



## BRIEFING PAPER

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# Obesity

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## Summary

Obesity is a physical condition in which a person is very overweight, with a lot of body fat. Policymakers have faced the difficult challenge of addressing increasing obesity prevalence; a complex issue affected by socioeconomic, cultural and geographical factors.

This paper covers the work of the UK Government in preventing and reducing obesity, which in recent years has greatly focussed on reducing obesity prevalence in children. A series of chapters from a childhood obesity plan have been the main developments: [Childhood Obesity, A Plan for Action](#) in August 2016, [Childhood obesity: a plan for action, Chapter 2](#) in June 2018 and Chapter 3 as part of the July 2019 green paper, [Advancing our health: prevention in the 2020s](#).

Within these, the Government has introduced a number of measures aimed at reducing the prevalence of childhood obesity. These have generated a wide range of responses from stakeholders, who in some cases, have considered the measures too weak, or conversely, disproportionately restrictive.

### **The Soft Drinks Industry Levy**

The soft drinks industry levy (SDIL), one of the Government's better-known anti-obesity measures, was introduced in April 2018 and has been considered to have been effective in encouraging reformulation of products. For example, Public Health England (PHE) [reported](#) a 28.8% reduction in total sugar content per 100ml between 2015 and 2018 for the drinks subject to be included in the SDIL among retailer own brand and manufacturer branded products. There have been calls for it to be extended to sweetened milk-based drinks with added sugar.

### **Advertising restrictions**

There has also been work on advertising, with the Government having [consulted](#) on introducing further restrictions on advertising products high in fat, salt and sugar (HFSS). There has been strong support from children's health campaigners for additional advertising restrictions, whilst industry bodies have urged the government to "avoid any decisions that might have a damaging impact on industry, but little or no effect on lowering obesity levels". In February 2021 the Government [announced](#) its intention to introduce further restrictions on advertisements for products high in fat, sugar or salt being shown on TV before 9pm.

### **Covid-19 and obesity**

In July 2020, months into the Covid-19 pandemic, the Government published its policy paper, [Tackling obesity: empowering adults and children to live healthier lives](#). In it, the Government expressed concern about the "consistent evidence that people who are overweight or living with obesity who contract coronavirus (Covid-19) are more likely to be admitted to hospital, to an intensive care unit and, sadly to die from Covid-19 compared to those of a healthy body weight". The paper set out information about the link between Covid-19 and obesity, a new campaign encouraging people to achieve a healthier weight, initiatives designed to support people to make healthier choices and changes to children's food advertising.

### **Further Reading**

[Social prescribing](#), Commons Library Briefing, CBP 8997, 2 September 2020

[Obesity statistics](#), Commons Library Briefing, CBP 3336, 11 January 2021

[Health inequalities: Income deprivation and north/south divides](#), Commons Library Insight, 22 January 2019

[The effect of junk food advertising on obesity in children](#), Commons Library Debate Pack, CBP 0012, 15 January 2018

[The Soft Drinks Industry Levy](#), Commons Library Briefing, CBP 7876, 12 April 2017

[Childhood obesity: an inequality issue](#), Commons Library Insight, 5 September 2016

# 1. Background

Obesity is a term used to describe when a person is very overweight with a lot of body fat.<sup>1</sup> Whether someone is normal weight, overweight or obese will usually be assessed using body mass index (BMI).

Obesity can have considerable effects on how long we live, and the quality of our health during our lifetime. Obesity increases the risk of developing Type 2 diabetes, heart attacks, strokes, high blood pressure, some types of cancer and impaired insulin resistance.<sup>2</sup> Obesity is also associated with a range of other conditions including increased use of long-term medication, impaired fertility, and musculoskeletal disorders.<sup>3</sup> Children and young people with obesity may experience bullying, which in turn can be associated with shame, depression, low self-esteem, poor body image and suicide.<sup>4</sup>

The technological revolution of the 20<sup>th</sup> century has delivered changes in food production and motorised transport which have produced what some describe as an 'obesogenic environment'.<sup>5</sup> Some observe that modern living can involve exposure to cheap high-calorie food, with much time being spent sitting down at desks, on sofas or in cars.<sup>6</sup>

The increase in obesity prevalence has become an area of concern for global health. Worldwide, obesity has nearly tripled since 1975.<sup>7</sup> As of 2016, 1.9 billion adults aged 18 years and older were overweight, and of these, 650 million were obese.<sup>8</sup>

The Health Survey for England 2019 reported that 28.0% of adults in England are obese and a further 36.2% are overweight, making a total of 64.2% who are either overweight or obese.<sup>9</sup> Of those who are overweight or obese, there is an increased prevalence in men (68%) compared to women (60%).<sup>10</sup> In England, excess weight is more likely amongst those living in deprived areas, those with disabilities and those without qualifications.<sup>11</sup> Individuals of Black or White British ethnicity are also more likely to carry excess weight.<sup>12</sup>

Alongside the effects they have on the individual, the complications of obesity also have implications for the NHS. In England, in 2018/19 there were 11,117 hospital admissions directly attributable to obesity, and 876,000 hospital admissions where obesity was a factor.<sup>13</sup>

