alcohol and tobacco, contradicting current medical advice and potentially trivialising the harms associated with alcohol and tobacco.

Reasons for a mandatory ban on sales to under 18s

- 2.29. Individuals, health focused charities or campaign organisations, and health professional unions or royal colleges were most likely to give a reason in support of a mandatory ban on sales to under 18s. The reasons most frequently given for preferring to see a mandatory age limit set at 18 were that:
 - This would be in line with the age limits in force for the sales of alcohol or tobacco.
 - It would also be in line with several other European states that have implemented a ban at 18.

⁶ The Young Scot National Entitlement Card is available free of charge to everyone aged 11-26 living in Scotland.

- It would be simple to implement because retailers already have procedures in place in order to restrict the sales of alcohol and tobacco.
- Evidence from the European Food Safety Authority (EFSA) suggests consumption of energy drinks is greatest among older adolescents aged between 15-17 years.
- It would be easier for schools with 16 to 17-year old pupils to enforce as a lower limit would allow 16 and 17-year olds to purchase energy drinks for younger pupils. This was argued as particularly important as there is no intention to make proxy purchase an offence.
- Many 16 to 17-year olds do not carry ID to prove their age.

2.30. Arguments were also made regarding what age a person should be considered to be an adult. Some respondents suggested 18 to be the legal age of adulthood or, more specifically, 18 was suggested to be consistent with UNCRC Article 1, which sets 18 as the upper boundary of childhood. It was also reported to be in line with [statutory guidance](#) accompanying the Children and Young People (Scotland) Act 2014.

2.31. UNCRC Articles 24 and 36 were also cited in favour of a mandatory age limit at 18 – Article 24 stating the right of the child to have the highest attainable standard of health and Article 36 a requirement to protect a child against all other forms of exploitation prejudicial to any aspect of their welfare.

2.32. The years between age 16 and age 18 were argued to be important because young people are still in education, may be sitting exams and make many important life choices. It was also noted that the effects of energy drinks are related to body weight and that children are still growing at age 16, and closer to their adult body mass at age 18.

2.33. A young people focused organisation respondent observed they often have to help young people withdraw from the effects of dependency on energy drinks. Similarly, an individual respondent reported:

“I manage a youth project and we try to enforce a no energy drinks rule, alongside no drugs and alcohol for young people attending our activities and services. We see very little distinction between young people's behaviour when consuming energy drinks, drugs or alcohol and we strongly believe that energy drinks should be age restricted to 18.”

2.34. Acknowledging that a mandatory age restriction set at 18 would be higher than that proposed elsewhere in the UK, some respondents suggested that

this would show Scotland taking its own position and implementing decisive action to protect young people.

- 2.35. A health focused campaign organisation suggested that the voluntary ban on sales to under 16s already implemented by many retailers demonstrates that restriction is possible but that it should not mitigate against choosing to make 18 the mandatory age in Scotland. They also reported that when responding to a question from the House of Commons Science and Technology Committee, only one large retailer had expressed a preference for a ban at 16 rather than 18.

Reasons there should be no mandatory ban on the sales of energy drinks to children and young people

- 2.36. The analysis of reasons for there not being a mandatory ban on the sales of energy drinks to children and young people is taken from the further comments of 11 respondents. These respondents were primarily manufacturers or manufacturer representative bodies and individuals.
- 2.37. Individual respondents sometimes argued that Government should not be involved, that banning a substance makes it more attractive or that measures such as education and portion size reduction should be tried first.
- 2.38. A small number of manufacturers or manufacturer representative bodies argued that energy drinks are not the major source of caffeine in the diet of children in Scotland. Children of all ages were reported to get significantly more caffeine from hot drinks than from cold drinks and, among 10 to 17-year olds in the UK, it was suggested energy drinks contribute 11% of total caffeine intake with 90% from other sources⁷⁸.
- 2.39. An 'other' respondent highlighted a study⁹ that found the amount of caffeine ingested from energy drinks by the heaviest consumers to be within the safe level proposed by EFSA, although their overall caffeine intake was not. Adolescents in the 95th percentile were reported to consume an average of nearly 800 milligrams of caffeine per day, with 146 milligrams coming from energy drinks. The respondent argued that the consultation paper is therefore wrong to state that there is no evidence that young people overconsume caffeine from other caffeinated foods or drinks.

⁷ European Food Safety Authority (2015) Scientific Opinion on the Safety of Caffeine. EFSA Journal 13(5): 4102.

⁸ Figures do not sum to 100% due to rounding.

⁹ Respondent cited the following: Zucconi, S., Volpato, C., Adinolfi, F., Gandini, E., Gentile, E., Loi, A. and Fioriti, L. (2013) Gathering consumption data on specific consumer groups of energy drinks. European Food Safety Authority Supporting Publications 2013: EN-394.

- 2.40. Further, energy drinks were suggested not to have unusually high levels of caffeine. For example, it was stated there was 80 milligrams of caffeine in a typical 250 millilitre energy drink, as opposed to 150 milligrams in a typical double espresso.
- 2.41. Likewise, the levels of sugar in energy drinks were argued not to be particularly high, with a typical energy drink containing 11 grams of sugar per 100 millilitres, approximately the same as a soft drink or fruit juice. Since energy drinks containing sugar are subject to the Soft Drinks Industry Levy it was argued that energy drink consumption is already dis-incentivised. One manufacturer noted that more than 69% of their energy drink varieties available in Scotland are currently low- or no-sugar, with this set to rise.
- 2.42. Other comments included that there is a lack of suitable scientific evidence to support restrictive measures against energy drinks, and no credible evidence for negative effects of energy drink consumption in children and adolescents. Two manufacturer representative bodies argued that some reports overstate negative effects, relying on anecdotal evidence or on data prone to subjective bias and error, for example dietary recall.
- 2.43. A manufacturer and a manufacturer representative body quoted the finding of the Committee on Toxicity that there is currently no scientific evidence that energy drinks pose a specific risk to the health of children and adolescents. It was further reported that the House of Commons Science and Technology Committee have concluded that on balance, 'the current scientific evidence alone is not sufficient to justify a measure as prohibitive as a statutory ban on the sale of energy drinks to children'¹⁰.
- 2.44. A manufacturer and two manufacturer representative bodies reported that regulators in Sweden and Norway had concluded that they could not support an age restriction on the sales of energy drinks. Sweden's National Food Agency was quoted as having found that energy drinks are not the main source of caffeine consumption among children and adolescents and that a ban would not be effective or proportional in order to reduce the consumption of caffeine among these age groups. The Norwegian Food Safety Authority was reported to have found a ban on the sales of energy drinks to children to be too invasive and therefore not proportionate.
- 2.45. The proposal for a mandatory ban on the sales of energy drinks to children and young people in Scotland was argued to be disproportionate, to adversely impact the industry, to be a burden on retailers and to restrict

