



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation – Summary of Responses

Part 1: Proposals to make the food environment healthier

A consultation on draft regulations and the enforcement approach for The Food (Promotion and Placement) (Wales) Regulations 20XX

Summary of responses and Welsh Government response

Date of issue: 13 January 2025

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This document provides a summary of responses to our consultation on the draft regulations and enforcement approach for The Food (Promotion and Placement) (Wales) Regulations 20XX. This consultation formed part 1 of [Proposals to make the food environment healthier](#), published on 1 July 2024. Welsh Government's response to the consultation and details of next steps for the proposed Regulations have also been provided.

Action required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

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This document is also available in Welsh: [Cynigion i wneud yr amgylchedd bwyd yn iachach | LLYW.CYMRU](#)

Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

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Introduction

On 1 July 2024, the then Cabinet Secretary for Health and Social Care, now the First Minister, published a consultation seeking views on the draft regulations and enforcement approach for The Food (Promotion and Placement) (Wales) Regulations.

The full text of the consultation is available at:

[Proposals to make the food environment healthier | GOV.WALES](#)

The proposed regulations restrict retail marketing and promotional strategies that can encourage overconsumption of high fat, salt and sugar (HFSS) products which contribute to levels of overweight and obesity in children. The aim is to make the healthy choice the easiest choice for Welsh consumers by:

- Restricting volume price promotions of HFSS products that evidence says can encourage overconsumption. This includes multi-buy offers (for example buy one get one free) and free refills of sugar-sweetened beverages.
- Restricting the placement of HFSS food and drink products at key selling locations such as store entrances, checkouts and aisle ends which evidence suggests can lead to pester power and impulse purchases of HFSS products.

All proposed restrictions included within the draft regulations were previously consulted on as part of Welsh Government's 2022 Healthy Food Environment consultation where they received support from the majority of respondents. These proposals largely mirror those included within England's equivalent existing regulations.

The full text of the 2022 Healthy Food Environment consultation is available at:

[Healthy food environment | GOV.WALES](#)

Methodology

In total, **84** responses to the consultation published on 1 July 2024 were received. The consultation response forms were available in Welsh and English with individuals able to respond in their preferred language. Responses were split between the two languages as follows:

Language	Number of responses
English	83
Welsh	0

Respondents were able to respond using the Welsh Government's consultation webpage or download a response form and submit it to a designated electronic mailbox.

Method of submission	Number of responses
Responses submitted online	60
Responses submitted via email	23

A breakdown of the type of respondent is provided below:

Sector	Total number of responses received
Business/Trade Associations	14
Members of the Public	35
Local Government/Health Boards/Enforcement	8
Health Organisations/Charities and Academics	18
Other/Anonymous	8

The consultation asked a combination of both open and closed questions, allowing space for respondents to provide detailed feedback, and raise any questions or relevant concerns.

As the proposals set out within the draft regulations for The Food (Promotion and Placement) (Wales) Regulations had previously been consulted on, the consultation did not reopen questions around whether the regulations should be taken forward. Instead, it sought comments on how the restrictions were described within the draft regulations and on the draft impact assessments that have been produced to assess the impact of the proposals on, for example, Welsh language, equality and children's

rights. The previous consultation on these proposals did not seek comments on how restrictions should be enforced so the consultation asked more detailed questions on this aspect of the draft regulations to give respondents a vital opportunity to provide input ahead of Welsh Government deciding on a final enforcement approach.

Report structure

This report provides a breakdown of responses to each question within the consultation. Table summaries of responses to closed questions have been organised by responder sub-type. Where respondents were asked open questions, extracts of responses by sub-type have also been provided, alongside a narrative summary.

It is not the intent, nor would it be possible, to reflect every comment received in this report. The purpose is to give an overview of the responses and an indication of the kinds of issues and concerns raised in relation to the proposals.

Key findings

The majority of respondents to the consultation felt that the draft regulations described the restrictions accurately and clearly. Responses from businesses regularly stressed the importance of the regulations being aligned with equivalent existing regulations in England and asked for Welsh Government to provide clear guidance to help businesses comply with restrictions. Responses from the public sector and health organisations/academics largely welcomed the proposed Regulations but asked for Welsh Government to consider extending the restrictions to either include additional product categories or introduce additional restrictions such as to Temporary Price Reductions (TPRs). This was in direct contrast to the views expressed by members of the general public who felt the measures set out within the draft regulations were too restrictive. Members of the public also raised concerns about the impact of the Regulations on the cost of living.

Respondents raised a number of different views in relation to the proposed enforcement approach for the Regulations. Respondents commonly stressed the importance of a proportionate approach to enforcement which supports businesses to comply with the Regulations instead of penalising non-compliance. Responses also commonly raised the need for enforcement bodies to be provided with adequate resourcing, training and guidance ahead of the Regulations coming into force. Members of the public were most critical of the enforcement approach and raised concerns about the impact it could have on smaller businesses.

A number of comments were also raised in relation to the draft impact assessments published alongside the consultation. In particular, respondents commented that the draft Equality Impact Assessment did not sufficiently explore the potentially harmful impact of the proposed regulations to those living in poverty. Respondents also felt both the potential positive and negative impacts of the proposals on children should be further explored within the Children's Rights Impact Assessment. Comments on the draft Regulatory Impact Assessment mostly came from business and trade associations who felt that some of the cost estimates set out within the assessment had been underestimated.

Summary of responses

Question 1

Table 1: Do the draft Regulations describe the promotion and placement restrictions accurately and clearly for both business and enforcement agencies to implement and enforce?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	10	2	0	2	14
Members of the Public	11	20	3	0	34
Local Government/Health Boards/Enforcement	4	1	1	2	8
Health Organisations/Charities and Academics	9	4	0	5	18
Other/Anonymous	3	5	0	0	8

	Yes	No
Total Respondents indicating a response	37	32
Overall Percentage	45%	40%

Responses to question 1 were mixed with 45% of respondents selecting 'yes' and 40% of respondents selecting 'no'. The majority of those who selected 'no' were members of the public who expressed overall disagreement with the nature of the Regulations. Concerns raised by members of the public focused around the following sub-themes:

- The impact on businesses due to the costs they may incur in complying with the Regulations
- The impact on the cost of living for consumers due to removal of promotional offers on restricted food items
- The impact on freedom of choice for consumers.

The vast majority of businesses and trade associations who chose to respond to this question answered 'yes' and showed overall support for the Regulations. Respondents were particularly supportive of Welsh Government's decision to align the Regulations with existing equivalent regulations in England, commenting that this would aid businesses in effectively implementing the changes. Several responses from businesses did also stress the importance of Welsh Government providing clear guidance to accompany the Regulations and for this guidance to be aligned as far as possible with guidance for equivalent regulations in England. The need for Welsh

Government to consider the time of year the Regulations come into force was also raised by multiple respondents so that businesses are not required to make the changes during the busy Christmas period.

Most responses received on behalf of local government, health organisations and academics also selected 'yes' in response to this question. A key theme in these responses was the need for additional Welsh Government action. For example, several responses asked for Welsh Government to consider extending the restrictions within the Regulations to either include more business types within scope of the restrictions, additional product categories or additional promotional restrictions such as to temporary price reductions (TPRs) and meal deals. Several responses also asked for Welsh Government to consider taking additional legislative or policy action to make healthier foods more accessible and affordable. Another key theme within responses, despite high levels of support, was the need for some areas of the Regulations or intended enforcement approach to be clarified further within the Regulations or through guidance. In particular, respondents asked for clearer definitions and definitive lists of restrictions. Responses also asked for Welsh Government to regularly monitor the regulations once in place to measure their impact, assess any unintended consequences and identify any potential need for the Regulations to be strengthened.

Question 1: extracts from responses

Members of the public

I don't believe this is the right thing to be focusing on and that I believe the government should be focusing on pricing of healthier foods.

There should not be any restrictions, people should have the right to make their own choices.

