

Ending the sale of energy drinks to children and young people

Consultation

October 2019

Ending the sale of energy drinks to children and young people: consultation

MINISTERIAL FOREWORD

Diet in childhood has a large influence on what, and how, we eat in later life. That is why investing in our children's futures right from the start is crucial. This will maximise progress towards two of our Public Health Priorities for a Scotland:

- where we flourish in our early years
- where we eat well, have a healthy weight, and are physically active.

Last year, I launched **A Healthier Future: Scotland's Diet and Healthy Weight Delivery Plan**, in which I set out our vision where everyone eats well. In it, we committed to consulting on restricting the sale of energy drinks to young people under the age of 16. This consultation fulfils that commitment.

Concern about the consumption of energy drinks by children and young people has grown over the past few years. It is a concern that has been raised particularly by parents and teachers. The UK Government also recently consulted on introducing a ban in England. There have been calls from industry for an aligned approach.

As we set out in the Delivery Plan, we welcome the leadership shown by many retailers in stopping their sales to young people under the age of 16. The purpose of this consultation is to ask whether this is enough and in particular, whether mandatory measures are needed. And if so, how they might best be framed. This includes asking what would be the most appropriate age for any restrictions.

Many energy drinks have high levels of sugar. They can also be harmful to oral health due to their acidic nature. However, it is their high caffeine content and the detrimental effect this may have on young people's health that has led to this consultation. I am especially concerned about the impact these drinks can have on the quality of young people's sleep. Poor sleep can have huge consequences on physical and mental health; too much caffeine can disrupt good sleep.

We consult because we want better policy – and better outcomes as a result. We want to ensure the steps we propose taking are proportionate and are likely to deliver beneficial outcomes. Your responses will inform the consideration of our next steps and relevant impact assessments.

I thank you in advance for responding to this consultation.



A handwritten signature in blue ink that reads "Joe FitzPatrick". The signature is written in a cursive, flowing style.

JOE FITZPATRICK MSP
Minister for Public Health, Sport and Wellbeing

1. INTRODUCTION

1. We want to reduce the health risks associated with young people in Scotland consuming energy drinks.
2. Young people consume these drinks despite the required warning labels¹ on packaging stating that they are not recommended for children.
3. Research suggests that preventative action may be needed to protect young people from associated health harms². Over recent years, parents, teachers, third sector organisations and young people have called for such action to be taken.
4. Since the publication of a review of related health risks by the World Health Organisation², some countries have implemented restrictions on energy drink sales. The policies include:
 - a mandatory age restriction of 18 in Latvia, Lithuania and Turkey³
 - a mandatory age restriction of 15 in Sweden where some sales are also restricted to pharmacies²
 - the UK Government intends to implement a mandatory age restriction of 16 in England⁴
 - the Welsh Government have committed to similar restrictions in their recently published healthy weight strategy⁵.

This consultation paper

5. We are asking for views on our proposals and thoughts on any gaps, issues or unintended consequences. We would like to hear from a range of organisations and individuals to ensure we identify the best actions, if any, to take forward.
6. Information on the Scottish Government consultation process and details on how to respond to this consultation is set out in [Annex A](#).
7. Further information on the policy rationale behind the focus on energy drinks can be found in [Annex B](#).
8. A glossary is in [Annex C](#) and a list of consultation questions in [Annex D](#).

¹ 'Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers' requires that energy drinks be labelled with a warning stating "high caffeine content. Not suitable for children or pregnant or breast-feeding women." Available at: <http://data.europa.eu/eli/reg/2011/1169/oj>

² Breda, J. J., et al. (2014). Energy drink consumption in Europe: A review of the risks, adverse health effects, and policy options to respond. *Frontiers in Public Health*, 2. Available at: <https://doi.org/10.3389/fpubh.2014.00134>

³ Science and Technology Committee (2018). Thirteenth Report of Session 2017-19: Energy drinks and children. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmsctech/821/821.pdf>

⁴ Department of Health and Social Care (DHSC, 2019). Advancing our health: prevention in the 2020s. Available at: <https://www.gov.uk/government/consultations/advancing-our-health-prevention-in-the-2020s>

⁵ Welsh Government (2019). Healthy Weight: Healthy Wales. Available at: <https://gov.wales/healthy-weight-strategy>

What do we mean by an ‘energy drink’?