¹⁰ [Energy drinks and children: Thirteenth Report of Session 2017-19. The House of Commons Science and Technology Committee.](#)

consumer choice, while failing to tackle the actual causes of obesity and caffeine consumption by children. Portion size control was suggested to be a better avenue for the Scottish Government to pursue.

- 2.46. A manufacturer suggested that the proposed ban could also perpetuate misconceptions regarding the safety of energy drinks.
- 2.47. Although opposed to a ban, two manufacturer representative bodies argued that, if implemented, the age limit should be set at no more than 16 years old. This position was explained with much the same arguments made by those who advocated a ban under the age of 16, referencing many activities that are legal at 16, or that a ban for under 18s would put energy drinks into the same category as alcohol and tobacco.
- 2.48. A manufacturer representative body also cited significant proactive voluntary action taken by the soft drinks industry to not market energy drinks to under 16s and argued that there is a strong case for maintaining the *status quo*. The manufacturers of energy drinks were argued to have taken meaningful steps to be clear about the suitability of energy drinks, to label these as not recommended for children and not to advertise or market energy drinks at under 16s in any media.
- 2.49. A retailer and a retailer representative body thought an outright ban in legislation would be a problem for vending machine operators, particularly since an offence for retailers to sell to minors is proposed. These respondents pointed to the voluntary restrictions already in place and argued this to be a more flexible approach. These issues are discussed further at Questions 2 and 3.

Implications for advertising

- 2.50. An 'other' respondent noted that a legal restriction on the sales of energy drinks to young people would be likely to have an impact on what is considered acceptable when advertising these products. It was suggested that, in the event of a ban, the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice would be likely to consult publicly on corresponding advertising restrictions. The proposals were suggested likely to have implications for advertising analogous to the regulatory regime surrounding alcoholic drinks.
- 2.51. This respondent also commented that any differences in regulation between Scotland and the rest of the UK would be likely to present challenges in terms of the regulation of advertising, particularly with respect to online platforms that may not demarcate jurisdictions.

3. Proposals for implementation, enforcement and evaluation

Exemptions to the policy

- 3.1. The consultation paper notes that consideration is being given to implementing mandatory age restrictions for the sales of energy drinks in places including retail, out of home settings and wholesales outlets where energy drinks are sold to the public. It also states that exemptions might be applied to locations that are not widely open to, or attended by, young people including, for example, wholesale outlets where sales are only to trade. Other potential exemptions could be cafeterias and vending machines that are located in workplaces.

Question 2: If implemented, are there any places where energy drinks are currently sold, that should be exempt from mandatory age restrictions?

Please explain your answer and provide any thoughts on how this could work in practice. In particular, views are sought for energy drinks sales in vending machines and those made online.

- 3.2. A total of 96 respondents (33 organisations and 63 individuals) answered Question 2.
- 3.3. The most common position, which was held by a majority of education or young people focused organisations, health focused charity or campaign organisations, health professional union or royal college respondents and individuals, was that there should be no exemptions. This view was also particularly common among respondents who advocated a mandatory age limit of 18.
- 3.4. It was argued that:
- For a ban to be effective it must be comprehensive.
 - Clarity is important and exemptions may cause confusion or create loopholes and opportunities for exploitation.
 - Restrictions should be applied to all retailers, creating a level playing field and any exemptions must be communicated clearly. It was suggested this would guard against certain firms being given an unfair commercial advantage.

- 3.5. Parallels were also drawn with the rules in place to prevent the sales to young people of other age-restricted products such as cigarettes and alcohol. For retailers it was noted that the Challenge 25 system already in place could be used for energy drinks. Issues associated with online sales are discussed below.

Vending machines

- 3.6. Reflecting the wording of the consultation paper, the majority of comments at Question 2 referred to vending machines, with the most frequent position being that energy drinks should be banned from vending machines. Education or young people focused organisations, health focused charity or campaign organisations, health professional unions or royal colleges, NHS, HSCP or local authorities, 'other' organisations and individuals were amongst those taking this view.

Reasons for restricting energy drink sales from vending machines

- 3.7. Vending machines were thought to be difficult to monitor or regulate and created potential loopholes for children to access energy drinks. An approach that limits the sales of energy drinks from vending machines to areas where there are few children was opposed and it was argued that a ban would be the most effective way to prevent sales in places where there is no age verification on entry. It was noted that alcohol and cigarettes are not sold via vending machines.
- 3.8. Some respondents who opposed the sales of energy drinks through vending machines acknowledged that such a ban would also limit adult access to energy drinks. However, it was argued that this would be generally beneficial in view of potential harm caused by high doses of caffeine and that restricting access would be a reasonable trade-off for full implementation of restrictions on access for young people.
- 3.9. It was also argued that any permitted sales of energy drinks from vending machines should be only in venues where there are age restrictions for entry, or where restrictions are enforced by the business or organisation on whose property the machine is located. Exemptions for vending machines in workplaces, and specifically workplaces that are not accessed by young people or that are not open to the public, were also supported. Where specified, the age restriction suggested for such venues or workplaces tended to reflect the respondent's view of an appropriate age restriction at Question 1. – For example, those who thought the mandatory age limit should be 18 suggested vending machines should be excluded from places accessed by under 18s.