It's difficult for business to enforce when they are already struggling in poor hospitality environment.

Local Government/Health Boards/Enforcement

The Health Board agrees in principle, but suggests that the restrictions should apply to suppliers in addition to retail outlets. Often suppliers can use price promotions to sell larger quantities of high fats, sugar and/or salt foods (HFSS) products to retailers, making these products much more favourable. Often retailers find it difficult to stock healthier items as the unit costs are too high.

Health organisations, charities and academics

We consider the proposed regulations generally describe the restrictions accurately and are clear and easy to follow.

The price restrictions should apply to non-pre-packaged food, which includes many HFSS products such as cakes and biscuits. In addition, [the organisation] believes that price promotions, such as "Meal Deals" and "Temporary Price Reductions" should be included in the Regulations.

Businesses and trade associations

[The trade association] supports the Welsh Government's decision to align the promotional and location restrictions with those in England; a consistent regulatory approach will make it much easier for businesses to prepare for the regulations and comply because they will already be familiar with the regulations in England.

Supportive of regulation that supports better health outcomes. Delaying the implementation of legislation until March 2026 will provide time to ensure full compliance with legislative requirements.

Question 2

Do the draft Regulations describe the free refill restrictions accurately and clearly for both business and enforcement agencies to implement and enforce?’

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	10	2	0	0	12
Members of the Public	10	20	4	0	34
Local Government/Health Boards/Enforcement	4	0	0	0	4
Health Organisations/Charities and Academics	9	4	0	0	13
Other/Anonymous	2	5	0	0	7

	Yes	No
Total Respondents indicating a response	35	31
Overall Percentage	50%	45%

As with question 1, responses to question 2 were also mixed with 50% of respondents selecting ‘yes’ and 45% selecting ‘no’. Again, the majority of respondents who selected ‘no’ were members of the public who expressed overall disagreement with the Regulations. Concerns raised by members of the public centred similar sub-themes to question 1. The impact on freedom of choice for consumers was the most commonly cited concern, followed by concerns about the impact the refill restrictions would have on the cost of living.

Most businesses and trade associations responded ‘yes’ to this question. Most respondents in this group chose not to leave any additional comments, but one trade association noted that the restriction aligns with restrictions under UK Government’s existing equivalent regulations and confirmed that they had not received any indications of confusion from businesses subject to England’s restrictions.

The majority of responses from other sub-groups also indicated they felt the draft regulations describe the free refill restrictions accurately and clearly. One health board suggested that the inclusion of examples of what constitutes a ‘free refill’ promotion across different business types (e.g., self-service drink stations in restaurants) could help businesses better understand the scope of the restriction. A key ask from other responses was for Welsh Government to consider extending the refill restrictions to cover additional products such as diet/sugar-free drinks or juice

and milk-based products. Some respondents also suggested that portion sizes of drinks should also be restricted to discourage overconsumption.

Question 2: Extracts from responses

Members of the public

People are only having the free refills as a luxury, not everywhere offers this and so by taking this away you are just increasing the cost to customers and the poorest in society when they make the decision to go out.

There should not be any restrictions, people should have the right to make their own choices.

Remove it. Free refills are a good thing.

Businesses and trade associations

[The trade association] notes that the regulations align with England on the description of free refill restrictions. During the lead up to the restrictions coming into effect in England, [the trade association] did not receive any indication of confusion over the free refill restrictions therefore we believe the description is sufficient for business understanding.

Local Government/Health Boards/Enforcement

The regulations clearly outline what constitutes a free refill promotion and what constitutes a soft drink, including exemptions.

The Health Board agrees with the refill restrictions but feels that there should be some restriction to limit the size of the drinks offered, otherwise what is stopping the retailer selling larger volumes in one drink to encourage over consumption in new ways.

Health organisations, charities and academics

The draft Regulations are clearly and accurately written and should make the process of implementation and enforcement straightforward.

We welcome action on free refills and would go further to regulate the maximum portion size that can be sold, because of their current large contribution to sugar and calories in people's diets, and because restrictions on free-refills may push more retailers to offer larger servings.

The proposed legislation should be clear on the position regarding beverages that are zero sugar/ diet drinks. Whilst these contain minimal / negligible kcals/ sugar they can be detrimental to health in other ways, e.g. oral health. The inclusion / exclusion of foods containing sweeteners needs to be explicit.

Question 3

Do you foresee the difference in the way that aisle end restrictions are set out in England and Wales' equivalent regulations causing any operational challenges for qualifying food businesses or enforcement officers?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	3	5	3	3	14
Members of the Public	13	15	5	1	34
Local Government/Health Boards/Enforcement	2	4	0	0	6
Health Organisations/Charities and Academics	4	7	2	0	13
Other/Anonymous	5	0	0	0	5

	Yes	No
Total Respondents indicating a response	27	31
Overall Percentage	36%	43%

Most responses to this question did not foresee the difference in the way that aisle end restrictions are set out in England and Wales' equivalent regulations causing any operational challenges for qualifying food businesses or enforcement officers. The most mixed response was received from members of the general public. Some respondents repeated their general disagreement with the proposed Regulations and the impact they may have on consumer choice and the cost of living. Other respondents argued that aisle end restrictions would be ineffective in supporting consumers to make healthier choices as businesses would find new ways of promoting restricted products or that the proposed difference in the way aisle ends are described would cause confusion for businesses operating across England and Wales.

Most businesses and trade associations were supportive of the proposed wording. Those who selected 'yes' stated that the wording within Welsh Government's regulations should match wording in The Food (Promotion and Placement) (England) Regulations 2021 to ensure consistency of interpretation and avoid any confusion. The majority of responses, however, stated that this would have little impact on retailers operating across both countries as most businesses already operating under England's equivalent regulations apply restrictions to their aisle ends, regardless of their proximity to the 'main customer route' through a store.

Responses from other sub-groups were mixed. Some responses stated they felt the wording within the draft Regulations would make it easiest for businesses to comply with the Regulations and for enforcement officers to assess compliance. Other respondents were concerned about differences in equivalent regulations in England and Wales causing challenges for retailers. Several responses argued, however, that it was likely that businesses would be able to overcome any potentially challenges if Welsh Government provided clear guidance and communications.

Question 3: Extracts from responses

Members of the public

For store chains which operate in England and Wales this introduces inconsistencies in how they operate, they may need different procedures for their staff in the different countries which could lead to confusion and inadvertent operation outside of the legislation for the relevant country.

Stacking the unhealthy food in prime locations like aisle ends has always been a good promotion tactic for sales so reversing it to apply to healthy options is a good idea.

Most of the items promoted can equally be promoted in the aisles.

Businesses and trade associations

Aisle end restrictions in Wales will apply irrespective of whether an aisle end is adjacent to a main customer route. We consider this approach to be practical, as defining a 'main customer route' in retail environments can be challenging.

We suggest the same wording is used as in England for the sake of consistent interpretation and ways of achieving compliance in both Wales and England.

We will have to make some operational changes to our stores; however, we do not expect this to be a major challenge. Most of our aisle ends are restricted in England under the current regulations.

Local Government/Health Boards/Enforcement

The difference in how aisle-end restrictions are set out between England and Wales (where Wales applies the restriction to all aisle ends regardless of their proximity to a "main customer route") could cause operational challenges for businesses operating in both regions.

Multi outlet companies often issue standard operating procedures/advice and may simply adopt the guidance issued to their outlets already in existence in England which may cause minor difficulties for enforcement officers.

Health organisations, charities and academics

The difference between the restrictions set out in England and Wales are clear. We support the proposed restriction in Wales which would apply regardless of whether an aisle end is adjacent to a main customer route through the store.

We support the proposed Regulations for Wales addressing aisle end restrictions by removing the 'main customer route' criterion. We think this will simplify compliance for businesses and enforcement officers. However, the divergence from the English regulations poses potential operational challenges.