Many politicians have expressed concerns about the prevalence and impact of obesity in the UK. Former Prime Minister Tony Blair [referred](#) to poor diet and inadequate exercise as a "collective problem that will require us all to work together, including government", but also considered that obesity and a number of other conditions were "questions of individual lifestyle".<sup>14</sup> Former Prime Minister David Cameron [spoke](#) of "most disturbing"

<sup>1</sup> NHS, [Obesity](#), (accessed on 5 Oct 2020)

<sup>2</sup> [The challenge of obesity in the WHO European Region and the strategies for response, Summary](#), WHO, 2007

<sup>3</sup> [The challenge of obesity in the WHO European Region and the strategies for response, Summary](#), WHO, 2007

<sup>4</sup> WHO, [Weight bias and obesity stigma: considerations for the WHO European Region](#), 10 Oct 2017

<sup>5</sup> [Tackling Obesities: Future Choices- Project Report, 2<sup>nd</sup> Edition, Foresight](#), Government Office for Science, 17 Oct 2007

<sup>6</sup> NHS, [Overview, obesity](#), (accessed on 5 Oct 2020)

<sup>7</sup> WHO, [Obesity and overweight](#), (accessed on 1 April 2020)

<sup>8</sup> WHO, [Obesity and overweight](#), (accessed on 1 April 2020)

<sup>9</sup> NHS Digital, [Health Survey for England](#), 2019

<sup>10</sup> NHS Digital, Health Survey for England 2019, [Overweight and obesity in adults and children](#), 2020

<sup>11</sup> [Obesity statistics](#), Commons Library Briefing Paper no 3336, 11 January 2021

<sup>12</sup> [Obesity statistics](#), Commons Library Briefing Paper no 3336, 11 January 2021

<sup>13</sup> NHS Digital, [Statistics on Obesity, Physical Activity and Diet, England, 2020](#), 5 May 2020

<sup>14</sup> ["Blair calls for lifestyle change"](#), BBC News [online], 26 Jul 2006

figures on childhood obesity and said that Britain's obesity crisis must be tackled as seriously as smoking.<sup>15</sup> In 2018, former Prime Minister Theresa May [said](#) that "nothing threatens [the health and well-being of our children] more than childhood obesity".<sup>16</sup>

## 1.1 Defining obesity

The most widely used method of identifying obesity is calculating a person's BMI. BMI is a measure that uses a person's height and weight to work out if their weight is healthy.<sup>17</sup> The NHS has a BMI calculator available on its [website](#) and provides categorisation corresponding to the resulting score:<sup>18</sup>

If your BMI is:

- below 18.5 – you're in the underweight range
- between 18.5 and 24.9 – you're in the healthy weight range
- between 25 and 29.9 – you're in the overweight range
- between 30 and 39.9 – you're in the obese range<sup>19</sup>

The National Institute for Clinical and Healthcare Excellence (NICE) recommend using BMI as a practical estimate of fat in adults, and in children when adjusted for age and gender.<sup>20</sup>

There are some limitations in using BMI. BMI is calculated using weight and does not make a distinction between fat and other types of tissue such as muscle or bone.<sup>21</sup> NICE acknowledge this and recommend the use of BMI with caution. For this reason, BMI is not used in pregnant women, very muscular people, and people over the age of 60 (who lose muscle during the aging process).<sup>22</sup>

There are some considerations to be made regarding ethnicity. NICE considered that evidence gathered by The Public Health Interventions Advisory Committee, showed that people from Black, other minority ethnic and Asian groups are at an equivalent risk of ill health at a lower BMI than the white European population.<sup>23</sup> However, the Committee did not consider the evidence sufficient to make recommendations on the use of new BMI and waist circumference thresholds in these groups.<sup>24</sup>

## 1.2 What causes obesity?

Obesity is a complex and multi-factorial condition with many causes. Below is a brief summary of some of these causes.

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<sup>15</sup> "[More spent on treating obesity-related conditions than on the police or fire service, says NHS Chief](#)", *The Telegraph* [online], 7 Jun 2016, (accessed on 8 Nov 2020)

<sup>16</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/10800, [Childhood obesity: a plan for action, chapter 2](#), 25 Jun 2018

<sup>17</sup> NHS, [What is the body mass index \(BMI\)?](#), (accessed on 3 Apr 2019)

<sup>18</sup> NHS, [BMI healthy weight calculator](#), (accessed on 8 Nov 2020)

<sup>19</sup> NHS, [What is the body mass index \(BMI\)?](#), (accessed on 8 Nov 2020)

<sup>20</sup> National Institute for Clinical and Healthcare Excellence, [Obesity: identification, assessment and management, clinical guideline \[CG189\]](#), 27 Nov 2014

<sup>21</sup> NHS, [BMI healthy weight calculator](#), (accessed on 8 Nov 2020)

<sup>22</sup> NHS, [BMI healthy weight calculator](#), (accessed on 3 Nov 2020)

<sup>23</sup> National Institute for Clinical and Healthcare Excellence, [BMI: preventing ill health and premature death in black, Asian and other minority ethnic groups, Public health guideline \[PH46\]](#), 3 Jul 2013