Reasons restrictions are unnecessary

- 3.10. A small number of manufacturers or manufacturer representative bodies and retailers or retailer representative bodies argued that restrictions on vending machines are unnecessary. Their further comments included noting the existing voluntary measures set out in the [Union of European Beverage Associations code of practice](#) for the marketing and labelling of energy drinks, quoting a commitment not to ‘engage in any direct commercial activity in relation to energy drinks in either primary or secondary schools, including the placing of vending machines’.
- 3.11. A retailer and a retailer representative body suggested that, in Scotland, all members of the Automatic Vending Association (AVA) strive to achieve the Healthy Living Award and do not sell energy drinks of any description in public facing leisure, healthcare or travel sites where someone under 16 can access the machine unsupervised.¹¹ The retailer representative body noted that machines run by their members were reported to be mainly in business and industry locations where there is generally no access by under 16s, with around 1 in 5 in education (mainly higher or further education settings) or leisure.
- 3.12. A manufacturer argued that work is needed to understand how to prevent access by young people while not limiting choice for older customers, with a suggestion that the AVA would be best placed to advise.
- 3.13. Another manufacturer and a manufacturer representative body argued that, given the size of the UK market for cold drinks sold from vending machines – estimated at £239 million – the financial impact of the potential ban has been overlooked. Citing industry data indicating that under 16s account for around 6% of occasions when energy drinks are consumed, it was argued the remaining 94% of customers would be unable to purchase energy drinks from vending machines if such sales were to be banned. Lorry drivers using vending machines to purchase energy drinks during a night shift when shops are closed were given as an example of a group who would be affected by an outright ban.

¹¹ Energy drinks do not feature specifically as part of the Healthy Living award criteria at present, although they are excluded through other criteria.

3.14. A manufacturer suggested that banning sales from all vending machines would be disproportionate, and potentially contrary to EU law¹².

Online sales

3.15. Although it was acknowledged that online sales will be difficult to manage, a small number of primarily individual respondents suggested that proof of age could be required as for the online sales of alcohol or tobacco. A requirement for age verification on delivery or at in-store collection was proposed.

Proposed exemptions from mandatory age restrictions

3.16. Respondents also commented on specific locations or circumstances where they thought exemptions would be appropriate including:

- Sales via wholesale or cash and carry outlets
- Sales in licenced premises or cafes
- Over the counter purchases in sport centres
- Pharmacies
- Vending machines in general
- Online shopping in general
- Online sales on trade-to-trade basis.

Enforcement of the policy

3.17. The consultation paper outlines proposals for enforcement of the policy, also noting that discussions will continue with respect to alignment with approaches taken in other parts of the UK.

3.18. It is proposed that local authorities would be responsible for enforcing any requirements that are implemented, and that the Scottish Government would work closely with the Convention of Scottish Local Authorities, Food Standards Scotland and representatives of trading standards and environmental health officers to assess resource implications. Scottish Government would aim to minimise demands on existing enforcing authorities as well as those subject to the restrictions. There would also be

¹²A Court of Appeal (England and Wales) judgement in the case of R (Sinclair Collis Ltd.) v Secretary of State for Health [2011] EWCA Civ 437 was cited. It was reported that a ban on the sales of tobacco products from vending machines was found to be *prima facie* a violation of Article 34 of the Treaty on the Functioning of the European Union and Article 1 of Protocol 1 to the European Convention on Human Rights, but also that the ban was considered justified and proportionate with respect to the risks posed by tobacco. The respondent argued that there is no scientific evidence that energy drinks are harmful to children, so a restriction on their sales through vending machines cannot be justified in the same way.

work with local authorities and retailers to develop both Ministerial guidance to local authorities and an implementation guide for retailers.

- 3.19. It is proposed that sales to those under the age restriction would be an offence for sellers. However, it would not be an offence for those under the age restriction to purchase energy drinks. Nor would it be an offence for someone to purchase energy drinks for a person under the age restriction.

Question 3: Please comment on our proposals for enforcing any requirements that are implemented.

Please include any practical issues that we should consider to ensure that the enforcement of any policy implementation is done fairly and is not overly burdensome.

- 3.20. A total of 70 respondents (32 organisations and 38 individuals) answered Question 3.
- 3.21. A small number of individuals, health focused charity or campaign organisations and NHS, HSCP or local authority respondents indicated broad support for the proposals for enforcement outlined in the consultation paper. There were calls for engagement with local authorities, trading standards and other relevant representative bodies to ensure that the proposals for enforcement and implementation are pragmatic, reasonable and well-resourced. However, a manufacturer representative body raised concerns about the lack of policy detail on enforcement contained in the consultation document. A retailer representative body also sought clarification of plans for enforcement.
- 3.22. Across all those commenting, the most frequently made point was that enforcement requirements for energy drinks should follow those for alcohol. Individual and health professional union or royal college respondents were most likely to take this view. Using existing standards and mechanisms for dealing with the sales of these products was recommended and argued not to be excessively burdensome. It suggested that, in terms of age verification, setting an age limit at 16 could be more burdensome in the absence of established mechanisms and the lack of a national ID scheme. The Challenge 25 policy was advocated.
- 3.23. A risk of unintended consequences was also highlighted. Rather than risk prosecution if vending machines were accessed by those under the age restriction, it was argued vending machine operators would remove energy drinks from their machines in workplace sites.

Enforcement authority and activity

- 3.24. Comments on the enforcement authority included support for enforcement by local authorities and trading standards. It was noted that Trading Standards staff have a broad range of experience around enforcing age-restricted sales. Enforcement and monitoring by Licensing Standards Officers was suggested as a possible approach.
- 3.25. A small number of NHS, HSCP or local authority respondents were among those who observed that there would be resource implications for local authorities. While a retailer representative body suggested that the absence of resources may mean restrictions are not enforced consistently, such that the level playing field the legislation is intending to create will not be realised. A manufacturer representative body argued that Trading Standards have more important issues, with far greater public health impact, to enforce.
- 3.26. Light touch enforcement activity, led by intelligence and based on a supportive approach, was proposed by a retailer representative body. An NHS, HSCP or local authority respondent suggested that, as for alcohol or tobacco, young people could be sent into shops to attempt to purchase energy drinks in order to provide evidence of illegal sales.
- 3.27. As at earlier questions there were arguments in favour of the policy on enforcement being aligned with approaches taken elsewhere in the UK. It was suggested that this would be valuable with respect to the complex area of carrying out age checks for online sales. However, an alternative perspective from an individual respondent was that alignment with the rest of the UK is not important, particularly given that Scotland already adopts different approaches across other policy areas.
- 3.28. An education focused organisation stressed the importance of enforcement being at the point of sale, and that schools should not be given any duties in respect of policing or enforcement.