9. We intend to use the same definition of an ‘energy drink’ as the UK Government. In its recent consultation⁶, the UK Government defined it as any drink, other than tea or coffee, which contains over 150 milligrams of caffeine per litre. The British Soft Drinks Association⁷ and the Association of Convenience Stores⁸ also use this definition.

Recommended limits for caffeine and body weight

10. The European Food Safety Authority (EFSA) recommends for adults:
- Single doses of caffeine up to 200 milligrams – about 3 milligrams per kilogram of body weight (mg / kg bw) from all sources do not raise safety concerns for the general healthy adult population. The same amount of caffeine does not raise safety concerns when consumed less than two hours prior to intense physical exercise under normal environmental conditions. No studies are available in pregnant women or middle aged/elderly subjects undertaking intense physical exercise.
 - Single doses of 100 milligrams (about 1.4mg / kg bw) of caffeine may affect sleep patterns and duration in some adults, particularly when consumed close to bedtime.
 - Intakes up to 400 milligrams per day (about 5.7mg / kg bw) consumed throughout the day do not raise safety concerns for healthy adults in the general population, except for pregnant women⁹.
11. There are concerns as to whether the health risks associated with caffeine increase when consumed by young people. This could be due to lower bodyweight or other biological factors unique to children and adolescents. Another suggestion is that younger people have not yet developed the level of tolerance to caffeine that adults have.
12. Due to the above, and the uncertainty around long-term consumption of caffeine by young people, EFSA recommended the same limit for daily consumption and for single sitting consumption (i.e. 3mg / kg bw). For non-pregnant adults the safe daily level is twice the single sitting level (i.e. about 400 milligrams for an adult weighing 70 kilograms).

⁶ DHSC (2018). Consultation on proposal to end the sale of energy drinks to children. See Impact Assessment. Available at: <https://www.gov.uk/government/consultations/ending-the-sale-of-energy-drinks-to-children>

⁷ British Soft Drinks Association (2018). Code of practice on energy drinks. Available at: <http://www.britishsoftdrinks.com/Position-Statements/energy-drinks>

⁸ Association of Convenience Stores (2018). Energy drinks: Information for retailers. Available at: <https://www.acs.org.uk/sites/default/files/energy-drinks-guideforretailers.pdf>

⁹ This includes caffeine from other dietary sources, for example cola, coffee or chocolate. European Food Safety Authority (EFSA, 2015). Scientific opinion on the safety of caffeine. Available at: <https://www.efsa.europa.eu/en/topics/topic/caffeine>

Why young people?

13. Our proposals focus on young people because of the increase in risks of high caffeine consumption associated with lower bodyweight. A recent secondary analysis found consistent evidence linking energy drink consumption by young people:

- to physical symptoms including headaches, stomach aches and low appetite
- to higher sweet consumption, school exclusion and truancy, and alcohol, smoking and substance abuse¹⁰.

14. Caffeine consumption by young people is associated with poorer sleep¹⁰. There are also significant associations between caffeine and insomnia at levels as low as 1.4 milligrams per kilogram of bodyweight⁹.

15. Energy drinks consumption has been linked to sleep-related issues¹⁰. There is evidence that compared with non-consuming peers, adolescents who frequently consume energy drinks are 3.5 times more likely to report sleeping problems¹¹.

16. Sleep is crucial to health and wellbeing and is particularly important for adolescents. Sustained periods of sleep deprivation can have a negative impact on both physical and mental health¹². Research indicates that poor sleep affects young people's attention, memory, educational attainment¹³ and perceived quality of life¹⁴.

17. Young people who do not meet the recommended sleep guidelines have almost a 60% increased risk of becoming overweight or obese¹⁵.

18. Evidence also suggests that a lack of sleep can increase the desire for sugar and caffeine in order to combat fatigue. This could start a vicious cycle of inability to sleep, drinking more energy drinks and consuming unnecessary calories¹⁶.