Question 4

Should local authorities issue improvement notices in cases of non-compliance with restrictions as the first formal action, as set out in paragraph 21 above?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	11	0	0	1	12
Members of the Public	8	19	5	1	33
Local Government/Health Boards/Enforcement	5	1	0	1	7
Health Organisations/Charities and Academics	10	1	2	1	14
Other/Anonymous	0	5	1	0	6

	Yes	No
Total respondents indicating a response	34	26
Overall percentage	47%	37%

Overall, most respondents felt that Improvement Notices offer an appropriate tool to encourage compliance with the proposed Regulations. Most members of the public, however, restated their disagreement with the proposed Regulations and expressed their opposition to government intervention in this area. Some respondents were also concerned about the cost of enforcement for tax-payers and the extra burden the enforcement of the Regulations would place on Local Authorities. Members of the public who selected 'yes' felt the use of Improvement Notices was proportionate and would result in a balanced enforcement approach.

All businesses and trade associations who indicated a response to this question stated that they were supportive of the use of Improvement Notices as the first formal enforcement action in cases of non-compliance with the Regulations. Respondents in this category advocated for a hierarchy of enforcement, which aims to support compliance, rather than penalise non-compliance. As part of this, respondents emphasised the need for thorough informal engagement between enforcement bodies and businesses before any formal taking formal action.

Responses from all other sub-groups were also supportive of the use of improvement notices and saw this as a fair and proportionate first step within the formal enforcement process. Respondents also agreed informal engagement between enforcement bodies and businesses was needed before any formal action was taken to allow businesses the opportunity to make improvements. Several

responses, however, stressed the need for local authorities to be provided with clear guidance and adequate levels of resourcing to enforce the Regulations.

Question 4: Extracts from responses

Members of the public

It should be up to the shop owner not the government.

Local authorities are already underfunded, and the cost of enforcement must not be passed on to the council taxpayer as rates are already far too high. The cost of enforcement should be covered by the Welsh Government.

Businesses and trade associations

[The trade association] welcomes the proposed enforcement approach which focusses on 'supporting compliance rather than penalising non-compliance'. We agree with the proposal to use improvement notices; however, this should be part of a hierarchy of enforcement, that starts with informal communication with the FBO or via Primary Authority partnerships discussions.

These regulations are complex and pose a host of challenges for businesses, so the use of improvement notices is welcome as it offers businesses a chance to rectify issues before facing harsher penalties or legal actions.

Local Government/Public Sector

We would agree that the use of Improvement Notices for some breaches of the legislation would be appropriate to return a business to compliance, and, as they are used to remedy non-compliance in other food related legislation, then businesses are readily aware of their existence.

Agree with an approach that focuses on improvement in the first instance and think it will be important to support businesses with corrective steps if they are failing to comply.

Health organisations, charities and academics

We consider this is appropriate and reflects practice elsewhere. More importantly it will ensure that there is enforcement of the proposed restrictions and widespread adoption.

We note that the likely enforcement body will be the local authority and have no objection to this proposal. However, it is essential that such enforcement responsibilities are accompanied with the resources required to carry out the role.

Question 5

Are there circumstances where an improvement notice may not be appropriate?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	3	2	4	1	10
Members of the Public	14	8	9	2	33
Local Government/Health Boards/Enforcement	3	1	1	1	6
Health Organisations/Charities and Academics	4	3	4	1	12
Other/Anonymous	5	1	0	0	6

	Yes	No
Total Respondents indicating a response	29	15
Overall Percentage	44%	22%

Members of the public shared mixed views in response to this question. Whilst some respondents felt that the Regulations should not be enforced at all for the reasons outlined in response to previous questions, others commented there may need to be more flexibility within the proposed enforcement approach to reflect different circumstances. For example, respondents suggested a different approach may be more appropriate for those who have ignored previous Improvement Notices.

Businesses and trade associations shared limited comments in response to this question. Those who did submit comments reiterated that an Improvement Notice should not be issued until enforcement officers have engaged informally with a business and its primary authority. One business argued that Improvement Notices may not be appropriate where businesses have a track record of substantially breaching requirements.

Responses from other sub-groups were also mixed. The majority of those who selected 'yes' suggested that Improvement Notices may not be appropriate for businesses who are found to be repeatedly and deliberately non-compliant with the Regulations. One response received from an enforcement body stated their agreement with the use Improvement Notices to encourage compliance, but also felt that there may be a risk of businesses reverting to non-compliance after the notice period, leading to resource implications for enforcement officers.

Question 5: Extracts from responses

Members of the public

The regulation shouldn't exist at all.

Do nothing. No need for heavy enforcement.

For multiple offenders or chains of retailers.

Businesses and trade associations

If a business has a track record of breaching requirements, and in a substantial manner, it should not be issued improvement notices. We encourage wording in legislation or guidance to ensure these circumstances are clear for enforcement authorities.

[...] a formal notice should only be issued after have exhausted the informal verbal engagement with the business and its primary authority.

Local Government/Health Boards/Enforcement

It could be inappropriate for an improvement notice to be served if there had already been a previous improvement notice within a given time frame that the food business failed to comply with.

We would agree that the use of Improvement Notices will encourage those businesses that wish to comply with the legislation to rectify any breaches identified, however, there is a risk as has occurred with other legislation where notices are utilised, that some businesses will comply by the specified date in the notice but then revert to non-compliance once the notice is removed. This could have resource implications for enforcement officers in drafting further notices for non-compliance before escalation for further enforcement action.

Health organisations, charities and academics

Improvement notices may not be appropriate for any businesses who are consistently failing to comply with the legislation; for example stores who may have received improvement notices in the past and are showing clear disregard for the legislation.

This will become apparent after implementation and identification of possible circumstances where an improvement notice may not be appropriate.

Question 6

Where a business fails to meet the terms of an improvement notice, is a fixed monetary penalty of £2,500 appropriate?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	6	0	2	5	13
Members of the Public	5	23	3	0	31
Local Government/Health Boards/Enforcement	2	2	1	0	5
Health Organisations/Charities and Academics	4	4	3	0	11
Other/Anonymous	0	5	0	0	5

	Yes	No
Total Respondents indicating a response	17	34
Overall Percentage	26%	53%

74% of members of the public who responded to this question indicated that they did not feel that a fixed monetary penalty of £2,500 was appropriate for businesses who fail to meet the terms of an Improvement Notice. Members of the public generally repeated that the Regulations should not be enforced. A number of responses also raised concerns about the impact of the fines on businesses trading within the current difficult economic climate. Other responses expressed the belief that the sum of a fixed monetary penalty should be relative to the size or turnover of a business.

Businesses and trade associations indicated they were largely in agreement with this aspect of the proposed enforcement approach. One respondent who submitted additional comments felt that a fixed monetary penalty of £2,500 would be effective in deterring businesses from non-compliance whilst also providing the with an opportunity to improve before further legal action was taken against them.

Responses from local government and health professionals expressed mixed views in relation to this question. Some respondents felt that the use of fixed monetary penalties would ensure compliance with the Regulations from businesses, whilst ensuring the enforcement approach remained fair and proportionate. Those who selected 'no' most commonly suggested a scalable penalty system where the sum of the penalty could be adjusted based on factors such as the size of the businesses and severity of non-compliance.

Question 6: Extracts from responses

Members of the public

I believe it should be relative to the size of the business, for example, if they are an independent retailer compared to a brand, £2500 is nothing to a brand where as to an independent retailer that could potentially put them out of business

There should be no fines as the hospitality industry in Wales is already struggling as the Welsh Government is anti-business. This is an extra cost the business can't absorb.

Businesses and trade associations

We believe this is in line with the approach currently used for other food regulations.

If a business is found to not meet the compliance requirements set out in the improvement notice, we would support the imposition of a fixed penalty notice of £2,500. It is important that there is a level playing field among businesses, so they adhere to the same compliance standards. This is a high enough amount to serve as a deterrent for businesses for considering engaging in this behaviour. It also provides them with an opportunity to improve their practices without immediately escalating to legal action.