<sup>24</sup> National Institute for Clinical and Healthcare Excellence, [BMI: preventing ill health and premature death in black, Asian and other minority ethnic groups, Public health guideline \[PH46\]](#), 3 Jul 2013

## Unhealthy diet

Although there may be other causes, obesity is generally caused by individuals eating too much and moving too little. The development of obesity is gradual, and often results from a number of poor diet and lifestyle choices over time. Some examples of these include eating large amounts of processed or fast food that is high in fat and sugar, excessive alcohol consumption, eating excessive portion sizes, drinking too many sugary drinks and eating to improve mood (comfort eating).<sup>25</sup> The NHS provide advice on achieving a healthy balanced diet using the [Eatwell Guide](#), which provides a visual representation of government recommendations on eating healthily and achieving a balanced diet.

The Scientific Advisory Committee on Nutrition (SACN) is a UK-wide advisory committee that was set up to replace the Committee on Medical Aspects of Food and Nutrition Policy (COMA). SACN advises PHE and other UK government organisations on nutrition and related health matters. PHE published [Government Dietary Recommendations](#)<sup>26</sup> based on recommendations from COMA and SACN. This provides a summary of the government's recommendations for energy and nutrients for males and females aged 1-18 years and 19+ years.

## Inadequate exercise

Individuals who are less physically active reduce their opportunity to use up the energy they consume through food. The extra energy is stored by the body as fat.<sup>27</sup> The NHS provides [guidance on exercise targets](#) which vary according to age and regime type.<sup>28</sup> There are a number of recommended regimes for adults aged 19-64 years, one of which is daily exercise providing 150 minutes of aerobic activity and 2 sessions of strength-based activity over the course of a week.<sup>29</sup>

## Environmental and socioeconomic factors

As well as individual factors that contribute to obesity, some have described an obesogenic environment which contributes to obesity risk, with:

- Changes in food production that have resulted in food becoming cheaper, available in larger portions, tastier and more calorific<sup>30</sup>
- People eating outside of the home more often<sup>31</sup>
- Increased motorised transport<sup>32</sup>
- Sedentary working and living patterns<sup>33</sup>

A PHE webpage; [Health matters: obesity and the food environment](#), provides information about features which contribute to an unhealthy food environment, and how local authorities can support food businesses to offer healthier food choices.<sup>34</sup> PHE has also

<sup>25</sup> NHS, [Causes, Obesity](#), (accessed on 5 Oct 2020)

<sup>26</sup> Public Health England, [Government Dietary Recommendations. Government recommendations for energy and nutrients for males and females aged 1-18 years and 19+ years](#), Public Health England, Aug 2016

<sup>27</sup> NHS, [Obesity](#), (accessed on 5 Oct 2020)

<sup>28</sup> NHS, [Physical activity guidelines for adults](#), (accessed on 5 Oct 2020)

<sup>29</sup> NHS, [Physical activity guidelines for adults](#), (accessed on 5 Oct 2020)

<sup>30</sup> Cancer Research UK, [What causes obesity?](#), (accessed on 8 Nov 2020)

<sup>31</sup> Public Health England, Health and Wellbeing, Public health matters blog, [Obesity and the environment- the impact of fast food](#), (accessed 8 Nov 2020)

<sup>32</sup> Government Office for Science, [Foresight. Tackling Obesities: Future Choices- Project Report, 2<sup>nd</sup> Edition](#), 17 Oct 2007

<sup>33</sup> NHS, [Why we should sit less. Exercise](#), (accessed on 5 Oct 2020)

<sup>34</sup> Public Health England, Guidance, [Health matters: obesity and the food environment](#), 31 Mar 2017

published a [toolkit](#) to help councils provide food businesses with support to offer healthier alternatives.<sup>35</sup>

Research has shown that socioeconomic disadvantage is associated with a higher BMI,<sup>36</sup> and is compounded by the association of deprived areas with an increased prevalence of unhealthy takeaways and lower access to green outdoor space<sup>37</sup> (which is associated with lower BMI and higher levels of physical activity)<sup>38</sup> as compared to more affluent areas.

For example, the Food Foundation, an independent organisation working to provide solutions to the challenges facing the UK's food system, published its report, [The Broken Plate](#), in 2019. In its findings they highlight challenges that low-income households in the UK face in meeting the financial costs of adhering to the Government's recommendations for a healthy diet. They provide comment on the affordability of the Eatwell Guide:

The poorest 10% of UK households would need to spend 74% of their disposable income on food to meet the Eatwell Guide costs. This compares to only 6% in the richest 10%.<sup>39</sup>

For further information on obesity and deprivation see the House of Commons Library paper [Childhood obesity: an equality issue](#).<sup>40</sup>

## Other factors

Obesity can be caused or worsened by some medical conditions, such as underactive thyroid gland and Cushing's syndrome.<sup>41</sup> Individuals with disabilities are twice as likely to be inactive when compared to non-disabled people.<sup>42</sup> Obesity can be a side effect of some medications such as steroids, antipsychotics, insulin and beta blockers used to treat high blood pressure.<sup>43</sup> Individuals who quit smoking can often experience unwanted weight gain.<sup>44</sup>