Verifying age

- 3.29. A small number of retailer or retailer representative body and individual respondents commented on verifying age. It was observed that 16 and 17-year olds may not carry identification. The use of the Young Scot National Entitlement Card as proof of age was suggested but it was noted that it is only issued to around 70% of young people at present, so may not provide full coverage. Lack of ID was predicted to cause problems for young people – and the shop staff who have to serve them.

- 3.30. A small number of retailer representative body respondents commented on incidents of abuse towards staff associated with enforcement of age restrictions. One cited findings from their own retail crime report, showing incidents related to requests for identification or refusal of sale are the most common triggers for abuse against staff. Their report noted incidents of abuse and anti-social behaviour in relation to age verification and refusal of sale of energy drinks had already been recorded.
- 3.31. Another retailer representative body respondent raised concerns that the new policy increases the likelihood of potential conflict between retail staff and the public. They also argued that retailers will need to increase the time taken to verify the age of customers who look around the specified age limit. Adding energy drinks to the list of products with age restrictions was predicted to increase queuing time and potential frustration for all customers, as well as for those who are checked and potentially refused sale.

Offences

- 3.32. With respect to creation of criminal offences, one 'other' respondent suggested this should be a last resort, only used after other measures are demonstrated to be ineffective. Criminal convictions were noted to have implications for future employment and travel, and it was seen as important to consider whether this would be a proportionate response. The same respondent also argued that the Scottish Government should consider how many prosecutions might result, and the resulting resource implications for the Scottish criminal justice system.
- 3.33. A small number of respondents, including retailer representative bodies, a health focused campaign organisation, a health professional union and an 'other' respondent, suggested that it should be made an offence to purchase an energy drink for someone else under the age restriction, or that it would be appropriate for the Scottish Government to give consideration to doing so. A retailer representative body respondent noted experience of proxy purchasing reported by members who have implemented a voluntary ban on energy drinks. They argued making this an offence would provide consistency for retailers who enforce other age restrictions where proxy purchase is an offence.
- 3.34. If proxy purchasing is not made an offence, a health focused campaign organisation suggested that the mandatory age limit must be set at 18 to avoid undermining the effectiveness of the policy in schools. Otherwise 16 and 17-year old pupils who had been sold energy drinks legally could pass them to younger children without committing an offence.

- 3.35. A retailer representative body suggested that it should be an offence for someone under the age restriction to try to purchase an energy drink and that it is unfair to place all responsibility on sellers. They argued that this would provide a deterrent to those under the age limit, as well as providing a line of defence to the retailer should they fail to correctly identify a person's age.

Fixed penalty and compliance notices

- 3.36. A local authority respondent noted their support for the use of fixed penalty notices, which they suggested are an effective tool for dealing with breaches. An 'other' respondent observed that fines could be imposed as part of either civil or criminal sanctions. However, it was thought unlikely that a compliance notice would apply or be appropriate to the sales of energy drinks and that the offence would need to relate to the sales of energy drinks on a specific occasion to an age-restricted person.
- 3.37. Although fixed penalty notices could avoid prosecution costs it was noted that a due diligence defence would mean cases going to court, and that failure to pay or to comply with notices would require prosecution – again with resource implications.
- 3.38. It was also suggested that, in addition to fines, retailers might be banned from selling energy drinks, with a possibility of a longer ban for repeated offences.
- 3.39. Concerns were expressed that local authorities may have a financial incentive to issue fixed penalty notices rather than taking an education led approach, and reassurance was sought that Scottish Government guidance to local authorities would encourage the latter approach.

Importance of education and public awareness

- 3.40. A small number of education focused organisations, health focused campaign organisations, NHS, 'other' and individual respondents commented on the need for education about the new policy and the risks associated with energy drinks. Awareness raising that targets young people, schools, parents, retailers, and health professionals were all proposed. A social marketing campaign to encourage behaviour change was suggested.
- 3.41. The health and wellbeing element of the Curriculum for Excellence was suggested as an opportunity for Education Scotland to work with the Scottish Government and other stakeholders. Resources and support materials could be developed that schools can use to enhance the knowledge and understanding of pupils of the health implications of energy drink consumption.

- 3.42. Some respondents who disagreed with the principle of an age restriction being placed on the sales of energy drinks argued that education and raising awareness would be a better approach.

Developing guidance

- 3.43. An 'other' respondent supported the development of Ministerial guidance to be issued to local authorities and an implementation guide for retailers. This, combined with proactive education and awareness raising, was suggested to be a better approach than resorting to criminal enforcement.
- 3.44. Existing retail advice schemes were highlighted, and one retailer representative body offered to work in partnership with the Scottish Government to develop a retailer guide. A guide for wholesalers was also suggested, to distinguish different requirements for wholesalers selling to the public versus those selling to trade only, as well as for those selling to both.
- 3.45. One retailer representative body suggested that the Primary Authority¹³ scheme should be extended to smaller operators through their trade association, rather than being limited to large businesses. Another argued that making provisions subject to Primary Authority competence would allow for individual help and support and that businesses should be allowed to demonstrate the measures and systems they have in place to ensure compliance.

Definitions and labelling

- 3.46. The consultation paper explains that the Scottish Government intends to use the same definition of an energy drink as the UK Government namely any drink, other than tea or coffee, which contains over 150 milligrams of caffeine per litre.
- 3.47. There were calls for clear definition of those products subject to an age restriction in order to avoid:
- Technical loopholes
 - Retailers breaking the law unintentionally. It was suggested that small independent retailers in particular may find it hard to keep up to date with changes in the law and to train their staff

¹³ Primary Authority is a means for businesses to receive assured and tailored advice on meeting regulations such as trading standards through a single point of contact. The scope of Primary Authority and its practical operation differ in each nation of the UK. Policy areas devolved to the Scottish Government and covered by Scottish legislation (including food and public health) are not in scope of Primary Authority.

- Confusion with other drinks, including sports drinks and other soft drinks that may be marketed as providing ‘energy’, but are below the threshold of 150 milligrams of caffeine per litre.