Local Government/Health Boards/Enforcement

A fixed penalty of £2,500 for failing to meet the terms of an improvement notice provides a significant financial deterrent while remaining proportionate to the nature of the non-compliance. The amount is also aligned with similar regulations, promoting consistency and fairness across different enforcement context. Consideration could be given to a scalability penalty system where the amount could be adjusted based on factors such as size and severity of non-compliance.

The size of the monetary penalty could be related to the size of the business and particularly be tailored to target repeat offenders.

Health organisations, charities and academics

We have concerns about how much of a deterrent this penalty fee would be, particularly to some of the larger businesses. It may be worth considering tiered penalties depending on the size of the business. However, we appreciate the need to strike a balance with businesses.

Improvement notices would give businesses a reasonable opportunity to adapt to new regulations and to comply with the aisle end restrictions where they have not done so previously. As the proposed regulations make clear, a fixed monetary penalty of £2,500 would only be issued where a business has failed to comply with an improvement notice. A fixed monetary penalty of £2,500 would therefore be fair and appropriate in this context.

Question 7

Are there circumstances where a different approach might be more appropriate?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	5	1	2	0	8
Members of the Public	16	5	7	4	31
Local Government/Health Boards/Enforcement	3	2	0	0	5
Health Organisations/Charities and Academics	4	2	5	1	12
Other/Anonymous	4	0	1	0	5

	Yes	No
Total Respondents indicating a response	32	10
Overall Percentage	52%	17%

Responses to this question echoed those submitted for question 6. Members of the public most commonly repeated that they did not agree with the Regulations or the proposed enforcement approach. A minority of responses from this respondent group suggested that it may be appropriate to tailor the enforcement approach to the size of the business.

Businesses and trade associations also repeated their earlier comments around the importance of enforcement officers engaging informally with businesses before taking any formal enforcement action in cases of non-compliance.

Several responses from local government and health professionals repeated their suggestion of a scalable penalty system to account for the size of the business, their history of compliance with the Regulations or the seriousness of the breach. Others argued that a less formal approach to enforcement may be required where non-compliance is due to a lack of understanding or resources, rather than a deliberate disregard for the Regulations. In these circumstances, respondents felt businesses should be offered additional training and resources.

Question 7: Extracts from responses

Members of the public

It is up to the Welsh Government to educate people into good practice. It should not be the government's place to restrict free choice of the individual and by default make certain items that I would view as occasional treats more expensive.

Don't implement these aspects.

Businesses and trade associations

We encourage conversations between enforcement authorities and businesses as a first step, in the case of a non-compliance. This will ensure the business understands its responsibilities and will also help enforcement authorities understand what additional support is needed to help the business comply.

It is difficult to generalise, as circumstances will often vary, but generally, [we] would encourage local authorities or any other enforcement body to proactively engage with a business judged to be in contravention of a regulation, before deciding to impose a significant fine.

Local Government/Health Boards/Enforcement

For more serious breaches and non-compliance, the enforcement authority may consider prosecution as a more appropriate option, this could be the case where the business has a number of outlets where non-compliance is identified in all premises

There are circumstances where a different approach might be more appropriate than a fixed monetary penalty. For example, if the non-compliance is due to a lack of understanding or resources rather than deliberate disregard for the regulations.

The Health Board is concerned that the impact on small businesses will be significantly greater. Is there precedence of a percentage-based penalty based on business income/size?

Health organisations, charities and academics

This will become apparent after implementation and identification of alternative approaches.

Our research with local authority officers highlighted the importance of proportionate fines based on the size of organisations to deter non-compliance effectively. This approach not only promotes fairness by ensuring that penalties are equitable for smaller businesses but also appropriately penalises larger businesses whose impact and capacity for compliance are greater.

Question 8

Is 28 days an appropriate period to make representations and objections or to discharge liability for a Notice of Intent, as set out in paragraph 23 above?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	7	0	1	0	8
Members of the Public	11	13	9	0	33
Local Government/Health Boards/Enforcement	2	2	0	0	4
Health Organisations/Charities and Academics	11	1	1	0	13
Other/Anonymous	0	4	1	0	5

	Yes	No
Total Respondents indicating a response	31	20
Overall Percentage	49%	32%

A large majority of businesses and health organisations/academics answered 'yes' to question 8, indicating that they felt 28 days was an appropriate period for businesses to make representations and objections or to discharge liability for a Notice of Intent. Responses from members of the public and local government, however, were more mixed.

Members of the public who answered 'no' stated that businesses should be given more than 28 days or that there should be no enforcement of the Regulations.

Comments from local government responses indicated broad agreement with the proposed approach. One response stressed the importance of businesses being offered support during this period to ensure, for example, to ensure that they understand the Regulations. Another commented that this proposed timeframe balances the need for businesses to have sufficient time to respond and the need for timely enforcement actions.

Businesses and health organisations/academics confirmed that the proposal aligns with existing food regulations and generally viewed this approach as fair and reasonable.

Question 8: Extracts from responses

Members of the public

28 days is a ridiculously short amount of time for business to potentially change their whole layout and policy.

There should be no enforcement.

Businesses and trade associations

28 days is the longest period that can be permitted which should give businesses enough time to gather the necessary evidence they require to either make representations, objections, or to discharge liability for a Notice of Intent.

As long as the notice of intent is clearly communicated at the outset of the period.

Local Government/Health Boards/Enforcement

The Health Board agrees that 28 days should be permitted and during this time that support be given to businesses to ensure they understand the regulations, can source alternative suppliers and understand the expectations of any objections given. There also needs to be consideration for the level of support some businesses may require from the Local Authority and this will also reduce pressure on those supporting. More guidance on what would be considered reasonable objections to the notice of intention would be helpful.

It is felt that 28 days is a timescale that is provided for compliance in other areas of Trading Standards enforced legislation.

Health organisations, charities and academics

This timeline appears fair and is the maximum period for other related legislative breaches.

This is considered standard practice.

Question 9

Where a fixed monetary penalty has been issued, for example, for failure to comply with an improvement notice, should a person be able to discharge liability upon being issued with a fixed monetary penalty at a rate of 50% of the penalty issued?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	6	0	1	0	7
Members of the Public	6	18	8	0	32
Local Government/Health Boards/Enforcement	2	2	0	0	4
Health Organisations/Charities and Academics	6	1	4	0	11
Other/Anonymous	1	3	1	0	5

	Yes	No
Total Respondents indicating a response	21	24
Overall Percentage	35%	41%

Comments from members of the public in response to question 9 largely restated that the Regulations should not be enforced. The majority of respondents in all other groups, however, were in agreement with the proposed approach. One trade association argued this could incentivise businesses to comply with the Regulations and reduce the amount of time enforcement bodies would need to spend managing the enforcement process. This was echoed by respondents in other groups who submitted additional comments, with the exception of one local health board who felt that allowing a person to discharge liability by paying 50% of the fixed monetary penalty could undermine the impact of the fixed monetary penalty and place an additional administrative burden on enforcement agencies. One other local government respondent suggested an eligibility criteria for reduced payment option such as first-time offenses or minor non-compliance issues, to prevent repeat offenders from exploiting the system and ensure fairness in enforcement.

Question 9: Extracts from responses

Members of the public

No fixed penalty should ever be applied - it is unconstitutional and an abuse of power for financial gain.

There should not be any restrictions, therefore no penalty should ever be applied, meaning that this becomes redundant. People should have the right to make their own choices.

Businesses and trade associations

[The trade association] would support this measure on the basis that allowing a reduced payment option could encourage quick compliance and settlement, which would be beneficial for the business and enforcement community. For businesses, this will incentivise efforts to comply with the regulations and mean less time is spent by Trading Standards in managing the process which can be spent more effectively on undertaking enforcement activity elsewhere.