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<sup>35</sup> Public Health England, Guidance, [Strategies for Encouraging Healthier 'Out of Home' Food Provision, A toolkit for local councils working with small food businesses](#), 31 Mar 2017

<sup>36</sup> World Health Organisation, [Obesity and inequities. Guidance for addressing inequities in overweight and obesity](#), 2014

<sup>37</sup> Public Health England, [Local action on health inequalities. Improving access to green spaces](#), 8 Sep 2014

<sup>38</sup> Public Health England, [Local action on health inequalities. Improving access to green spaces](#), 8 Sep 2014

<sup>39</sup> The Food Foundation, [The Broken Plate Report](#), 26 Feb 2019

<sup>40</sup> [Childhood obesity: an inequality issue](#), Commons Library Insight, 5 Sep 2016

<sup>41</sup> NHS, [Obesity](#), (accessed 5 on Oct 2020)

<sup>42</sup> Public Health England, [Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines](#), Oct 2018

<sup>43</sup> Public Health England, [Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines](#), Oct 2018

<sup>44</sup> Public Health England, [Physical activity for general health benefits in disabled adults: Summary of a rapid evidence review for the UK Chief Medical Officers' update of the physical activity guidelines](#), Oct 2018

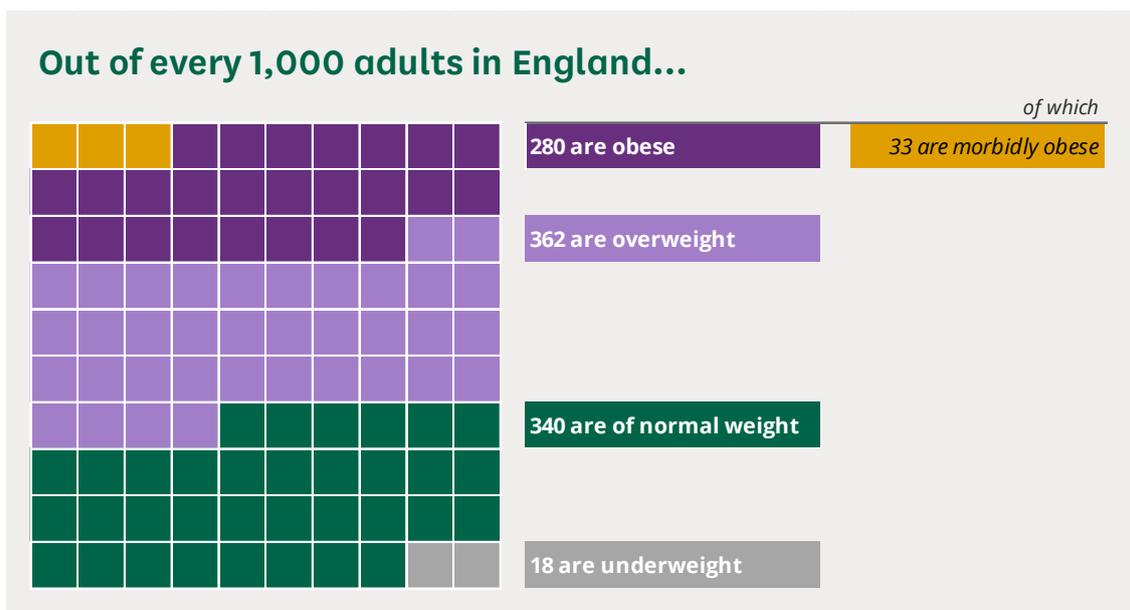
## 2. Is the UK facing an obesity epidemic?

There has been widespread concern about the extent and prevalence of obesity in the UK. Simon Stevens, Chief Executive of the NHS, warned that obesity had become “the new smoking”.<sup>45</sup> Obesity in the UK is now being described by some as an epidemic.<sup>46 47</sup>

A summary of statistics on obesity is given below. More detail, including information for Scotland, Wales and Northern Ireland, as well as sub-national data, can be found in the Library briefing paper [Obesity Statistics](#).<sup>48</sup>

### 2.1 Adult Obesity

The [Health Survey for England](#) measures a representative sample of adults aged 16+ and provides estimates of obesity levels.<sup>49</sup> The 2019 survey found that 28.0% of adults in England were obese, meaning that they had a BMI of over 30. A further 36.2% were overweight (BMI 25-30), making a total of 64.2% who are either overweight or obese.<sup>50</sup> Around one in eight of obese adults are morbidly obese (BMI of 40+) - 3.3% of all adults. Men are more likely than women to be overweight or obese (68.2% of men compared with 60.4% of women).



### Trends over time

The 2019 Health Survey for England estimated that 28% of adults in England are obese. This has risen slightly over the last decade. The period between 1993 and 2003 saw a faster increase, however – from 15% in 1993 to 23% in 2003.

The survey also found that the percentage of adults who were overweight or obese rose from 53% in 1993 to 60% in 2003. Since then there has been a smaller rise, with the 2019 estimate at 64%.