- 3.48. On the latter point, a small number of manufacturer or manufacturer representative body respondents said that implementation and enforcement must ensure that products out of scope are not inadvertently included in a ban by retailers. It was suggested that the terms ‘high caffeine energy drinks’ and ‘energy drinks’ are being used interchangeably by governments with the potential to cause confusion. It was suggested guidance to retailers should include both an indicative list of products covered by the legislation, and clear guidance on how to identify relevant products.
- 3.49. A requirement for manufacturers to label age-restricted products clearly was also suggested, with existing labelling strengthened and an age limit icon added to facilitate easy identification. There were calls for an implementation period of at least 12 months, to allow time for retailers to understand and comply with the policy and for on-pack labelling changes. Although it was also argued that any transition period should be determined by credible evidence and not allowed to undermine the need for urgent action.
- 3.50. An alternative perspective, from another manufacturer representative body was that, to ensure caffeine consumption by children is addressed, the definition should be broadened to capture all sources of caffeine and sugar consumed by children – including in coffee, tea, chocolate, and caffeinated soft drinks. Regulation of energy drinks alone due to their caffeine content was suggested to send a message that they are more highly caffeinated than other unregulated products.
- 3.51. The respondent taking this view said that, to comply with best practice principles for food regulatory policy, any specific definition for energy drinks that is to be set in law should be produced by the Food Standards Agency¹⁴ after a science-based risk assessment process.

Evaluating the policy

- 3.52. The consultation paper notes that, depending on the action taken, consideration will be given to how best to evaluate any policy implemented. It states that monitoring could include assessing: compliance with the policy by retailers; any impact on Scottish businesses; any changes in consumption

¹⁴ The Food Standards Agency’s remit covers England, Northern Ireland, and Wales. Food Standards Scotland (FSS) is the public sector food body in Scotland.

levels by the age groups affected; and any related impacts on health and wellbeing.

Question 4: Please comment on our proposals for evaluating any policies that are implemented.

- 3.53. A total of 55 respondents (28 organisations and 27 individuals) answered Question 4.
- 3.54. There was often agreement that the proposals are broadly appropriate, with individuals, health focused charity or campaign organisations, health professional union or royal colleges, a manufacturer representative body, NHS, HSCP or local authority, retailer or retailer representative body and 'other' respondents amongst those taking this view.
- 3.55. However, caveats included that there should not be additional burden or extra cost for retailers or local authorities. It was also suggested that the policy should be assessed on a regular basis and that findings should be shared with stakeholders and reported to the Scottish Parliament.
- 3.56. A small number of respondents commented on what they saw to be the relative importance of the four criteria listed in the consultation paper. It was suggested that changes in consumption and wellbeing were most important, with impact on business less so.
- 3.57. Other comments on the proposed criteria included that:
- Test purchasing or mystery shoppers can be used to monitor compliance by retailers.
 - Engagement with children and young people throughout the process, including evaluation of impact, will be important. This was noted to be in line with UNCRC Article 12 (respect for the views of the child) and it was argued that in order to understand impacts on the health and wellbeing of children and young people their views and opinions need to be sought, measured and followed over time.
 - Evaluation of impact on health and wellbeing will need to focus on young people who were previously consuming energy drinks in large quantities and are prevented from doing so by the ban.
 - School meal providers create employment opportunities in the same way as other businesses. Shops and takeaways near to schools were argued to have been operating on an unlevel playing field with school

meal providers, with tight regulation in one setting and very little in the other.

- The Energy Drinks Business and Regulatory Impact Assessment questionnaire was suggested to provide a base point for evaluation of any restrictive legislative impact within the vending market.

3.58. Respondents also suggested additional aspects they thought should be evaluated, most frequently that unintended consequences – such as substitution with other highly caffeinated or high sugar products – should be monitored. Some respondents making this point argued that, should evidence indicate that children and young people are consuming growing amounts of other drinks that exceed 150 milligrams caffeine per litre, it may be appropriate to explore the case for extending the restrictions to such products.

3.59. Other suggestions included:

- Reviewing the extent to which any drinks not high in caffeine are inadvertently included in the ban by retailers.
- Assessing any post-implementation rise in incidents of abuse or anti-social behaviour towards shop staff.
- Monitoring levels of non-compliance, enforcement activity reported, and levels of penalties imposed.
- Monitoring of counterfeit products.
- Monitoring impact on dental health which was suggested to provide an early marker of health impact since dental disease can develop over a shorter timescale than conditions such as obesity and type 2 diabetes.
- Assessing how consumption is affected by socioeconomic status and whether the policy has had a differential impact across different socioeconomic groups. A Health Inequalities Impact Assessment was also suggested, and it was argued that there should be strong equalities focus around implementation and evaluation. (This is discussed further at Question 8.)
- Exploring what drives consumption of energy drinks among young people, particularly those in groups with higher rates of consumption, to provide an understanding of specific causes and to gather robust data on other methods of support that may help reduce consumption of health-damaging products.

3.60. The need to monitor impact on schools and youth groups was also highlighted. With suggestions including lifestyle and attitude surveys for young people and qualitative research with teachers on any improved outcomes in areas where energy drinks had adverse effects.

4. Impact assessments

Business and Regulatory Impact Assessment

- 4.1. The consultation paper suggests that mandatory age restrictions would create a consistent approach across both retail and out of home sectors and that this would ensure a level playing field and mitigate any competitive disadvantage that currently exists with the voluntary ban.
- 4.2. The paper also notes that the Scottish Government is seeking to reduce the purchase and thereby consumption of energy drinks by young people. The likelihood of an impact across the energy drink industry would increase with the levels of success of the policy. This would include manufacturers where these products constitute a significant proportion of turnover.

For sellers only:

Question 5: If you have implemented age restrictions for energy drinks, please describe any effect, positive or negative, that this has had on your business.

Question 6: If you do not have age restrictions in place for energy drinks, please describe any effect, positive or negative, that implementing such restrictions would have on your business.