Local Government/Health Boards/Enforcement

This is standard practice in other areas where fixed penalty notices are issued so businesses are aware of reductions for early payment.

There should not be an option to reduce the monetary penalty to 50%. This would undermine the impact of the fixed monetary penalty and place an additional administrative burden on enforcement agencies.

Health organisations, charities and academics

A repeat act of non-compliance within a set period for example six months should again attract another fixed penalty notice.

Possibly, if this is in line with other such breaches and corrective action has also taken place within this timeframe. If the penalty is the full amount only however, this will likely motivate compliance to the regulation.

Question 10

Is 28 days an appropriate length of time to pay or appeal a final notice as set out in paragraph 25 above? The RESA specifies that 28 days is the longest period that can be permitted therefore any alternative suggestions must be less than 28 days.

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	6	0	2	0	8
Members of the Public	7	17	8	0	32
Local Government/Health Boards/Enforcement	4	1	0	0	5
Health Organisations/Charities and Academics	11	0	2	0	13
Other/Anonymous	0	5	1	0	6

	Yes	No
Total Respondents indicating a response	28	23
Overall Percentage	44%	36%

The majority of respondents indicated that they viewed 28 days as an appropriate length of time to pay or appeal a final notice. As with the previous question, respondents confirmed that this aligns with existing food regulations.

It was suggested that a reminder system is put in place to notify businesses as the deadline approaches, along with clear guidance on the appeal process and valid grounds for an appeal. Another respondent also stressed the need for smaller businesses to be provided with support during this time period.

Just over half of responses from members of the public answered 'no' to this question. These respondents continued to express their disagreement with the restrictions and enforcement approach, emphasising that people should have the freedom to make their own choices.

Question 10: Extracts from responses

Members of the public

There should be no fines.

Since it is entirely without merit and unconstitutional, no such penalty should ever be imposed or paid.

Businesses and trade associations

This approach aligns with the approach in the Food (Promotion and Placement) (England) Regulations 2021.

[The trade association] supports the proposal for a 28-day period to pay or appeal a final notice. This should give businesses a wide enough timeframe to prepare for an appeal or gather the resources to pay the notice.

Local Government/Health Boards/Enforcement

Agree this is sufficient time, given that there are three separate opportunities to appeal or to raise objections, therefore 28 days would seem reasonable. The Health Board does reiterate that support be given to smaller businesses during this time period.

28 days is an appropriate length of time to pay or appeal a final notice. This period provides businesses with adequate time to assess the situation, seek legal advice if necessary, and either make the payment or prepare an appeal. Given that 28 days is the maximum allowed under RESA, it strikes a balance between ensuring timely resolution of enforcement actions and allowing businesses a fair opportunity to respond. Suggestion of a reminder system to notify businesses as the deadline approaches and provide clear guidance on the appeal process and what grounds are valid for an appeal.

Health organisations, charities and academics

This is considered standard practice.

This timeline appears appropriate and is the maximum period for other related legislation breaches. If the timeline was anything less than 28 days, would companies realistically have the processes in place to be able to pay penalties before the deadline?

Question 11

Should failure to pay or appeal a penalty within 28 days result in the penalty being increased by 50%?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	4	0	3	0	7
Members of the Public	7	19	5	0	31
Local Government/Health Boards/Enforcement	2	1	1	0	4
Health Organisations/Charities and Academics	7	1	4	0	12
Other/Anonymous	0	6	0	0	6

	Yes	No
Total Respondents indicating a response	20	27
Overall Percentage	33%	45%

As with previous questions, most concerns with this approach were raised by members of the public who felt this could have a detrimental impact on smaller businesses. Some respondents also viewed the approach as a 'money-making scheme' by Welsh Government.

Comments from businesses were limited, but those who did comment were supportive of the approach and its alignment with other food regulations. Similar points were also raised health organisations/charities and academics. One respondent from this sub-group, however, commented that increasing the penalty in the current cost of living crisis may not be appropriate. Another respondent also expressed the importance of assessing the potential for mitigating circumstances on a case-by-case basis.

Local government responses were also largely content with this aspect of the proposed enforcement approach and felt that this would serve as a deterrent against ignoring penalties. One health board highlighted the need for businesses to be clearly warned of the potential for the penalty to increase and for a grace period to be considered in exceptional circumstances. Another health board suggested that during the settling in period of the new regulations, a lower percentage may be appropriate for first failure to comply.

Question 11: Extracts from responses

Members of the public

This could cripple smaller firms.

Comes across as a money making scheme.

Businesses and trade associations

This approach aligns with the approach in the Food (Promotion and Placement) (England) Regulations 2021.

We believe this is in line with the approach currently used for other food regulations.

[The trade association] supports this in the regulations as this will help work as a deterrent for businesses failing to comply with enforcement action and incentivise a speedier enforcement process.

Local Government/Health Boards/Enforcement

If the business has already been given support and an opportunity to improve, then it is justified for the penalty fee to be increased if there is a continuing failure to pay.

Increasing the penalty by 50% for failure to pay or appeal within 28 days is a reasonable measure. This escalation encourages timely compliance or engagement with the appeals process and serves as a deterrent against ignoring penalties. The increase in the penalty ensures that there are consequences for inaction, which helps maintain the effectiveness of the enforcement system. Suggest clear warning about the 50% penalty and grace period consideration in exceptional circumstances.

Health organisations, charities and academics

It is important to ensure no extenuating genuine circumstances.

This is considered standard practice.

Question 12

Are there any areas that need to be specified in guidance to allow businesses to implement the policy successfully?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	9	0	1	1	11
Members of the Public	7	12	11	0	30
Local Government/Health Boards/Enforcement	4	1	1	0	6
Health Organisations/Charities and Academics	7	2	5	1	15
Other/Anonymous	3	1	0	0	4

	Yes	No
Total Respondents indicating a response	30	16
Overall Percentage	45%	25%

There was a consensus from respondents that there needed to be a clear and concise guidance document that clearly articulates the product and businesses in scope of the regulations. Whilst it is not possible to capture every suggestion made, most suggestions fell within the following key themes:

Consistency with guidance for The Food (Promotion and Placement) (England) Regulations 2021

Respondents raised that the guidance should be consistent with the UK Government's equivalent guidance. Several responses from trade bodies pointed to the usefulness of guidance either linking to or emulating guidance of products in scope developed by the British Retail Consortium following the introduction of England's regulations.

Use of examples

Respondents asked that examples/diagrams are provided to illustrate key aspects of the regulations – particularly in relation to placement restrictions. Respondents also asked for examples of products that sit in and out of each category in scope of the Regulations.

Clear definitions

Respondents asked for clear definitions to be set out within guidance. For example, in relation to businesses in scope.

Comparison with UK Government's advertising regulations

Multiple responses from trade bodies asked for the guidance to set out the differences and similarities between Welsh Government's proposed regulations and the UK-wide advertising regulations which are due to come into effect in October 2025.

Support calculating Nutrient Profiling Model scores

Businesses and trade associations requested that Welsh Government work with UK Government to establish a national calculator system or database to assist businesses in generating a Nutrient Profiling Model score for their products.

Responses from members of the public to this question generally did not state specific suggestions for inclusion within guidance, but instead reinstated their disagreement with the proposed regulations.

Question 12: Extracts from responses

Members of the public

There should not be any restrictions, therefore no penalty should ever be applied, meaning that this becomes redundant.

There shouldn't be one at all.

Businesses and trade associations

The guidance should provide clarity on the products in scope to help businesses with accurate implementation.

The inclusion of a FAQ section would be a useful referral tool for retailers on niche questions that aren't covered in great detail in the overall guidance.

Guidance on how online promotional restrictions interact with advertising restrictions (working with CAP or ASA).

Local Government/Health Boards/Enforcement

Useful to provide food businesses with clear guidance including practical and visual examples of how they should comply with the regulations.

