

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

Title of proposal:	The Food (Promotion and Placement) (Wales) Regulations 2024
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Department:	Public Health, Health and Wellbeing
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Cabinet Secretary/Minister responsible:	Eluned Morgan - Cabinet Secretary for Health and Social Care
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SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

Background

[Healthy Weight: Healthy Wales](#) sets out our 10-year strategy and vision to prevent and reduce obesity across Wales. In 2022, the Welsh Government issued a Healthy Food Environment consultation which covered a variety of measures being considered under the Healthy Weight: Healthy Wales strategy. The draft impact assessment below relates to two proposals we previously consulted on: promotion and placement restrictions for high fat, salt and sugar foods sold by food retailers and restrictions on free refills for sugary soft drinks within out of home settings. The assessment has been updated to support this consultation on the draft Regulations and policy approach to enforcement. Further updates will be made in line with any feedback we receive during the consultation.

Data shows that:

- By the time they start school, the proportion of children with overweight or obesity was 13.4% and 11.4% respectively in 2022/23¹.
- Over 60% of adults over the age of 16 were overweight or obese².
- The current annual full cost of obesity in Wales is an estimated £3 billion³.
- Obesity is one of the major risks to health in Wales. It is the leading cause of several major conditions including type 2 diabetes, cardiovascular disease and some cancers, and there are also links with orthopaedic problems, poor mental health and depression.
- Children and adults in Wales are not eating balanced diets. We consume too much sugar, saturated fat and salt and too many calories, but not enough fibre, fruit and vegetables⁴.

The need for action is clear. However, preventing obesity is a complex challenge, with many contributing factors acting at individual, community, societal and global levels.

The Food Environment

The consultation on policy proposals in 2022 set out that our food environment has developed in a way which prioritises convenience over health. This includes a focus

¹ [CMP 2022-23 - Public Health Wales \(nhs.wales\)](#)

² [Adult lifestyles by year, 2020-21 onwards \(gov.wales\)](#)

³ [The annual social cost of obesity in the UK | Frontier Economics \(frontier-economics.com\)](#)

⁴ Welsh Government. (2019). National Diet and Nutrition Survey: results for Years 5 to 9 of the Rolling Programme for Wales (2012/2013 – 2016/2017) and time trend and income analysis (Years 1 to 9; 2008/09 – 2016/17) [National Diet and Nutrition Survey: results for years 1 to 9 | GOV.WALES](#)

on easy, quick foods that will often be energy dense and high in fat and/or sugar and are sometimes more affordable.

In recent years, action has been taken to encourage industry to make the food it sells healthier and less calorific (through the UK Government's calorie, sugar and salt reduction programmes) and to label products to help people make more informed, healthier choices (for example, through front-of-pack nutrition labelling). This action has been introduced across the UK on a voluntary basis. Although the food industry has made some progress in reformulation and providing healthier options as a result, this has not been consistently delivered or maintained. With the exception of front of pack nutrition labelling where uptake is high (on around two thirds of prepacked food), voluntary approaches in this area have not delivered the change required. For example, manufacturers and retailers met only 52% of all average targets set in the 2014-2017 salt reduction programme⁵.

There are many reasons voluntary action doesn't always work or deliver the change required, not least because inconsistent adoption leads to an uneven playing field. This proposal sets out how legislation in this area will build upon voluntary action, deliver consistency, provide clarity and support a healthier shopping environment for the consumer. It will also help to maintain a level playing field for the food industry, ensuring that those who are making efforts to increase availability and promotion of healthier options are not disadvantaged by those who are not.

Healthier shopping baskets

Specifically, marketing and promotions tactics in stores are very effective at influencing food purchases. 40% of food and drink⁶ bought in UK stores is on promotion, the highest in Europe. The most recent pre-COVID figures for Wales⁷ indicate that these promotion tactics are most prevalent among products high in fat, sugar or salt for example, biscuits (33.9%) and confectionary (36.1%).

