

1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

The policy is intended to benefit public health and is not designed to increase disadvantage between individuals or groups, including those that share protected characteristics as set out in the Equality Act 2010.

40% of food and drink¹ bought in UK stores is on promotion and these promotion tactics are most prevalent among products high in fat, sugar or salt for example, biscuits (33.9%) and confectionary (36.1%)². Although they may intend to, consumers do not typically stockpile food³, and additional purchases generally lead to increased consumption and calorie intake. Free refills of sugar-sweetened beverages (SSBs) can also encourage excess consumption. SSBs tend to not satisfy hunger in comparison to solid food. As a result, total consumption of SSBs may increase while consumption of foods with more nutritional calories to decrease, causing weight gain and increased obesity over time⁴. Through restricting free refills on SSBs in the out of home sector and the promotion of specified high fat, salt and sugar products within food retailers, the proposed Food (Promotion and Placement) (Wales) Regulations 2024 aim to:

- Reduce overconsumption of HFSS products likely to lead to excess calorie intake and, over time, weight gain, while minimising the impact on food purchases that do not contribute to childhood obesity;
- Shift the balance of promotions towards healthier options and maximise the availability of healthier products that are offered on promotion, to make it easier for parents to make healthier choices when shopping for their families.

This approach forms a key part of commitments set out in our ten-year strategy *Healthy Weight: Healthy Wales*.

We expect this policy to have either a positive or neutral impact on levels of obesity and overweight within protected characteristic groups. In terms of age of consumer, analysis from Kantar shows that all ages buy into promotions⁵. Overall, the 35+ age groups buy more on promotion, with those aged 45-54 being the largest promotional

¹ Public Health England. (2015). Sugar reduction: from evidence into action

² Kantar Worldpanel Take Home Purchasing | 52we data to 29 Dec 19

³ Public Health England. (2015). Sugar reduction: from evidence into action

⁴ World Health Organisation, 2015. Guideline: Sugar intake for adults and children

⁵ An analysis of the role of price promotions on the household purchases of food and drinks high in sugar, a research project for Public Health England conducted by Kantar Worldpanel UK, 2020. Available here: <https://www.gov.uk/government/publications/sugar-reduction-from-evidenceinto-action>

buyers within this demographic though overall behavioural differences by age are small. The evidence highlights that households with children spend more on promotions compared to those without, however the difference is quite small⁶. As obesity is prevalent across the life-course, the policy aim is to benefit people of all ages. Restricted foods under the proposed legislation are those which contribute most significantly to childhood obesity levels to support people to adopt healthier diets from an early age.

Some protected characteristics groups are associated with higher rates of overweight and obesity. For example, Child Measurement Programme data indicated higher obesity rates in groups of children from certain ethnic minority groups⁷. As overweight and obesity are the leading global risks for mortality⁸, the policy may have a more positive impact on the health outcomes of these groups if it succeeds in supporting consumers to make healthier food choices.

Further detail on the specific anticipated impact for all protected characteristic groups can be found in the table below.

Ahead of legislation being laid, we will continue to assess the likely impact on different groups and update this assessment. Any negative impacts identified will be taken into account when deciding how to move forward with this policy.

Record of Impacts by protected characteristics:

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
Age (think about different age groups)	Positive – being overweight or obese is prevalent across the life-course and changes will help to create positive health outcomes.	Children and young people will benefit if they can maintain a lower weight as a result of the interventions in place. Data from the Child Measurement Programme 2018-19 shows that 26.9% of	N/A – the proposal enables positive impacts across all age groups.

⁶ Ibid.