¹⁰ DHSC Reviews Facility, Brunton, G. et al. (2019). Caffeinated energy drinks and effects in UK young people: A secondary analysis of population-level datasets. Available at: <http://eppi.ioe.ac.uk/cms/Default.aspx?tabid=3751>

¹¹ Huhtinen, H., Lindfors, P. & Rimeplä, A. (2013). Adolescents' use of energy drinks and caffeine induced health complaints in Finland. *European Journal of Public Health*, 23. Available at: <https://doi.org/10.1093/eurpub/ckt123.050>

¹² Mental Health Foundation (2011). Sleep matters: The impact of sleep on health and wellbeing. Available at: <https://www.mentalhealth.org.uk/publications/sleep-report>

¹³ Watson, E. J. et al. (2017). The relationship between caffeine, sleep, and behavior in children. *Journal of Clinical Sleep Medicine*, 13. Available at: <http://dx.doi.org/10.5664/jcsm.6536>

¹⁴ Segura-Jiménez, V. et al. (2015). Association of sleep patterns with psychological positive health and health complaints in children and adolescents. *Quality of Life Research*, 24. Available at: <https://doi.org/10.1007/s11136-014-0827-0>

¹⁵ Frank, S. et al. (2017). Diet and sleep physiology: Public health and clinical implications. *Frontiers in Neurology*, 8. Available at: <https://doi.org/10.3389/fneur.2017.00393>

¹⁶ Sampasa-Kanyinga, H., Hamilton, H. A. and Chaput, J-P. (2018). Sleep duration and consumption of sugar-sweetened beverages and energy drinks among adolescents. *Nutrition*, 48. Available at: <https://doi.org/10.1016/j.nut.2017.11.013>

Are young people overconsuming energy drinks?

19. We define 'overconsumption' as when the recommended daily limit of caffeine intake is exceeded over the course of one 24-hour period through the consumption of energy drinks. This can be through one or multiple sittings in the period. A single can of energy drink could include more caffeine than some people's recommended daily limit¹⁷. There is also the potential for one can to increase the total amount of daily caffeine dramatically, when taking into account the whole diet.

20. There could be a large number of young people overconsuming energy drinks¹⁸. Recent research commissioned by the UK Government suggests that:

- up to 33% of young people (aged under 17) in the UK report frequent or heavy use with 11% consuming energy drinks on a daily basis¹⁹
- some consume three or more energy drinks in one sitting²⁰.

¹⁷ If bodyweight = 50 kilograms, then the recommended limit is 150 milligrams.

¹⁸ Zucconi, S. et al. (2013). Gathering consumption data on specific consumer groups of energy drinks. EFSA Supporting Publications, 10. Available at: <https://doi.org/10.2903/sp.efsa.2013.EN-394>

¹⁹ 'Frequent or heavy use' refers to consuming energy drinks either five or more times in a week, on a daily basis or multiple times a day.

²⁰ DHSC Reviews Facility, Brunton, G. et al. (2019). Caffeinated energy drinks use and reported effects in young people: a rapid overview of systematic reviews. Available at: <http://eppi.ioe.ac.uk/cms/Default.aspx?tabid=3751>

2. MANDATORY MEASURES

1. The aim of this consultation is to inform our consideration of whether there is sufficient cause and evidence to support mandatory measures to end the sale of energy drinks to young people. If so, responses will also inform what those measures should be. The intention of any intervention would be to reduce potential health and wellbeing risks of energy drink consumption by young people in Scotland.
2. Research demonstrates that many young people have limited understanding of the ingredients in energy drinks²⁰. Stronger restrictions around the sales of energy drinks would send a clear message to young people, parents and carers that these drinks are not suitable for young people.

Current policy

3. The provision of energy drinks to pupils is not permitted in schools in Scotland²¹. All shops on NHS sites are also required to prohibit the sale of energy drinks to under 16s²².
4. The 1,300 facilities run by Scottish members of Community Leisure UK have restricted energy drink sales on their premises. These 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 facilities they manage.
5. We have welcomed the leadership shown by many retailers in prohibiting sales of energy drinks to under 16s. The UK Government estimate that around 21% of grocery stores have implemented voluntary age restrictions²³. This equates to 12,580 stores²⁴. Based on UK population estimates²⁵, a Scottish share of this would equate to approximately 1,030 locations in Scotland.
6. Of the convenience store businesses not included in the above list, the UK Government assumes that 50% also impose voluntary restrictions²⁶. For Scotland, this would equate to approximately 1,960 convenience stores.
7. Given that the voluntary restrictions have been in place for over a year, we do not expect much more uptake in the future. Making the restrictions mandatory would create a level playing field for businesses across Scotland.