Promotions are so effective, that retailers choose to sell some commonly bought products (known as key value items)⁸ at a cost loss in order to entice us into their stores. This is in the hope we will complete our weekly or monthly grocery shop there and thereby increase their share of the grocery market.

Although promotions appear to save consumers money, data shows that they can actually increase consumer spending⁹ by around 20%. These products encourage people to buy more than they intended to purchase in the first place. Research also shows that up to 83% of purchases made on price promotion are impulse purchases, with only 17% planned. Those on lower incomes or with children are most likely to purchase food and drink high in fat, sugar or salt (HFSS) on promotion. For example, around half of chocolate purchased is on promotion. Although they may intend to,

⁵ [Sugar reduction: from evidence into action - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/sugar-reduction-from-evidence-into-action)

⁶ Ibid.

⁷ Kantar Worldpanel Take Home Purchasing | 52we data to 29 Dec 19

⁸ [Key Value Item Pricing Strategy | Examples & Benefits \(symson.com\)](https://www.symson.com/key-value-item-pricing-strategy-examples-benefits)

consumers do not typically stockpile food¹⁰, and additional purchases generally lead to increased consumption and calorie intake.

Welsh consumers recognise the influence such promotions have on their buying habits with a Cancer Research poll¹¹ finding 86% of respondents believed that deals that offer extra have an effect on how much unhealthy food they buy. In a Which poll of 2016¹² the top ask of retailers from consumers was for more healthy food to be offered on promotion.

The placement of products can also greatly influence our food choices. The 2018 Obesity Alliance study found¹³ that 43% of all food and drink products located in prominent areas, such as displays at store entrances, checkouts, aisle ends, or free-standing display units were for sugary foods and drinks. This type of marketing is used widely in the UK to promote high fat, salt and sugar foods, and is particularly influential for children and young people¹⁴. It encourages impulse purchasing¹⁵ which represents between 45% and 70% of food purchase, and 80% of purchases in some categories.

Some supermarkets had a higher proportion of sugary food and/or drinks at checkout than others, ranging from 30% in one major supermarket to 73% in another. The Obesity Alliance study also found that less than 1% of food and drink products promoted in high profile locations were fruit or vegetables. Evidence¹⁶ also suggests that prime location positioning of products increases consumer purchasing independent of any price reductions, signifying that increasing visibility of a product can lead the consumer to wrongly assume it represents better value. Food manufacturers pay a premium to place their products in these locations.

Healthier eating out of our homes

The consultation also set out that free refills on sugary soft drinks are a feature of some restaurant and pub chains. They are typically priced to appear as a good value option compared to the purchase of a single serving, such as a bottle of soft drink, which is likely to incentivise purchase. Children may also be incentivised by the novelty of self-service drinks and the choice of 26 varieties and flavours. It is reasonable to assume that such provision may increase the consumption of sugary soft drinks, and so increase calorie consumption, whilst providing few or no additional nutrients.

¹⁰ NHS Health Scotland. (2017). Rapid evidence review: The impact of promotions on high fat, sugar and salt (HFSS) food and drink on consumer purchasing and consumption behaviour and the effectiveness of retail environment interventions

¹¹ BBC Wales. (2019). Cheap junk food to blame for obesity in Wales

¹² Which. (2016). Should retailers do more to promote healthier food?

¹³ The Obesity Health Alliance. (2018). Out of place – The extent of unhealthy foods in prime locations in supermarkets

¹⁴ University of Stirling. (2015). The impact of food and drink marketing on Scotland's children and young people

¹⁵ BRQ Business Research Quarterly. (2015). Merchandising at the point of sale: differential effect of end of aisle and islands

¹⁶ Ibid.