There should be a range of opportunities for information and training sessions offered to retailers to gain a better grasp of the requirements.

Health organisations/charities and academics

It is important that the accompanying guidance explains to businesses what exactly the regulations mean for them in a way that is clear and helpful, which should include a clear explanation of how to comply with the regulations.

Businesses and local authorities will need updated guidance / support around application of the nutrient profiling model. This could potentially be quite time consuming where looking at individual product lines and reformulation.

Question 13

Are there any areas that need to be specified in guidance to allow enforcement agencies to implement the policy successfully?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	4	0	3	0	6
Members of the Public	8	11	9	0	28
Local Government/Health Boards/Enforcement	2	2	1	0	5
Health Organisations/Charities and Academics	7	2	4	0	13
Other/Anonymous	2	1	1	0	4

	Yes	No
Total Respondents indicating a response	23	16
Overall Percentage	41%	28%

As with previous questions, some members of the public expressed their disagreement with the nature of the Regulations in response to this question. There was broad agreement from all other respondents sub-types that clear guidance needs to be available for enforcement bodies to ensure a consistent enforcement approach across Wales. In particular, respondents raised the following areas where additional guidance may be required:

Products in scope

Several respondents across sub-types argued that enforcement officers would require guidance to assist them in determining whether a product is in scope of restrictions. Respondents, for example, asked for guidance to include a method or calculator for enforcement officers to use to verify a product's Nutrient Profiling Model (NPM) score. One respondent commented they felt this was especially important during the early stages of implementation when enforcement officers may be less familiar with the Regulations and the Nutrient Profiling Model.

Information from retailers

One trade association argued that guidance should suggest that retailers retain records of their planograms to assist enforcement officers in assessing compliance with the Regulations during an inspection. This suggestion was echoed by two other responses, including a response from an enforcement body, who highlighted the

importance of enforcement officers having access to information on employee numbers and relevant floor areas for each retailer.

Alongside the suggestions above, enforcement bodies also asked for guidance on:

- Determining what constitutes an island
- Drafting an Improvement Notice
- Best practice for publishing guidance on Fixed Monetary Penalties

Definitions and examples

To ensure consistency in the way the Regulations are enforced, respondents asked for guidance to set out examples and definitions for each of the enforcement options available to enforcement officers.

Question 13: Extracts from responses

Members of the public

The increase on local councils to enforce this is disproportional

There should not be any restrictions, therefore no penalty should ever be applied, meaning that this becomes redundant. People should have the right to make their own choices.

Businesses and Trade Associations

For Trading Standards to be able to do their job effectively, there must be clear means for retailers to provide evidence of compliance in a way in which means Trading Standards officers can easily verify information relating to prohibited distances and impacted displays. As stated in question 12, providing in the guidance the suggestion that retailers retain records of their planograms in the case of an enforcement visit would be a useful way to help businesses demonstrate compliance and for Trading Standards to verify information.

Guidance should also be developed for enforcement authorities to help with determining whether a product is in scope. There has been significant reformulation of products to make them healthier so categories or brands that traditionally would have been considered HFSS, now have lower NPM scores. An example of this is Coco-Pops, which has been reformulated to a lower NPM score, making it compliant.

Local Government/Health Boards/Enforcement

The 'range' of enforcement options need to be clearer and more directive to Local Authorities as we will end up with different areas taking different approaches and have a disparity in how the enforcement is handled.

Health organisations/charities and academics

There should be a requirements for businesses to provide their store size and employee number to their local enforcement officers at least annually. This requirement would facilitate enforcement which is required for compliance and achievement of a level playing field.

[...] trading standards and environmental health officers who took part in our survey suggested they would appreciate more training opportunities, and access to more tools to support them in identifying in-scope foods and drinks.

Question 14

What, if any, challenges resulting from the proposed Regulations do you feel should be further recognised within the draft Regulatory Impact Assessment, particular to your field of interest?

Sector	Total
Business/Trade Associations	5
Members of the Public	22
Local Government/Health Boards/Enforcement	4
Health Organisations/Charities and Academics	8
Other/Anonymous	4

There were 43 responses to this question which sought suggestions for amendment or additions to the draft Regulatory Impact Assessment (RIA) published alongside the consultation. A significant number of responses commented on the additional draft impact assessments published. For example, the draft Equality Impact Assessment. Wider comments received have been reflected in the response extracts provided for question 14. This narrative summary, however, focuses only on comments specific to the draft RIA. Comments on other impact assessments have been incorporated into the narrative summary for question 16.

Whilst it is not possible to capture all comments made, the following are summaries of comments raised in relation to the draft RIA:

- The RIA indicates that it should take enforcement officers 15 minutes to assess compliance. The time required for this assessment has been underestimated.
- It is unclear how the administrative costs for officers have been calculated as there is limited information on the number of premises that may be impacted for the price promotion/product placement requirements.
- Costs to businesses have been underestimated. For example, the costs of refitting stores, training staff and implementing new systems.
- The Impact Assessment highlights the difficulties in estimating reformulation costs by individual manufacturers and that the costs may vary substantially. However, these costs, for example transition compliance costs and reformulation costs, should not be underestimated.

Several members of the public made more general comments on the impact of the regulations on the economy and the cost of living.

Question 14: Extracts from responses

Members of the public

The impact on citizens purchasing of food within their financial means, the draft legislation is at the wrong time for people of Wales and will negatively impact households.

Scrap this waste of time and money, people should have the choice of how they wish to consume food.

Businesses and Trade Associations

The Impact Assessment highlights the difficulties in estimating reformulation costs by individual manufacturers and that the costs may vary substantially. These costs should not be underestimated.

The costs to businesses has been estimated at £290k. The broad list of costs to businesses covers many of the areas which will indeed result in costs to retailers; however, the cost of these activities has been hugely underestimated.

Local Government/Health Boards/Enforcement

Those who purchase HFSS products in moderation will be unfairly disadvantaged. Therefore, the price of healthy items should be reduced to reflect this change, so overall food shopping budgets do not rise for households.

The Impact Assessment indicates that it should take enforcement officers 15 minutes to assess compliance and undertake documentary checks. It is not felt that this is practical, especially if there are to be calculations required on floor space, distance from entrances/aisles, and establishing nutrient profile scores.

Health organisations/charities and academics

We are concerned that the Equality Impact Assessment does not give sufficient regard to the potential negative consequences of the policy changes proposed for all groups, in particular for "low income households". Whilst we recognise the potential positive impact of the policy for low income households by supporting people make positive food choices, we believe the potential negative impact of higher food prices is significantly under played in the assessment.

Accept that reformulation costs have not been captured due to the substantial variation by product type, however, they do need to be recognised.

Question 15

What, if any, positive effects resulting from the proposed Regulations do you feel should be further recognised within the draft Regulatory Impact Assessment, particular to your field of interest?

Sector	Total
Business/Trade Associations	2
Members of the Public	19
Local Government/Health Boards/Enforcement	3
Health Organisations/Charities and Academics	7
Other/Anonymous	2

The majority of responses from members of the public identified no positive effects resulting from the Regulations and reiterated their view that no restrictions should be implemented. Some responses made specific references to the additional impact assessments published alongside the consultation. These comments have been captured in the narrative summary for question 16.

Multiple responses, particularly those from health professionals, asked for the positive impacts on health and wellbeing to be further recognised within the draft Regulatory Impact Assessment (RIA). Specifically, the impacts on levels of obesity, diet-related disease and dental health, which currently place a significant strain on the NHS. Two organisations asked for the potential negative consequences of an increase in food costs to be further considered within the RIA.

Question 15: Extracts from responses

Members of the public

No positives, just another way to make it harder for most families, and making it even hard to have any luxuries in Wales.

There are no positive effects.

Businesses and Trade Associations

The positive effect on public health, based on the evidence gathered to justify the introduction of these provisions, should be established. We understand this to be the figure of £183 million. It would be good to have a better understanding of how the Government came to that figure.