²¹ The Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2008 require that drinks provided to pupils meet certain requirements, which energy drinks do not satisfy. Available at: <https://www2.gov.scot/Resource/Doc/238187/0065394.pdf>

²² Scottish Grocers Federation, Healthy Living Programme (2019). Healthcare Retail Standard. Available at: <https://www.scottishshop.org.uk/images/HRS-Guide-2019.pdf>

²³ See DHSC (2018) Impact Assessment⁶.

²⁴ Including supermarkets, discounters, convenience stores and forecourts. IGD Retail Analysis (2018). UK Grocery Store Numbers. Available at: <https://www.igd.com/Portals/0/Downloads/Research/UK-grocery-stores-table.pdf>

²⁵ Office for National Statistics (2018). Population estimates for the UK, England and Wales, Scotland and Northern Ireland: mid-2018. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/bulletins/annualmidyearpopulationestimates/mid2018>

²⁶ Based on a survey of convenience stores represented by the Association of Convenience Stores. See DHSC (2018) Impact Assessment⁶.

8. We are looking into whether enshrining a mandatory age restriction in legislation is an appropriate measure. We ask for further evidence to help inform any decisions we make. We have so far considered that:

- the voluntary ban, industry guidance and labelling requirements all currently use age 16 as the upper limit
- the UK Government intends to ban sales to under 16s in England and an aligned approach in Scotland would be preferable
- the recommended daily limit of caffeine consumption is dependent on bodyweight and, for young people, weight generally increases with age
- energy drink consumption tends to increase with age, with older adolescents (aged 15 – 17) 1.33 times more likely to consume energy drinks than younger adolescents (aged 10 – 14)²⁷
- the American Academy of Pediatrics advises that energy drinks are not appropriate for young people under the age of 18²⁸.

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

- Yes
- No – the mandatory age limit should be 18
- No – there should be no mandatory age restrictions
- Unsure
- Other (please specify)

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

²⁷ See DHSC (2018) Impact Assessment⁶.

²⁸ American Academy of Pediatrics (2011). Sports drinks and energy drinks for children and adolescents: Are they appropriate? *Pediatrics*, 127. Available at: <https://doi.org/10.1542/peds.2011-0965>

3. PROPOSALS FOR IMPLEMENTATION AND ENFORCEMENT

Exemptions to the policy

1. We are considering applying age restrictions to any place in which energy drinks are sold to the public. The restrictions would therefore apply to, among other places, retail, out of home settings²⁹ and wholesales outlets where energy drinks are sold to the public.
2. Views are sought on how restrictions could, or if they should, be applied to vending machines that are situated in public spaces.
3. Exemptions would apply to locations that are not widely open to, or attended by, young people. This could include, for example, wholesale outlets where sales are only to trade. Similarly, another exemption could be cafeterias and vending machines that are located in workplaces. This would depend on the age to which any restrictions applied.
4. We will also explore the potential to extend any restrictions to sales made online. There are precedents for online age restrictions, for example for alcohol and cigarettes. We will look at how these policies are enforced and whether they can be replicated in this context.

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.

Enforcement of the policy

5. We will consider all possibilities for how we could implement a mandatory age restriction. We will continue to discuss how a policy in Scotland could align with approaches elsewhere in the UK.
6. Local authorities are currently responsible for enforcing trading standards and environmental health legislation. We propose that local authorities would be responsible for enforcing any requirements that are implemented.
7. If we were to implement mandatory age restrictions:
 - a) we 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
 - b) we would aim to minimise demands on existing enforcing authorities as well as those subject to the restrictions

²⁹ See Annex C for more detailed definitions.

- c) we would work closely with local authorities and retailers to develop
 - i. ministerial guidance to local authorities
 - ii. an implementation guide for retailers
- d) we would consider giving local authorities relevant powers, including in relation to powers of entry and powers to obtain information
- e) similar to food safety legislation, we would consider giving local authorities powers to issue
 - a. compliance notices
 - b. fixed penalty notices³⁰
- f) we would consider creating relevant offences for sellers.

8. We would not propose to make it an offence for those under the age restriction to purchase energy drinks. We see the responsibility here clearly falling on the seller. Similarly, we would not propose to make it 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.