In 2015, the Scientific Advisory Committee on Nutrition (SACN) published a report on carbohydrates and health¹⁷, which recommended the amount of sugars people consume as part of their daily calorie intake should be halved from 10% to 5%, and consumption of sugar sweetened drinks minimised. The report found consuming sugary drinks is leading to unhealthy weight gain in children and young people, and is linked with a greater risk of tooth decay, with 28% of children suffering from tooth decay by the time they turn five. In adults, too much sugar leads to excess calorie intake, weight gain and obesity.

Figures from the national diet and nutrition survey¹⁸, as referenced in the SACN report, found sugary drinks to be the highest contributor (30%) of sugars to the diet of 4- to 10-year-olds. When compared with the new SACN recommendation, children and young people were consuming around 3 times more sugar than recommended, with much of it coming from high-sugar drinks.

What does the Food (Promotion and Placement) (Wales) Regulations 2024 cover?

The proposed regulations will restrict all prime location placement and volume-based promotions for specified high fat, salt and sugar foods by medium-large food and drink retailers. Free refills on sugary soft drinks within the out of home sector will also be restricted.

Delivery against Programme for Government & well-being objectives

The development of an obesity strategy is a statutory duty under the Public Health (Wales) Act 2017. The proposals also aim for a shift in dietary habits is linked with the Net Zero Plan.

Voluntary action by industry to support the public to make healthier choices (reformulation, nutrition labelling etc.) has not had the desired impact on dietary shift. This proposal will be the first step in ensuring a level playing field by restricting the placement and promotion of unhealthy foods.

This proposal will play a significant role in delivering against a commitment to reduce health inequalities and support a sustained focus on the role of prevention.

Future Generations

The Healthy Weight: Healthy Wales Strategy, together with the consultation on Healthy Food Environment measures in 2022 were developed in line with the five ways of working set out in the Future Generations (Wales) Act 2015 to enable a systems-based approach which enables leadership at every level and will maximise

¹⁷ Public Health England. (2015). SACN Carbohydrates and Health Report

¹⁸ Welsh Government. (2019). National Diet and Nutrition Survey: results for Years 5 to 9 of the Rolling Programme for Wales (2012/2013 – 2016/2017) and time trend and income analysis (Years 1 to 9; 2008/09 – 2016/17)

the impact upon people's lived experiences in Wales for current and future generations.

Long term

This new legislation is designed to shift the food environment towards healthier options as part of a multi-component approach which focuses upon how we can achieve our ten year aims set out in Healthy Weight: Healthy Wales. As we move forward with the strategy, we will be bold and test new ways of doing things and learn as we go to continuously improve. We will use the best available evidence to embed a range of effective interventions to support the conditions required to impact on our nation's health in the long-term.

Prevention

Prevention is a central consideration within this proposal. Our aim is to enable people to make healthier food choices and to take away triggers which are provided within the food environment, which shifts us towards buying food which is poor for our dietary health and likely to make us mentally and physically unwell.

Integration

The wider programme of change that is being considered alongside this initial piece of legislation will take a whole government approach across a range of departments. We will link delivery to the seven well-being goals and work with public bodies to bring together a range of policy goals. We will consider how we can work with a range of stakeholders to achieve our aims and to build forward in an approach which considers the wider food system. We have also committed to working closely with industry to shape the technical guidance that sets out how the legislation should be implemented.

Collaboration

When we carried out our original Healthy Food Environment consultation in 2022, we agreed to create the right conditions for transformative ideas and collaboration to flourish. Throughout the policy development process, we have continued to work with our key national partners and groups across industry to make sure what we are proposing is practical for all impacted groups. As we consider taking further action around our food environment, we will continue to involve public body partners, the third sector and community leaders to refine all potential policy options.

Costs and Savings

These are set out in the Regulatory Impact Assessment that has also been published alongside this consultation.