<sup>45</sup> “[Obesity has become 'the new smoking' and will fuel weight-related cancers, head of NHS warns](#)”, *The Telegraph* [Online], 31 May 2019, (accessed on 8 Nov 2020)

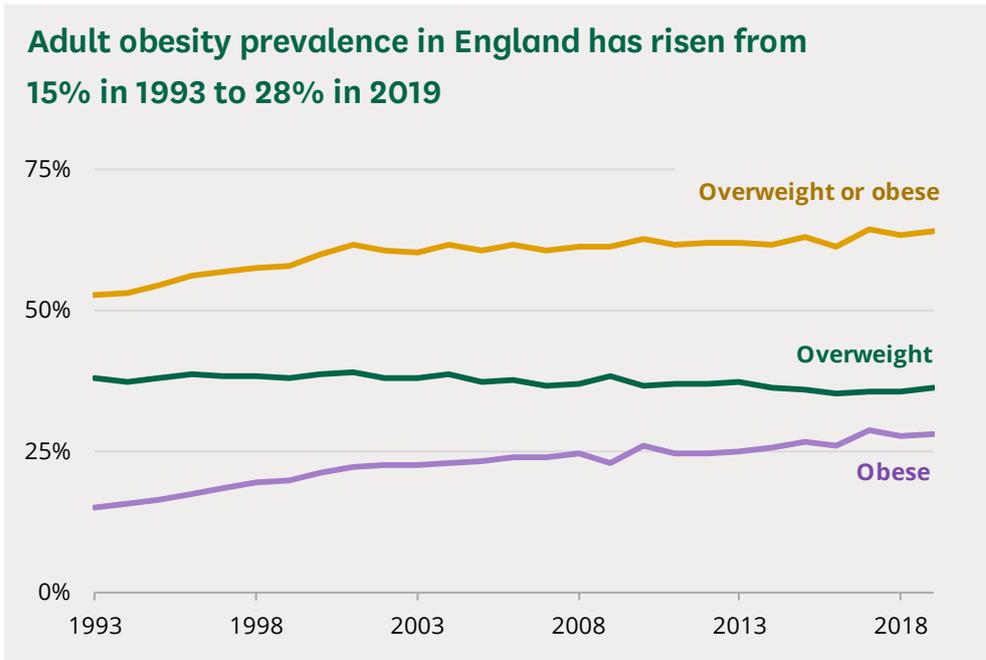
<sup>46</sup> Royal Society for Public Health, [Tackling the UK's childhood obesity epidemic](#), Nov 2015

<sup>47</sup> Nuffield Trust, [Can the NHS help tackle the UK's obesity epidemic?](#), (accessed on 8 Nov 2020)

<sup>48</sup> [Obesity statistics](#), Commons Library Briefing no 3336, 11 January 2021

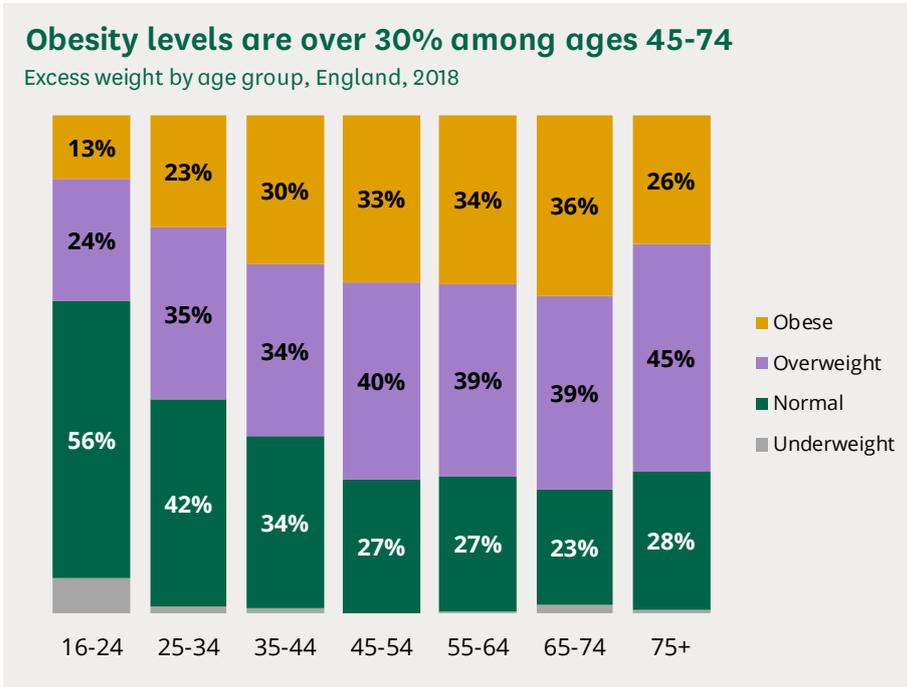
<sup>49</sup> NHS Digital, [Health Survey for England 2018: Data tables](#), (accessed on 8 Nov 2020)

<sup>50</sup> NHS Digital, [Health Survey for England 2017 \[NS\]](#), (accessed on 8 Nov 2020)