Evaluating the policy

9. Depending on the action taken, we will consider how best to evaluate the policy once implemented. Monitoring could include assessing:

- compliance with the policy by retailers
- any impact on Scottish businesses
- any changes in consumption levels by the age groups affected
- any related impacts on health and wellbeing.

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

³⁰ Provisions for compliance notices and fixed penalty notices are contained in the Food (Scotland) Act 2015. They have yet to be brought into use. Available at: <http://www.legislation.gov.uk/asp/2015/1/contents/enacted>

4. IMPACT ASSESSMENTS

Business and Regulatory Impact Assessment

1. Mandatory age restrictions would create a consistent approach across both retail and Out of Home sectors. This would ensure a level playing field and mitigate any competitive disadvantage that currently exists with the voluntary ban.
2. We are seeking to reduce the purchase and thereby consumption of energy drinks by young people. The likelihood of an impact across the energy drink industry increases with the levels of success the policy has. This includes 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.

For sellers only

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.

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.

Health Inequalities Impact Assessment

3. Consumption rates for energy drinks are higher in areas of deprivation³. A mandatory age restriction could help to reduce health inequalities. Having a consistent approach across Scotland would mitigate any differential impacts that relying on voluntary action can have on young people from different areas.

4. Due to the nature of this policy, we recognise that there will be differential impacts depending on age if it is implemented. This is why we are asking for evidence in support of, or against, mandatory age restrictions. We are also looking for views on what is the most appropriate age limit for any restrictions.

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.

5. ANY OTHER COMMENTS

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

ANNEX A – RESPONDING TO THIS CONSULTATION

We are inviting responses to this consultation by Tuesday 4 February 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/health-and-social-care/ending-the-sale-of-energy-drinks>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of Tuesday 4 February 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form, and return it, together with your responses, to:

Diet and Healthy Weight Team
Scottish Government
Room 3ES
St Andrew's House
Edinburgh
EH1 3DG

Telephone: 0300 244 0892

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at DietPolicy@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise, the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

ANNEX B – HOW ENERGY DRINKS DIFFER FROM OTHER DRINKS

1. Since the rapid increase in the consumption of energy drinks, there have been concerns around the potential negative impacts on health and wellbeing.
2. Researchers have observed many links between adolescent energy drink consumption and other negative health behaviours. These behaviours also contribute to being overweight or obese, for example, skipping breakfast, eating fast food and consuming more calories overall³¹.
3. Some energy drinks have high levels of sugar. Recent Kantar purchasing data shows that diet variants of soft drinks are outperforming full sugar versions³². The data does not suggest that energy drink purchasing is following the same trend. The sales of regular energy drinks remains stable despite a rise in sugar-free varieties.
4. Due to the presence of other ingredients such as taurine, guarana and B vitamins³³, energy drinks are different to other caffeinated products. To date, evidence is unclear if the health outcomes associated with energy drinks are linked to the caffeine content alone, the other ingredients, or the combination.
5. A Canadian study³⁴ found that young people (aged 12 – 24) were significantly more likely to report adverse events after consuming energy drinks compared with coffee. Adverse events included fast heartbeat, difficulty sleeping, headache, stomach problems, chest pain and seizures. This supports previous suggestions that consider energy drinks as a “novel” exposure due to the combination of ingredients.
6. We also know that energy drinks are detrimental to oral health and cause harm to irreplaceable tooth enamel^{3,35}. For the purposes of this consultation, we are focusing on the caffeine aspect of energy drinks rather than the sugar content or acidity. The average caffeine content of these drinks is 311 milligrams per litre³⁶.
7. We know that young people consume caffeine from other dietary sources. However, it would take a large amount of chocolate to consume the same level of caffeine as in one can of energy drink. In addition, there is no evidence that young people overconsume caffeine from other caffeinated foods or drinks.

³¹ Visram, S. and Hashem, K. (2016). Energy drinks: What's the evidence? Food Research Collaboration Policy Brief. Available at: <https://foodresearch.org.uk/publications/energy-drinks>

³² O'Mahoney, A. (2019). New kid in town. The Grocer, 1 June 2019, Print edition, pp. 41-51.