- 4.3. Six retailer or retailer representative body and two individual respondents commented at Question 5. Two of the retailer or retailer representative body respondents also went on to comment at Question 6. A single analysis across the two questions is presented below.
- 4.4. One retailer respondent reported that when they implemented a voluntary ban (in March 2018), they drew on the experience of restricting the sales of alcohol to under 18s to ensure their approach to energy drinks was equally robust. They went on to set out that:
 - Their approach is enforced using a 'Think 25' policy which was introduced in 2009 and was specifically designed to ensure that underage shoppers are not exposed to inappropriate products.
 - They have retrained all checkout staff to apply Think 25 to any customers trying to purchase energy drinks.
 - Products identified as energy drinks also have a system flag applied so that when they are scanned through the till a prompt appears requiring staff to confirm that the customer is over age.

- The voluntary restriction does not have an impact on their online delivery service because all customers must be over the age of 18 to receive, inspect and sign for a grocery order.

4.5. This retailer went on to comment that:

“We believe that this simple and cost-effective system can support all retailers of any size who currently sell alcohol to roll-out the implementation of an age based restriction to energy drinks.”

4.6. Another retailer respondent, along with a retailer representative body respondent, commented that the introduction of any measure of this type requires financial investment arising from system changes and training to set up procedures for age verification, as well as additional transaction time resulting from these checks.

4.7. The retailer also reported that they have lost sales to young people aged under 16 who previously bought these products and to some 16 and 17-year olds who were unable to prove their age. However, despite these costs, they believe that limiting the sale of these products by age is the right thing to do. A retailer representative body respondent also confirmed that members who are already enforcing the ban report that they have, as intended, seen a fall in the sales of energy drinks. Another retailer representative body respondent reported that feedback from a small survey sample of their members suggested that the impact of introducing a minimum age policy would be minimal to their members' businesses.

4.8. However, they did comment that some of their members had reported instances of anti-social behaviour from consumers who were unable to provide proof of age. There was a call for Government to ensure that any new measures are communicated using all applicable media channels.

4.9. Other comments addressed sales through vending machines, with two retailer or retailer representative body respondents suggesting that most vending machines in workplace settings should not be subject to age restrictions because there are generally no under 16s on site. They commented that:

“Implementing general or vending specific restrictions would have an unnecessarily significant impact on business profitability for ‘us /our members’. It would also cause unnecessary friction with our members clients, who would not be happy on any restriction of product sales to adults.”

- 4.10. Finally, a small number of retailer or retailer representative body respondents commented on the uniformity of policy, including that retailers treat the UK as one market and that any mandatory age restrictions placed on energy drinks should be UK-wide.

Question 7: What, if any, impact do you think applying mandatory age restrictions to sales of energy drinks would have on businesses?

Please include any anticipated differential impacts, positive and negative, on sellers, distributors and manufacturers of energy drinks.

- 4.11. A total of 63 respondents (25 organisations and 38 individuals) answered Question 7.

Volume of sales

- 4.12. Comments on this question tended to be brief, with a small number of respondents, including some individuals, simply suggesting either that they did not think mandatory age restrictions on the sales of energy drinks would have any impact on businesses or that any impact would be minimal. This was sometimes connected to a proportion of businesses already operating a voluntary ban on the sales of energy drinks to under 16s. A health focused campaign organisation reported that some retailers, all publicly-owned leisure centres across Scotland and NHS establishments have already implemented voluntary age restrictions for under 16s.
- 4.13. One NHS respondent cited the recent evaluation of the Healthcare Retail Standard (HRS)¹⁵ as reporting that overall sales initially fell following implementation of the programme. Managers noted that this was affecting their profits, but as new products have been trialled, sales have started to improve. They went on to comment that, whilst accepting that the HRS applied to all food and drink sold and not energy drinks specifically, its impact is indicative of a probable impact on sales if a ban on the sales of energy drinks to children and young people is applied.
- 4.14. A manufacturer respondent reported that the only brand they have which is classified as high in caffeine accounts for 0.15% of their total sales and that, having sought to ensure the product does not appeal to under 16s, they do not believe the sales ban will have an impact on that brand.

¹⁵ The Healthcare Retail Standard is a mandatory requirement for all stores and trolley services in NHS healthcare settings in Scotland. An [evaluation of the Healthcare Retail Standard](#) is available.

- 4.15. Leading on from some retailers having already implemented a voluntary ban, health focused campaign organisations and royal college respondents were among those who suggested that by introducing a consistent approach across all retailers, a statutory age restriction would create a level playing field for all sellers. A health focused campaign organisation also commented that this will be enhanced by including all out of home and online sales, as well as promotional giveaways.
- 4.16. Other comments relating to a limited impact on businesses included that children or young people will be likely to shift to other soft drink purchases should energy drinks not be available. It was suggested that marketing and sales opportunity will still exist for all sellers, with the surge in the number and total sales of lower sugar products seen after the introduction of the Soft Drinks Industry Levy cited as an example of how the market can adapt. A health focused campaign organisation commented that:
- “Restrictions only serve to promote innovation and evolution for food and drink companies, and encourage them to reformulate or produce new products that are not liable for restrictions.”
- 4.17. In terms of types of businesses that would be affected, a local authority respondent said that these will include retailers near schools. A health focused campaign organisation referred specifically to the local, independent and convenience stores and fast food takeaways that may not currently apply a voluntary ban. However, an NHS, HSCP or local authority respondent suggested that many young people will still want to go to local shops and choose to spend any money saved on energy drinks on alternative products. While a local authority respondent thought that a ban could have a positive benefit to local businesses around a school as they could be part of the effort to promote improved health policies within their community. A different perspective, also from the NHS, HSCP or local authority respondent mentioned above, was that school meals services may gain extra customers in the case of young people whose primary motivation for leaving school at lunchtime was to purchase an energy drink.
- 4.18. Finally in relation to impact on sales, a small number of primarily individual respondents commented that, while they understood that there could be an impact on businesses, they did not consider this important, particularly relative to the potential to improve the health and wellbeing of children in Scotland. An individual respondent also suggested that a decrease in the sales to young people could lead to price increases which, if resulting in decreased sales to others, could be beneficial for the nation’s health overall.