Local Government/Health Boards/Enforcement

The positive health impacts are captured by the draft regulatory impact assessment. These include reduction in obesity prevalence along with a reduction in obesity related morbidity and premature mortality. An unhealthy diet is one of the leading risks for non-communicable diseases such as cardiovascular diseases, diabetes and cancer.

Improved Health Outcomes - the regulations are likely to contribute to a reduction in the consumption of high fat, sugar, and salt (HFSS) products, which can lead to lower obesity rates, particularly among children. This can result in long-term public health benefits, including a decrease in obesity-related illnesses such as type 2 diabetes, heart disease, and certain cancers.

Health organisations/charities and academics

In addition to obesity related morbidity and mortality, consideration should be given to positive oral health effects resulting from the proposed regulations. Tooth decay is one of the leading causes for hospital admissions among young children in Wales, with high levels of sugar consumption a key risk factor.

Opportunity to encourage retailers to offer BOGOF offers on healthier foods items / placement of healthier food items at the end of isles etc. to balance and ensure removal of those items HFSS are replaced with suitably nutritious alternatives.

Question 16

Do you have any comments on the emerging conclusions in the draft impact assessments for Welsh Language, Children’s Rights, or Equality and Human Rights, and if so what evidence do you feel should be further considered particular to your field of interest to support your comments? The Equality Act 2010 prescribes protected characteristics that include age; religion or belief; race; sexual orientation; sex; gender reassignment; marriage and civil partnership; pregnancy and maternity; and disability

Sector	Yes	No	Don’t know	Blank	Total
Business/Trade Associations	0	0	3	0	3
Members of the Public	4	10	4	2	20
Local Government/Health Boards/Enforcement	1	1	0	0	2
Health Organisations/Charities and Academics	1	5	2	2	10
Other/Anonymous	0	1	1	1	3

	Yes	No
Total Respondents indicating a response	6	17
Overall Percentage	16%	45%

Some of the comments provided on the draft impact assessments published alongside the consultation were submitted in response to question 14 and 15 on the draft Regulatory Impact Assessment. For ease of review, all responses received in relation to the draft Equality Impact Assessment, Children’s Rights Impact Assessment and Welsh Language Impact Assessment have been included in this narrative summary.

Equality Impact Assessment

The majority of responses received asked Welsh Government to further consider the impact of the proposed Regulations on low-income households. Whilst respondents recognised that the proposals may impact low-income households positively by supporting them to make healthier food choices, respondents also thought the proposals had the potential to make food more expensive for those already struggling financially. Respondents did not feel these impacts had been adequately recognised and explored within the draft assessment.

One respondent also asked for the Equality Impact Assessment to consider the physical accessibility of food items for children and those with disabilities both in physical retail settings and online.

Children's Rights Impact Assessment

A range of comments on the draft Children's Rights Impact Assessment were received from respondents. Again, respondents felt the assessment should further consider the potential negative impacts of the proposals on children from low-income families. Other areas for further consideration respondents raised included:

- The impact of marketing strategies for less healthy foods on children, especially impacts on children in lower socio-economic groups.
- The potential long-term psychological and educational benefits of establishing healthier eating habits during childhood, including links with academic performance and mental health.
- The impact of the proposals and public health messaging on children with eating disorders who may view that there are 'good' and 'bad' foods.

Welsh Language Impact Assessment

Limited comments on the draft Welsh impact assessment were received. One respondent suggest that the impact assessment could further explore the potential for promoting the Welsh language. For example, Welsh Government could consider how bilingual promotion of healthier food choices could positively influence Welsh-speaking communities.

Question 16: Extracts from responses

Members of the public

This is not the role of Government and the very fact that you are prescribing to this level of dictatorship is taking away the whole populations human rights.

Businesses and Trade Associations

No comments submitted.

Local Government/Health Boards/Enforcement

Welsh Language - The impact assessment suggests that the regulations will have minimal impact on the Welsh language, as materials and communications will be provided bilingually. However, the potential for promoting the Welsh language further could be explored. Consider gathering evidence on how bilingual promotion of healthier food choices could positively influence Welsh-speaking communities.

UNICEF highlights the harm caused by the marketing of unhealthy food and drinks and provides recommendations for stakeholders on how better to protect children's rights in the context of food marketing. The report identifies the direct effects of marketing unhealthy food to children and highlights that children tend to be exposed to marketing more than adults and that children in groups with lower socio-economic status tend to be exposed to greater degrees of marketing.

Health organisations/charities and academics

No anticipated negative impact in our field of interest.

Low-income households- the policy would need to work in conjunction with healthy diet education. Removing promotions on HFSS products typically consumed in the group without backing this up with how to implement dietary changes, could lead to overspending/ further health problems due to deprivation.

Children have a right to regular meals and not to be hungry. The Equality Impact Assessment ought to have explored whether these proposals, which would risk making many staple food items more expensive, could negatively affect these rights and leave more children hungry.

Question 17

- a. What, in your opinion, would be the likely effects of the Regulations on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.
- b. Do you think that there are opportunities to promote any positive effects?
- c. Do you think that there are opportunities to mitigate any adverse effects?

Sector	Total
Business/Trade Associations	1
Members of the Public	18
Local Government/Health Boards/Enforcement	2
Health Organisations/Charities and Academics	7
Other/Anonymous	5

Some respondents felt that the proposed Regulations were unlikely to have any impact on the Welsh language. Those who did view the proposals as having the ability to impact the Welsh language felt it was important to view the Regulations as an opportunity to further enhance the promotion, visibility and use of the Welsh language. One respondent suggested Welsh Government consider bilingual public awareness communications. Another asked for all correspondence from enforcement officers and Welsh Government to be available in Welsh and for businesses to be able to communicate with enforcement bodies in Welsh if they wish to.

Most responses from members of the public chose not to directly comment on the impact of the proposals on the Welsh language and instead reiterated their overall opposition to the proposals.

Question 17: Extracts from responses

Members of the public

No, as there are no positive effects.

No just another example of this government tinkering with people's choices rather concentrating on the real issues.

Businesses and Trade Associations

We do not believe the Regulation will have an impact on the Welsh language.

Local Government/Health Boards/Enforcement

There are opportunities to further enhance the promotion, visibility and use of the Welsh language, which could contribute to broader goals of language sustainability.

Not aware of any impact on the Welsh Language.

Health organisations/charities and academics

It is important that the information is provided in as many different vehicles as possible to ensure all have access including languages, images, podcasts, etc.

We do not believe this will result in adverse effects.

All correspondence from the enforcement officer/Welsh Government will need to be available in Welsh, and the relevant business should be able to communicate in Welsh with the enforcement officer/Welsh Government if they wish to do so. Unless this is done, the Regulations would have negative impacts on the Welsh language.

Question 18

In your opinion, could the Regulations be formulated or changed so as to:

a. have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or

b. mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Sector	Yes	No	Don't know	Blank	Total
Business/Trade Associations	0	0	0	1	1
Members of the Public	0	7	1	4	12
Local Government/Health Boards/Enforcement	0	0	0	1	1
Health Organisations/Charities and Academics	0	2	0	2	4
Other/Anonymous	0	1	0	1	2

	Yes	No
Total Respondents indicating a response	0	10
Overall Percentage	0%	50%

Limited responses were received in response to question 18. The majority of those who did respond indicated that they did not believe the draft regulations could be reformulated to have more positive effect/mitigate any negative effects on the use of the Welsh language. Two respondents asked for all communications related to the proposals to be provided bilingually.

Question 18: Extracts from responses

Members of the public

Again, not relevant. A food ban has zero impact on the use of language.

Businesses and Trade Associations

No comments received.

Local Government/Health Boards/Enforcement

Mandate bilingual signs and materials. Set minimum standards for Welsh language.