### Age and gender differences

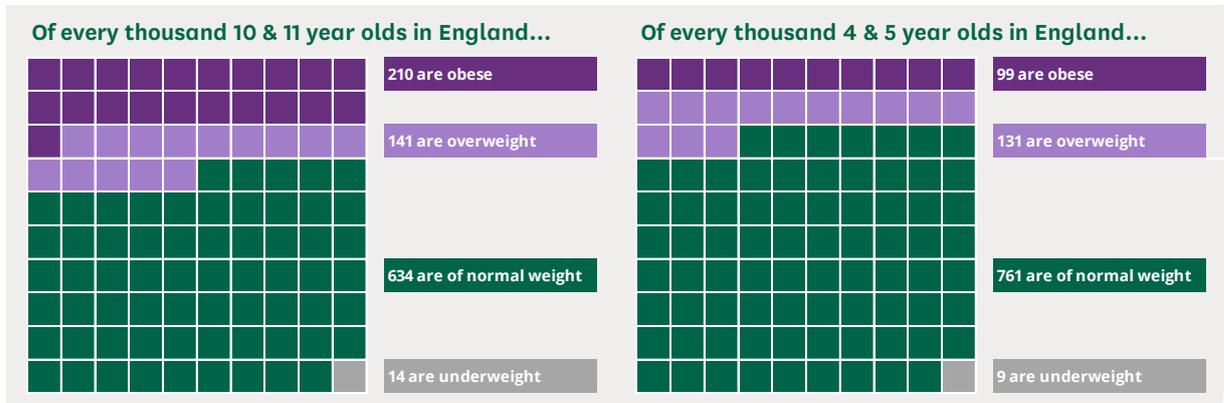
The age group most likely to be overweight or obese is age 65-74. Prevalence of overweight and obesity is above 70% among all age groups from 45 upwards. The adult age group least likely to be obese is 16-24 year olds, with 56% at normal weight and 37% overweight or obese, as the chart below shows.



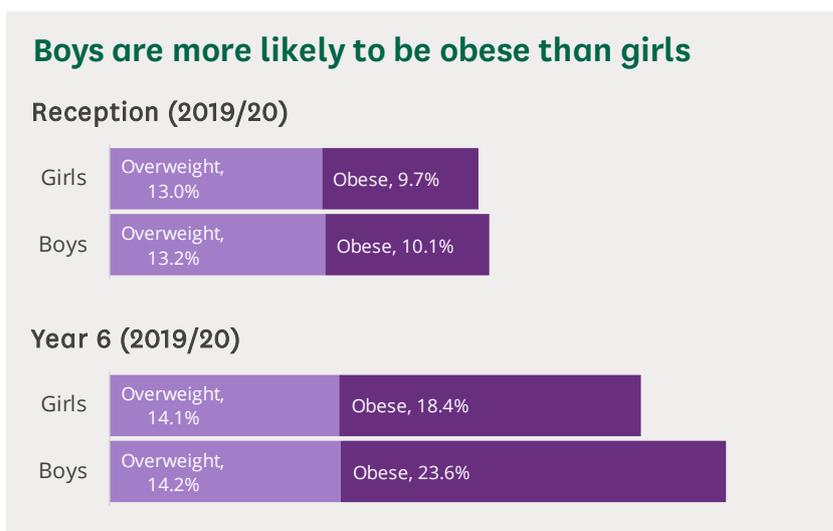
## 2.2 Childhood obesity

The [National Child Measurement Programme](#) (NCMP) shows that 9.9% of reception age children in England (age 4-5) were obese in 2019/20, with a further 13.1% overweight. These proportions were higher among year 6 children (age 10-11), with 21.0% being obese and 14.1% overweight.

Note that these categories are not directly comparable to those used for adults, since measuring BMI and obesity for children is more complex than for adults. In the NCMP, obese is defined as having a BMI in the 95<sup>th</sup> percentile or higher of the [British 1990 growth reference](#).<sup>51</sup>



In both age groups measured, boys are slightly more likely than girls to be obese. This difference is 0.6 percentage points at age 4-5 but rises to almost five percentage points by age 10-11.



## 2.3 Cost of obesity

A PHE webpage; [Health matters: obesity and the food environment](#), provides an estimate that the NHS spent £6.1 billion on obesity-related ill health in 2014-15.<sup>52</sup>

An influential [Foresight Report](#) from 2007 estimated that NHS costs attributed to elevated BMI (overweight and obesity) were £4.2 billion in 2007.<sup>53</sup> This was forecast to rise to £6.3 billion in 2015, £8.3 billion in 2025 and £9.7 billion in 2050. This only reflects costs to the health service. Estimates of future costs rely on the accuracy of obesity prevalence forecasts.