⁷ National Child Measurement Programme (2019). National Child Measurement Programme, Wales 2018/19 School Year. Available at: phw.nhs.wales/services-and-teams/child-measurement-programme/cmp-2018-19/child-measurement-programme-for-wales-report-2018-19/

⁸ World Health Organization, Global health risks: Mortality and burden of disease attributable to selected major risks. 2009, World Health Organization: Geneva

		<p>children in Wales are overweight or obese.</p> <p>The benefits from the policy arise mostly as health improves in older age. The National Survey for Wales (2019-2020) showed that 61% of adults were overweight or obese, including 25% obese⁹. Increased body mass index (BMI) is a major risk factor for a range of chronic conditions. This risk of these conditions increases with age.</p>	
Disability (think about different types of disability)	Neutral or positive – there is a link between obesity and disability. Reducing obesity results in health benefits for disabled people.	<p>Analysis by Public Health England¹⁰ suggests children with disabilities are more likely to be obese than those without disabilities. Overweight and obesity in children and young people has also been linked to a range of disabling conditions, including learning disabilities, physical activity limitations, spina bifida as well</p>	

⁹ [Adult lifestyle \(National Survey for Wales\): April 2019 to March 2020 | GOV.WALES](#)

¹⁰ [Obesity and disability: children and young people - GOV.UK \(www.gov.uk\)](#)

		<p>as audio-visual impairments.</p> <p>In adults, disabled adults are more likely to be at risk of obesity, particularly those with learning difficulties¹¹, while obese adults may develop complications leading to disabilities because of being obese.</p>	
Gender Reassignment (the act of transitioning and Transgender people)	Neutral	There is no evidence to suggest that the policies will have a negative impact on people who share this protected characteristic.	
Pregnancy and maternity	Positive – there is a link between obesity and pregnancy and maternity and risks to health.	Affecting around 1 in 20 women in Wales ¹² , obesity in pregnancy is a rising public health problem that has an impact on both maternal and child health and cost to the NHS. It is associated with heavier infants, more birth interventions, poorer health of the baby and greater	

¹¹ [Health and Care of People with Learning Disabilities - NHS England Digital](#)

¹² [Obesity in Pregnancy | Case Study | NCPHWR | Health Research](#)

		likelihood that the infant will grow up to be overweight or obese.	
Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)	Neutral or positive – some ethnic groups have a higher prevalence of obesity and this policy is intended to have a positive impact.	<p>Data from the Child Measurement Programme 2018/19¹³, includes an examination by ethnic breakdown. This did not show a significant difference in childhood obesity between the ethnic groups year on year due to small numbers. However, when the data was pooled over 5 years the children classified as obese in Black ethnic group (14.1%) and Chinese ethnic group (13.1%) were higher than the Wales average (12.1%).</p> <p>Data from England¹⁴ demonstrates that Chinese adults had the lowest rates of overweight and obesity (35.3%), with Black adults having the highest prevalence (73.6%). Research shows</p>	

¹³ phw.nhs.wales/services-and-teams/child-measurement-programme/cmp-2018-19/child-measurement-programme-for-wales-report-2018-19/

¹⁴ [Overweight adults - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](http://Overweight adults - GOV.UK Ethnicity facts and figures (ethnicity-facts-figures.service.gov.uk))

		<p>that differences in weight between racial groups arise due to various factors such as environmental factors, health behaviours, socio-economic status and access to health care¹⁵.</p> <p>People from different ethnic groups have different levels of risk if they develop conditions associated with obesity and being overweight. For example, both Black and South Asian ethnic groups have greater risk of type 2 diabetes at a lower obesity threshold than in White people¹⁶.</p>	
Religion, belief and non-belief	Neutral	There is no evidence to suggest that the policy will have a negative impact on people who share this protected characteristic.	