Health organisations/charities and academics

The regulations should clearly state that all correspondence from the enforcement officer/Welsh Government will need to be available in Welsh, and the relevant business should be able to communicate in Welsh with the enforcement officer/Welsh Government if they wish to do so.

Question 19

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

A wide variety of additional comments were received in response to question 19. As with previous questions, it has not been possible to capture all comments received. Key themes of responses included:

Timing for implementation

Responses from businesses and trade associations asked for Welsh Government to reconsider the proposed timings for the Regulations so that they do not come into force during the Christmas period. Responses generally indicated that March would be a reasonable time of year for the Regulations to come into force.

Additional healthy food environment measures

There was a strong call from health organisations to consider additional healthy food environment action alongside the Regulations. In particular, respondents asked Welsh Government to consider how healthy food options can be made more affordable and readily available. Several respondents also asked for Welsh Government to consider extending the restrictions to cover temporary price reductions (TPRs), meal deals and the out of home sector. Responses from businesses, however, shared their opposition to the extension of the restrictions.

Evaluation

Several responses raised the importance of post-implementation reviews to evaluate the effectiveness and impacts of the Regulations. Responses from businesses recommended that a review should be undertaken 5 years after implementation to allow time to observe the effects of the Regulations.

Opposition to the Regulations

Members of the public elaborated on their opposition to the nature of the Regulations. As with previous questions, a key concern raised by respondents was the impact of the proposals on freedom of choice.

Question 19: Extracts from responses

Members of the public

If someone is assessed as having mental capacity then this means they are permitted to make unwise choices. It seems to me that these proposals are interfering with our individual choices in Wales and I wholeheartedly disagree with this legislation. Education rather than legislation should be the focus so that the population becomes better informed and consequently passes it's knowledge on to future generations.

Unfortunately this proposed legislation is somewhat blinkered in it's belief that it will reduce obesity / over consumption and it does not / will prevent people buying / consuming more than they need.

Businesses and trade associations

Timing for implementation – We understand the 12 month transitional period, after the entry into force, is likely to land at the end of 2025. The run up to Christmas is the busiest part of the year for retailers, and therefore we would ask an alternative date of the beginning of 2026 is strongly considered. We believe March to be a reasonable date for application.

We understand from the consultation document that the Welsh Government may consider further measures for HFSS products. We are concerned about unintended consequences for consumers and colleagues arising from restrictions on meal deals and the ban on temporary price reductions. These include removing affordable and accessible alternatives to dining out and difficulty with communicating the scope of the restrictions to customers.

Local Government/Health Boards/Enforcement

It would assist Enforcement Officers if premises had to provide the information on floor spaces in the premise (or signpost to where it is available e.g., Primary Authority register or direct from Head Office. This would result in officers spending less time calculating the areas on inspection, just checking what had been provided if it seems incorrect.

There are a wide range of businesses and settings that would have total or partial exemption from these regulations (section 16). The draft does not go into detail to specify exactly what the exemption levels would be. In turn, this may create several loopholes for businesses and settings to utilise to support non-compliance.

Health organisations, charities and academics

In addition to restricting the promotion of unhealthy food, [the health organisation] would wish to see significant emphasis given to the positive facilitation of promotions of healthy food product choices, both unprocessed foods (e.g. fruit and vegetables) and healthier processed foods.

We welcome the introduction of these measures as a way to improve the food environment in Wales, and to make it easier for people to buy healthier food. However, due to the scale and complexity of the problem in Wales we are disappointed to see that regulations on temporary price promotions and meal deals were not included in this consultation after their inclusion in the initial Healthy Food Environment Consultation 2022.

Welsh Government response

The Welsh Government is grateful to everyone who has participated in this consultation. As a summary document, not all issues outlined in responses may have been reflected fully, but each response has been considered carefully. The absence of issues or suggestions in this summary does not mean they have been disregarded.

We welcome the range of responses received and were pleased to see the overall level of support given to our proposals from businesses, local government and health professionals. We received a wider than expected range of responses to the consultation from different sectors, which set out very different viewpoints and suggestions for us to consider.

We recognise the concerns raised by members of the public. In particular, concerns in relation to the impact of the proposals on freedom of choice. Our proposals are not about taking away freedom of choice. We want people to take responsibility for their health and the health of their families, but we know that our environments affect the decisions that we make. Too much of the food and drink that our food industry is producing and promoting is unhealthy. Our proposals are about encouraging and supporting our food industry to produce and promote healthier products. This will provide customers with a more balanced choice.

We also recognise the number of comments raised in relation to the impact of the proposals on low-income families and the general cost of food. In developing this policy, careful consideration has been given to the impacts on and societal groups, including those on a lower income. Unplanned 'impulse' buys of promoted food products increase the amount of food and drink we buy and consume by about a fifth. We also know that promotions tend to be on branded items which, even on promotion, are often more expensive than equivalent products within store. This is, however, an important and complex area of consideration and we will ensure that the final impact assessments we now develop are reflective of the comments we have received.

Respondents also made several calls for the scope of the restrictions to be extended or for additional action to be taken to improve our food environments. Preventing and reducing obesity is a complex challenge requiring action across multiple levels. The proposed legislation is intended to be the first in a balanced package of voluntary, regulatory and fiscal approaches designed to improve our food environment and make healthier food both more accessible and more affordable.

We were grateful for the range of comments we received on our proposed enforcement approach for the Regulations. In particular, in relation to the use of Improvement Notices and Fixed Monetary Penalties. A common suggestion was for a tiered approach to enforcement based on the size of a business or their history of non-compliance to be considered. Whilst we understand the rationale for this suggestion, this does not align with the approach taken for equivalent existing regulations in England, which could make the compliance process more complicated for businesses operating across both England and Wales.

More specifically, some responses raised the appropriateness of Improvement Notices as a first formal enforcement step where, for example, retailers have a previous history of non-compliance with the regulations. In some cases, local authorities are able to prosecute without first issuing an Improvement Notice. However, non-compliance with these proposed regulations will not pose an immediate risk to human life. We believe this therefore calls into question the appropriateness of proceeding immediately to prosecution, even in cases where businesses have previously not complied with the Regulations. We also received a number of consultation responses which stressed the importance of the enforcement approach applied to the proposed regulations supporting compliance, rather than penalising non-compliance, which further calls into question the appropriateness of changing this aspect of the proposed enforcement approach. We will however commit to reviewing our enforcement approach as part of our planned post-implementation reviews.

Another area we have considered is the necessity for the Regulations to require retailers to provide Enforcement Officers with store floorplans or signpost to where this information is available. We consider the draft Regulations provide enforcement officers with sufficient powers to inspect the records relating to a food business within scope of the restrictions. As suggested by a response received from a trade association, we plan to include further information in supporting guidance in relation to demonstrating compliance to an Enforcement Officer.

We have also considered comments received regarding the necessity for the Regulations to make it clear that manufacturers of products are responsible for passing on information to enable retailers to comply with the proposed restrictions. We consider there are existing methods available for retailers to obtain the information required to calculate a Nutrient Profiling Model score for products, to assess whether that product is within scope of the proposed restrictions. We plan to include further information in supporting guidance in relation to calculating the Nutrient Profiling Model score and methods by which that information can be generated.

Overall, in balancing the suggestions we have received, we consider it most appropriate to keep the regulations largely consistent with existing equivalent regulations in England.

Next steps

We are not proposing to make any significant amendments to the draft Regulations as a result of consultation feedback. We will, however, be amending draft impact assessments in line with respondents' suggestions and will ensure comprehensive guidance is available to businesses and enforcement bodies ahead of the Regulations coming into force. We will also be adjusting the planned timings for the coming into force of the Regulations, which recognises comments from businesses and enforcement bodies. Subject to Senedd approval of the Regulations, our intention is now for them to come into force in Spring 2026, following a 12-month implementation window. We will continue to engage with impacted businesses and enforcement bodies to update them on our progress and support them in implementing and complying with the proposed Regulations.