<sup>51</sup> Public Health England, [Measuring and interpreting BMI in Children](#), The National Archives, 2017, (accessed on 8 Nov 2020)

<sup>52</sup> Public Health England, [Guidance. Health matters: obesity and the food environment](#), 31 Mar 2017

<sup>53</sup> Government Office for Science, [Tackling Obesity: Future Choices- Project Report, 2<sup>nd</sup> Edition, Foresight](#), 17 Oct 2007

Estimates of the wider economic cost of obesity vary widely and are inherently uncertain. The Government quotes an estimate of obesity's annual cost to wider society at [£27 billion](#).<sup>54</sup>

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<sup>54</sup> Public Health England, [Health matters: obesity and the food environment](#), 31 Mar 2017

## 3. Treatment and prevention services

### 3.1 NICE guidance

The National Institute for Health and Care Excellence (NICE) has produced guidance on the [identification, assessment and management of obesity](#).<sup>55</sup> The guidelines represent NICE's view, after considering the evidence available, and practitioners are expected to take this guideline into account alongside the individual needs of patients using their services. NICE recommend that practitioners should:

- Assess lifestyle, comorbidities and willingness to change
- Consider lifestyle changes such as diet, physical activity
- Consider pharmacological interventions, only after dietary, exercise and behavioural approaches have been started and evaluated
- Consider bariatric surgery (subject to meeting a number of criteria)<sup>56</sup>

### 3.2 NHS treatment

An [NHS webpage on obesity treatment](#) notes that a GP will be able to advise on losing weight safely, and also provides information on the range of support and treatment that may be available.<sup>57</sup>

In particular, the NHS website notes the use of local weight loss groups, and exercise on prescription, where a patient is referred to a local active health team for a number of sessions under the supervision of a qualified trainer.

For patients with underlying health problems associated with obesity, such as polycystic ovary syndrome, high blood pressure, diabetes or sleep apnoea, a GP may recommend further tests or specific treatment, or make a referral to specialist weight-loss services.

Treating obesity in children usually involves improvements to diet and increasing physical activity using behaviour change strategies.

### Medication

Medical professionals will be able to advise on the most appropriate treatment for individuals. This section provides a general overview of available treatments.

The NHS [website](#) states that many different types of anti-obesity medicines have been tested in clinical trials, but the only one that has

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<sup>55</sup> National Institute for Health and Care Excellence, [Obesity: identification, assessment and management, Clinical guideline \[CG189\]](#), 27 Nov 2014

<sup>56</sup> National Institute for Health and Care Excellence, [Obesity: identification, assessment and management, Clinical guideline \[CG189\]](#), 27 Nov 2014

<sup>57</sup> NHS, [Treatment, Obesity](#), (accessed on 5 Oct 2020)

proved to be safe and effective is orlistat.<sup>58</sup> Orlistat works in the digestive system to block about one third of the fat in food that is eaten from being digested.<sup>59</sup> The NHS website states:

You can only use orlistat if a doctor or pharmacist thinks it's the right medicine for you. In most cases, orlistat is only available on prescription. The only product available over the counter directly from pharmacies is Alli [a branded version of orlistat], under the supervision of a pharmacist.<sup>60</sup>

Orlistat will usually only be recommended if a significant effort has already been made to lose weight through diet, exercise or other lifestyle changes. Treatment with orlistat must also be combined with a balanced low-fat diet and other weight loss strategies, such as doing more exercise. Furthermore, orlistat is only prescribed if patients have a:

- BMI of 28 or more, and other weight-related conditions, such as high blood pressure or type 2 diabetes
- BMI of 30 or more<sup>61</sup>

Saxenda (active ingredient liraglutide), is another medicine that has been considered for obesity treatment. It is similar to a natural occurring hormone called glucagon-like peptide-1 (GLP-1). GLP-1 is released from the intestine after eating a meal and helps to regulate blood sugar and suppress appetite. Saxenda acts on receptors in the brain which control the appetite, making a person feel fuller and less hungry.<sup>62</sup> This may help a person to eat less food and reduce body weight. NICE's 2014 [clinical guideline on identifying, assessing and managing obesity](#)<sup>63</sup> does not specifically refer to Saxenda, but a [NICE evidence summary](#) states that Saxenda is another potential pharmacological treatment option for use in-line with its marketing authorization.<sup>64</sup> It is expected that use of this drug on the NHS will be limited.<sup>65</sup>

## Surgery

The NHS website states that weight loss surgery (bariatric surgery) is sometimes used to treat people who are severely obese. Bariatric surgery is usually only available on the NHS to treat people with severe obesity who fulfil all of the following criteria:

- They have a BMI of 40 or more, or between 35 and 40 and another serious health condition that could be improved with weight loss, such as type 2 diabetes or high blood pressure

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<sup>58</sup> NHS, [Treatment, Obesity](#), accessed 25 May 2021

<sup>59</sup> Cheplapharm Arzneimittel GmbH, [Information for the user, Xenical 120mg hard capsules, Orlistat](#), (accessed on 8 Nov 2020)

<sup>60</sup> NHS, [Treatment, Obesity](#), (accessed on 5 Oct 2020)

<sup>61</sup> NHS, [Treatment, Obesity](#), (accessed on 5 Oct 2020)

<sup>62</sup> Novo Nordisk AVS, Package leaflet: Information for the patient, Saxenda ® 6mg/ml, solution for injection in pre-filled pen, Liraglutide, Sep 2019

<sup>63</sup> National Institute for Health and Care Excellence, [Obesity: identification, assessment and management, Clinical guideline \[CG189\]](#), 27 Nov 2014

<sup>64</sup> National Institute for Health and Care Excellence, [Obese, overweight with risk factors: liraglutide \(Saxenda\), Evidence summary \[ES14\]](#), 27 Jun 2017

<sup>65</sup> National Institute for Health and Care Excellence, [Obese, overweight with risk factors: liraglutide \(Saxenda\), Evidence summary \[ES14\]](#), 27 Jun 2017

- All appropriate non-surgical measures have been tried, but the person hasn't achieved or maintained adequate, clinically beneficial weight loss
- The person is fit enough to have anesthesia and surgery
- The person has been receiving, or will receive, intensive management as part of their treatment
- The person commits to the need for long-term follow-up
- Bariatric surgery may also be considered as a possible treatment option for people with a BMI of 30 to 35 who have recently (in the last 10 years) been diagnosed with type 2 diabetes.