¹⁵ [Microsoft Word - Obesity and ethnicity 090211 FINAL MG.doc \(khub.net\)](#)

¹⁶ [Ethnic disparities in the major causes of mortality and their risk factors – a rapid review - GOV.UK \(www.gov.uk\)](#)

Sex / Gender	Neutral	<p>The prevalence of healthy weight in girls (72.9%) in 2018/19 continued to be higher than in boys (71.8%) however the difference was not statistically significant¹⁷.</p> <p>In Wales, the pattern of increased overweight and obesity in males is prevalent. There are more men (67%) than women (55%) who are overweight or obese¹⁸.</p> <p>There is no evidence to suggest that the policy will have different effects depending on sex for both adults and children.</p>	
Sexual orientation (Lesbian, Gay and Bisexual)	Neutral	<p>There is no evidence to suggest that the policy will have a negative impact on people who share this protected characteristic.</p>	

¹⁷ phw.nhs.wales/services-and-teams/child-measurement-programme/cmp-2018-19/child-measurement-programme-for-wales-report-2018-19/

¹⁸ [National Survey for Wales, 2019-20: adult lifestyle \(gov.wales\)](http://National%20Survey%20for%20Wales,%202019-20%3A%20adult%20lifestyle%20(gov.wales))

Marriage and civil partnership	Neutral	There is no evidence to suggest that the policy will have a negative impact on people who share this protected characteristic.	
Children and young people up to the age of 18	Positive – as identified for age above, being overweight or obese is prevalent across children and young people and changes will help to create positive health outcomes.	Children and young people will benefit if they can maintain a lower weight as a result of the interventions in place. Data from the Child Measurement 2018-19 shows that 26.9% of children in Wales are overweight or obese ¹⁹ .	
Low-income households	Positive – this policy aims to support positive food choices, where there are higher obesity rates across areas with higher deprivation levels.	The Child Measurement Programme identifies that the prevalence of obesity was significantly higher than the Welsh average in the areas of greatest deprivation and significantly lower in the least deprived areas. The gap between obesity prevalence in the most and the least	

¹⁹ phw.nhs.wales/services-and-teams/child-measurement-programme/cmp-2018-19/child-measurement-programme-for-wales-report-2018-19/

		<p>deprived areas has risen from 5.9% in 2017/18 to 6.9% in 2018/19²⁰.</p> <p>The proportion of persons who are overweight or obese in the most deprived areas (67%) is significantly higher than the Wales average (57%). This gap is even greater across levels of obesity with most deprived (33%) compared to least deprived (20%)²¹.</p> <p>There are also considerations in terms of the cost of the proposals, particularly in relation to price promotions. However, whilst promotions may make products cheaper, they also encourage people to buy 18% more food and drink than planned. It is not the intention or aim of this policy to increase the cost of food for consumers.</p>	<p>We will continue to consider any further evidence during this consultation before moving forward with this legislative change.</p>
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²⁰ Ibid.

²¹ [National Survey for Wales, 2019-20: adult lifestyle \(gov.wales\)](https://gov.wales/national-survey-for-wales-2019-20-adult-lifestyle)

Human Rights and UN Conventions

At this stage of the policy development, we anticipate that there may be an impact on businesses in terms of Article 10 (freedom of expression) and Article 1 of Protocol 1 (protection of property) of the European Convention on Human Rights. We do not anticipate any adverse impact on the rights of consumers as a result of this policy proposal.

Continued consideration will be given to the potential impact of the policy on human rights.

EU/EEA and Swiss Citizens' Rights

It is considered that the proposals will not have any substantial effect on EU, EEA or Swiss citizens whose rights are protected by the Citizens Rights Agreements

Residency – the right to reside and other rights related to residence: rights of exit and entry, applications for residency, restrictions of rights of entry and residence;

Not relevant for this policy.

Mutual recognition of professional qualifications – the continued recognition of professional qualifications obtained by EU/EEA/Swiss citizens in their countries (and already recognised in the UK);

Not relevant for this policy.

Access to social security systems – these include benefits, access to education, housing and access to healthcare

Not relevant for this policy.

Equal treatment – this covers non-discrimination, equal treatment and rights of workers;

Not relevant for this policy.

Workers rights - Workers and self-employed persons who are covered under the Citizens Rights Agreements are guaranteed broadly the same rights as they enjoyed when the UK was a Member State. They have a right to not be discriminated against due to nationality, and the right to equal treatment with UK nationals.

Not relevant for this policy.