Other types of impact

- 4.19. A small number of respondents, including manufacturer or manufacturer representative body respondents, a retailer representative body, a health focused campaign organisation, a royal college and a local authority respondent commented specifically on the impact of a ban on sales to under 18s.
- 4.20. A manufacturer representative body raised concerns that such a change would lead to significant reputational damage by unfairly and incorrectly putting energy drinks into the same category as alcohol and tobacco. A manufacturer who noted that they do not market or promote energy drinks to under 16s, commented that if a ban on the sales of energy drinks to under 18s is taken forward:
- “...the reputation of the sector could be seriously affected...it would be impossible for manufacturers to predict the business impact and reputational implications that this would have.”
- 4.21. Some other comments, including those from a health focused campaign organisation, a royal college and a local authority respondent reflected themes covered at previous questions, and at Question 3 in particular, including in relation to age verification processes. Their perspective was that as processes already exist for the sale of other age-restricted products, a ban on the sales to under 18s would be the most practical and easiest to implement for retailers.
- 4.22. An alternative perspective, from a manufacturer and a retailer representative body, was that carrying out age verification checks would place an onerous and disproportionate burden on sellers. This would be particularly onerous because there is no requirement for individuals to carry any form of ID. An associated concern raised by a local authority respondent was that, with the sales of most age-restricted products being restricted for under 18s, an under 16s restriction may add to confusion over which products can be sold to whom.
- 4.23. In terms of implementing any ban, it was suggested that retailers would incur costs including in relation to staff training, developing training materials, and developing consumer awareness materials such as posters to display in-store about the age restriction.
- 4.24. A manufacturer representative body noted that, at present, the soft drinks supply chain is highly integrated across the Republic of Ireland and the United Kingdom. Concerns were raised with respect to the prospect of

regulatory divergence from the existing EU framework on energy drinks, particularly in the context of Brexit. The same respondent suggested additional regulation from Scotland on energy drinks has the potential for a significant adverse effect on trade between Ireland and Scotland.

- 4.25. It was argued that the existing [EU Food Information Regulation 1169/2011](#) requires specific labelling for drinks with high caffeine content and that additional regulatory controls should not be introduced without robust scientific evidence.

Health Inequalities Impact Assessment

- 4.26. The consultation paper notes that consumption rates for energy drinks are higher in areas of deprivation and that a mandatory age restriction could help to reduce health inequalities. It suggests that having a consistent approach across Scotland would mitigate any differential impacts that relying on voluntary action can have on young people from different areas.

Question 8: What, if any, impact do you think implementing mandatory age restrictions to sales of energy drinks will have on people based on any of the following characteristics:

Age, Sex, Race, Religion, Sexual orientation, Pregnancy and maternity, Disability, Gender reassignment, Marriage or civil partnership, Socioeconomic disadvantage.

Please consider potentially positive, negative and differential impacts, supported by evidence, and, if applicable, advise on any mitigating actions we should take.

- 4.27. A total of 56 respondents (20 organisations and 36 individuals) answered Question 8.
- 4.28. Comments at this question tended to be brief, with some respondents simply saying that they did not think a ban would have any particular impact on people based on the characteristics set out, including because it would have a positive impact for everyone.
- 4.29. Most frequently, respondents including health focused charity or campaign organisations, health professional unions or royal colleges, NHS, HSCP or local authority respondents and individuals thought a ban would have an impact based on the age characteristic. They saw the impact as being positive, with further comments including that, given the age-specific nature of the proposal, children and young people would benefit. These benefits

tended to be described in terms of health benefits, including in relation to reduced rates of childhood obesity.

- 4.30. A connected point made by a health focused campaign organisation respondent who thought the proposal would have a positive impact based on age was that, if the mandatory age limit is set at 16, this could negatively impact 17-year olds who, they reported, are more likely to consume higher volumes of energy drinks. They went on to suggest that setting the age limit at 16 years old could have a particular negative impact on the health of 17-year-old boys who, it was reported, consume more energy drinks than girls. A health professional union suggested that the marketing of energy drinks is aimed predominantly at young males.
- 4.31. An alternative perspective from a manufacturer was that implementing a ban on sales to under 18s would unfairly restrict those aged 16 and 17 from choosing a safe, functional product.
- 4.32. Carrying out a [Child Rights and Wellbeing Impact Assessment](#) to consider how the policy will impact on the rights and wellbeing of children and young people was proposed. It was suggested that such a systematic assessment would provide both an understanding of the benefits and a benchmark for the assessment of impact in the future.
- 4.33. After age, socioeconomic disadvantage was the protected characteristic on which respondents thought a ban could have an impact. Comments often focused on links between obesity and socioeconomic status and resulting consequences for health inequalities. It was noted that research indicates that children eligible for free school meals are more likely to be frequent consumers of energy drinks. A health focused charity respondent reported that obesity is twice as prevalent among children in the most deprived areas of Scotland and went on to sum up their position by commenting that:
- “Population-level interventions, such as banning the sale of energy drinks to children, are likely to have the most positive effect on health inequalities. Tailored interventions for specific groups may only lead to behaviour change among more affluent groups, but population-level activity is more likely to benefit the most deprived communities where obesity rates are highest.”
- 4.34. The other two characteristics which respondents identified as potentially relevant were pregnancy and maternity and disability. With regard to pregnancy and maternity, a health professional union reported that current UK Government advice recommends restricting caffeine intake during

pregnancy to no more than 200 milligrams per day. They suggested that restricting sales of energy drinks could have a positive impact in limiting intake of caffeinated drinks.

- 4.35. With reference to disability, the same respondent went on to suggest that people with a learning disability may not understand the health issues around consuming energy drinks. Restricting sales could have a positive impact in reducing access for those with a learning disability who have difficulty making healthier choices.
- 4.36. Other comments referred to medical conditions, and included the suggestion that some people, including some people with attention deficit hyperactivity disorder (ADHD), use energy drinks to self-medicate.

5. Any other comments

Question 9: Please outline any other comments you wish to make.