³³ Levels are sometimes higher than recommended intakes. See Lage-Yusty, M. A., Villar-Blanco, L. and López-Hernandez, J. (2019). Evaluation of caffeine, vitamins and taurine in energy drinks. Journal of Food and Nutrition Research, 58. Available at: www.vup.sk/en/download.php?bullID=2017

³⁴ Hammond, D., Reid, J. L. and Zukowski, S. (2018). Adverse effects of caffeinated energy drinks among youth and young adults in Canada: A web-based survey. Canadian Medical Association Journal, 6. Available at: <https://doi.org/10.9778/cmajo.20160154>

³⁵ Pinto, S. C. et al. (2013). Erosive potential of energy drinks on the dentine surface. BMC Research Notes, 6. Available at: <https://doi.org/10.1186/1756-0500-6-67>

³⁶ See DHSC (2018) Impact Assessment⁶.

Evidence of harm

8. Research indicates that young people who report daily consumption of energy drinks are twice as likely to report low psychological and physical wellbeing. Furthermore, they are four times as likely to have low educational achievement. This is compared to young people who reported never consuming energy drinks²⁰.

9. Teachers report a negative impact on young people's participation at school after consuming energy drinks³⁷. In a recent survey, 13% of respondents stated energy drinks as a main contributor to poor behaviour and a barrier to learning.

10. Other social, educational, health and lifestyle factors could all contribute to the effects on health and behaviour seen. Due to ethical considerations of conducting randomised control trials on young people, it is unlikely we will see evidence establishing clear causal effects from energy drinks consumption.

11. The evidence included in this document suggests strong associations with energy drink consumption and negative health, wellbeing and education outcomes. In contrast, there is little evidence demonstrating benefits for young people.

³⁷ The National Association of Schoolmasters Union of Women Teachers. Energy drinks. Available at: <https://www.naswt.org.uk/advice/in-the-classroom/behaviour-management/energy-drinks.html>

ANNEX C – GLOSSARY

Age restrictions – Bans sales to those under the age restriction and in some cases would require age verification to allow purchase of the product.

Energy drink – Any drink, other than tea or coffee, which contains over 150 milligrams of caffeine per litre.

Guarana – A plant extract that can have four times more caffeine than coffee beans³⁸.

Health inequalities – The unfair and avoidable differences in people's health across social groups and between different population groups.

Out of Home – Examples include takeaways and home delivery services, restaurants, cafés and bistros and sandwich shops³⁹.

Other places – Examples include venues (such as music or sports), charity shops, clothes shops, tourist shops and pharmacies.

Overconsumption – Overconsumption is when the recommended daily limit of caffeine intake is exceeded over the course of one 24-hour period through the consumption of energy drinks. This can be through one or multiple sittings in the period.

Retail – Examples include supermarkets, convenience stores, discounters and bargain stores and confectionary shops.

Taurine – An amino acid that occurs naturally in food⁴⁰.

Young people – Generic term for those under the age of 18, in cases where this differs we have given details.

³⁸ Smith, N. and Atroch, A. L. (2010). Guarana's Journey from regional tonic to aphrodisiac and global energy drink. Evidence-Based Complementary and Alternative Medicine, 7. Available at: <http://dx.doi.org/10.1093/ecam/nem162>

³⁹ See Food Standards Scotland (FSS) recent consultation for a more detailed definition. FSS (2018). Proposals to Improve the Out of Home Environment in Scotland. Available at: <https://consult.foodstandards.gov.scot/nutrition-science-and-policy/proposals-to-improve-the-out-of-home-environment-i/>

⁴⁰ EFSA (2009). Scientific opinion of the Panel on food additives and nutrient sources added to food on a request from the Commission on the use of taurine and D-glucurono-γ-lactone as constituents of the so-called "energy" drinks. Available at: <https://www.efsa.europa.eu/en/efsajournal/pub/935>

ANNEX D – CONSULTATION QUESTIONS

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

- Yes
- No – the mandatory age limit should be 18
- No – there should be no mandatory age restrictions
- Unsure
- Other (please specify)

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

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.

Question 3: Please comment on our proposals for enforcing any policies 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.

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

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.

For sellers only

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.

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.

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.

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



Ending the sale of energy drinks to children and young people: consultation

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83960-258-0 (web only)

Published by The Scottish Government, October 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS589010 (10/19)

W W W . g o v . s c o t