SECTION 8. CONCLUSION

8.1 How are people most likely to be affected by the proposal been involved in developing it?

Our main target group for this consultation is impacted food businesses and enforcement bodies. We have already undertaken extensive stakeholder and public engagement as part of our previous Healthy Food Environment consultation, which included this policy proposal. This included:

- stakeholder events aimed at the food industry and non-governmental organisation (NGOs)
- focus groups aimed at our public priority groups
- wider public engagement to include roadshow events

The stakeholder engagement events aimed to capture in-depth stakeholder feedback and insight of food industry and NGO representatives. The focus groups were aimed at the following priority groups:

- older primary aged children (age 10 – 11)
- secondary aged children
- young people (age 16 – 25)
- parents and carers (from babies to teenagers)
- people from socio-economic groups C1, C2, D and E
- people on weight loss journeys
- people from black and minority ethnic backgrounds
- people aged 45 and over.

8.2 What are the most significant impacts, positive and negative?

The draft regulations we are consulting on are intended to develop a healthier food environment to enable the healthy choice, to be the easy choice. This is part of a multi-component approach set out in the national Healthy Weight: Healthy Wales strategy and compliments our overall approach to address both environmental and behavioural change aspects to help reduce and prevent obesity across Wales.

We know that obesity is now one of the main preventable causes of premature death. If current trends continue more people in Wales will die prematurely due to cancer, heart disease, liver disease and diabetes. More lives will be adversely affected by disability and ill health. Obesity also impacts negatively on our mental health which in many cases tracks with us from a young age and has life-long consequences and impacts. We have seen how a pandemic like COVID-19 has exposed health inequalities, affecting obesity and the communities where obesity prevalence is higher in a disproportionate way.

At a population level we are purchasing and consuming too many foods which are in fat, salt and sugar. This is having an adverse impact upon our health and we wish to change the food environment to enable a shift in dietary behaviours.

We do not wish to increase the cost of living for people and we know that many products on promotion can actually increase the cost of a weekly shop. However, we have carefully considered any adverse impacts this may place upon groups from lower economic backgrounds throughout the development of this policy and will continue to consider any perceived barriers or issues that are brought to our attention through this consultation process.

We are also aware of the costs that impacted businesses and enforcement bodies may incur as a result of the proposed legislative change and remain open to considering how we can work to minimise these impacts. We have published impact assessments alongside this consultation for further consideration by all respondents.

8.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

Reducing obesity and overweight rates across the population will be a key outcome of the proposed regulations and will help to significantly contribute towards achieving the aims set out in the ten-year Healthy Weight: Healthy Wales Strategy, which was developed in the context of and to support the WFG Act. Through reshaping the food environment so that it is easier for consumers to make healthy food choices, the policy's long-term aim is to prevent more people from developing obesity related illnesses. In turn, it is hoped that this will also help narrow the widening health inequalities gap¹⁹, creating a healthier, more equal society for all. This directly supports the general principle of the Well-Being of Future Generations (Wales) Act 2015, which is about making positive interventions now, to benefit people living their lives in Wales in the future.

The proposal contributes most notably towards the Act's following well-being goals:

- **A healthier Wales**
 - Ensures food environments within the retail sector make the healthy choice the easy choice for Welsh consumers.

¹⁹ Roberts, M., Petchey, L., Challenger, A., Azam, S., Masters, R., and Peden, J. (2022). Cost of living crisis in Wales A public health lens. Cardiff: Public Health Wales

- Takes a preventative approach to reducing obesity rates and the number of people suffering from diet-related health conditions.
- **A more equal Wales**
 - Supports action to close the gap between health outcomes in the least and most deprived communities across Wales by seeking to address rising levels of obesity, which we know disproportionately impacts those in lower-socioeconomic communities²⁰.

We are continuing to engage with a range of stakeholders and people who will be most impacted by the measures included within this policy proposal to mitigate any negative impacts and maximise the anticipated benefits to public health.

8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

There will be a robust evaluation put in place following the introduction of the proposed legislation. This will aim to understand the health benefits of any changes in the food environment. This will consider the use of data and cost analysis to inform future decision making.

²⁰ [CMP 2022-23 - Public Health Wales \(nhs.wales\)](#)