- 5.1. A total of 61 respondents (31 organisations and 30 individuals) answered Question 9, with some reiterating support or opposition for the policy of restricting the sales of energy drinks. Others raised issues already covered in the analysis at earlier questions, and only points that have not been made elsewhere in this report are included below.
- 5.2. A small number of health focused charity or campaign organisations and health professional union or royal college respondents suggested the Scottish Government should go beyond the actions currently proposed in relation to improving health and combating obesity. More specifically with respect to energy drinks it was argued there could or should be:
 - A tax on high caffeine energy drinks.
 - Restrictions on price promotions and multipack offers.
 - Minimum pricing.
- 5.3. A number of health focused charity or campaign organisations, a health professional union respondent and a young people focused organisation proposed restrictions on advertising of energy drinks, including until after a 9pm watershed on television, or more generally across other media platforms. Restrictions on marketing of energy drinks in a way that makes them attractive to children and young people was also advocated, with examples including computer games, cartoon style adverts, use of social media and celebrity endorsements. However, a manufacturer representative body argued that comprehensive measures are already in place to ensure appropriate advertising of energy drinks.
- 5.4. A small number of health focused campaign organisations and health professional unions expressed concerns with respect to sports sponsorship by energy drink brands, especially with respect to youth sports or extreme sports. Promotion of energy drinks as a means of aiding physical activity and boosting sport performance was suggested to be of concern, and a report that young people may mistakenly use energy drinks for rehydration during physical activity was cited. It was argued there should be restrictions on energy drinks being associated with national sports bodies, competitions and venues, where the Scottish Government has the ability to do so.

5.5. There were calls for restrictions of the sales of energy drinks to be accompanied by an awareness-raising campaign, both for schools and for the general public. A health focused campaign organisation argued that there needs to be a change in the social acceptability of children drinking energy drinks, and that children and young people must be engaged in understanding the need for change. Highlighting the importance of presenting positive reasons for the proposed changes, an individual respondent commented that:

“Lecturing will not help young people avoid drinking these drinks.”

5.6. An education focused organisation called for consistency in the approach schools take with respect to energy drinks, and also suggested that schools should communicate promptly with parents if they have concerns about a young person’s behaviour or changes in their learning progress.

5.7. Commenting on the roles of retailers, schools and parents in educating children about their diet, a manufacturer representative body highlighted the resources they have developed to help communicate guidance around caffeine consumption. They urged government and stakeholders to make maximum use of these.

5.8. Two health focused campaign organisations and a health professional union argued that labelling of energy drinks should go beyond basic compliance with existing EU Labelling Regulations. It was noted that, in its [report on Energy Drinks and Children](#), the House of Commons Science and Technology Committee recommended that leaving the EU should be used as an opportunity to introduce additional labelling requirements for energy drink packaging to make advisory messages more prominent.

5.9. A need for products included in the definition to be easily identifiable was highlighted by a retailer representative body as being particularly important for smaller retailers. It was reported that nearly a third of convenience stores in Scotland do not have electronic point of sale (POS) systems with a till prompt to support compliance. For large retailers who have already introduced a voluntary age restriction for under 16s, it was noted that a decision to set a mandatory age limit of 18 will mean existing POS materials have to be updated and staff retrained.

5.10. A simple and straightforward definition for energy drinks was suggested with a retailer representative body respondent proposing that this should be:

“any drink that contains over 150 milligrams of caffeine per litre, unless all the caffeine comes from coffee, tea or coffee or tea extracts.”

5.11. However, it was also argued that the effect of stimulant substances other than caffeine should be considered, with an NHS respondent noting that one country that has banned sales of energy drinks to under 18s defines these as containing:

“one or more substances which stimulate the central nervous system (including glucuronolactone, inositol, guarana alkaloids, ginsenosides, ginkgo extract and taurine).”

5.12. An alternative perspective, given by a retailer representative body respondent, was that the present policy should not be a precursor for secondary legislation that impacts on other products deemed to have similar health impacts or depicted as containing some/similar ingredients as those defined as an ‘energy drink’.

Annex 1 - Organisations responding to the consultation

Respondents
Education or young people focused organisation
Children in Scotland
Connect
National Association of Schoolmasters Union of Women Teachers (NASUWT) - Scotland
Venture Scotland
Health focused charity or campaign organisation
Action on Sugar
Cancer Research UK
Children's Food Campaign (c/o Sustain)
Obesity Action Scotland
Scottish Obesity Alliance
Health professional union or royal college
British Dental Association
British Dietetic Association on behalf of the British Dietetic Association Scotland Board
Royal College of Pediatrics and Child Health Scotland
Royal College of Physicians of Edinburgh
Manufacturer or manufacturer representative body
A.G. Barr p.l.c.
British Soft Drinks Association
Energy Drinks Europe
Lucozade Ribena Suntory
Monster Energy Company
The Irish Beverage Council (IBC)

Respondents
NHS, Health and Social Care Partnership or local authority
Aberdeen City Council
Argyll and Bute Council/Argyll and Bute HSCP
Highland Council and NHS Highland (as Chair of our local 'Food & Health in Schools group')
NHS Health Scotland
NHS Shetland
Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
Stirling Council
Retailer or retailer representative body
Asda Stores Ltd.
Association of Convenience Stores
Automatic Vending Association
Excel Vending Limited
Sainsbury's
Scottish Grocers' Federation
Scottish Retail Consortium
Scottish Wholesale Association
Other
Advertising Standards Authority
Community Leisure UK
Institute of Economic Affairs
Law Society of Scotland

Annex 2 - Number of respondents answering each question

Type of respondent	Question								
	Q1 Further comment	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Organisations:									
Education or young people focused organisation (n=4)	4	3	2	3			2	1	4
Health focused charity or campaign organisation (n=5)	5	5	5	5			3	5	5
Health professional union or royal college (n=4)	4	4	4	4			4	4	4
NHS, HSCP or local authority (n=7)	7	7	7	6			6	6	3
Manufacturer or manufacturer representative body (n=6)	6	5	5	4			4	3	6
Retailer or retailer representative body (n=8)	8	8	8	5	6	2	4	1	6
Other (n=4)	3	1	1	1			2		3
Total organisations answering	37	33	32	28	6	2	25	20	31
% of all organisations answering (organisations n=38)	97%	87%	84%	74%	16%	5%	66%	53%	82%
Individuals	49	63	38	27	2	1	38	36	30
% of individuals answering (individuals n=81)	60%	78%	47%	33%	2%	1%	47%	44%	37%
All respondents answering	86	96	70	55	8	3	63	56	61
% of all those answering (respondents n=119)	72%	81%	59%	46%	7%	3%	53%	47%	51%



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