In rare cases, surgery may be recommended as the first treatment (instead of lifestyle treatments and medication) if a person's BMI is 50 or above.

In July 2020, there were [reports](#) that the Government was considering proposals to increase access to weight-loss surgery, as part of the forthcoming 2020 obesity strategy.<sup>66</sup> The Obesity Society, the All-Party Parliamentary Group on Obesity and other specialist bodies had reportedly expressed their support for the proposals.<sup>67</sup>

A Downing Street source was reported as having said that surgery was being underperformed “because of the way NHS incentives work” and made a call to “move to payment by results where outcomes- actual weight loss- trigger payments”.<sup>68</sup> This is presumably a reference to financial incentives offered to primary care providers for having achieved specific health outcomes amongst target populations, such as the [Quality and Outcomes Framework](#).

## Social Prescribing

Social prescribing is a non-clinical intervention that enables GPs and other frontline healthcare professionals to refer people to ‘activities’ in their community, such as exercise groups, instead of offering only medicalised solutions. The first point of referral is usually a voluntary sector link worker who can talk to each person about the things that matter to them. Together they can co-produce a social prescription that will help to improve their health and wellbeing through access to activities and community groups that are of interest to them.

The [NHS Long Term Plan](#), published in January 2019, provides further information on the intended policy direction for the NHS in England in relation to social prescribing (paragraphs 1.39 and 1.40).<sup>69</sup> In particular, it notes that social prescribing “link workers” within primary care networks will work with people to develop tailored plans and connect them to local groups and support services. The Plan states that over 1,000 trained social prescribing link workers will be in place by the end

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<sup>66</sup> [“Weight loss surgery drive to tackle obesity”](#), *The Telegraph*, [online], 19 July 2020, accessed 8 Nov 2020

<sup>67</sup> [“Weight loss surgery drive to tackle obesity”](#), *The Telegraph*, [online], 19 July 2020, accessed 8 Nov 2020

<sup>68</sup> [“Weight loss surgery drive to tackle obesity”](#), *The Telegraph*, [online], 19 July 2020, accessed 8 Nov 2020

<sup>69</sup> NHS, [The NHS Long Term Plan](#), 7 Jan 2019

of 2020/21 rising further by 2023/24, with the aim that over 900,000 people are able to be referred to social prescribing schemes by then.

An [NHS England webpage](#) provides further information and guidance on social prescribing.<sup>70</sup> [Another NHS England webpage](#) provides information on how NHS England aims to form partnerships with voluntary, community and social enterprises.<sup>71</sup>

NICE published public health guidelines, [weight management: lifestyle services for overweight or obese adults](#)<sup>72</sup> and [obesity: working with local communities](#),<sup>73</sup> which provide guidance for commissioners and providers of lifestyle weight management programs.

In July 2020, the Government set out a new [obesity strategy](#), encouraging people to achieve and maintain a healthy weight in order to protect themselves against Covid-19, and protect the NHS.<sup>74</sup> A [DHSC press release](#) said that as part of this strategy, GPs will be encouraged to prescribe exercise and more social activities to help people keep fit.<sup>75</sup> Section 4.8 provides further discussion about the 2020 obesity strategy.

### 3.3 Prevention

The [Health and Social Care Act 2012](#) transferred responsibility for the provision of a range of public health services, including anti-obesity provision, from the NHS to local authorities. From 1 April 2013 upper tier and unitary authorities have had responsibilities to improve the health of their populations, backed by a ring-fenced grant. A [Department of Health \(DH\) guide](#) sets out the commissioning responsibilities of local authorities under the new arrangements.<sup>76</sup> Further information on these responsibilities for public health services are set out in the Library briefing on the [structure of the NHS in England](#).<sup>77</sup>

In addition to work by local authorities, Public Health England's social media campaign, [Change4Life](#) aims to help families and children in England to eat well and move more. The Healthy Child Programme is the key universal public health service, delivered by health visitors, for improving the health and wellbeing of children. Its goals are to identify and treat problems early, help parents to care well for their children, change health behaviors and protect against preventable diseases.

The [NHS Long Term Plan](#), was published on 7 January 2019 and includes objectives for improving public health and clinical outcomes

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<sup>70</sup> NHS, [Social prescribing](#), (accessed on 5 Oct 2020)

<sup>71</sup> NHS, [Partnerships and relationships](#), (accessed on 5 Oct 2020)

<sup>72</sup> National Institute for Health and Care Excellence, [Weight management: lifestyle services for overweight or obese adults, Public health guideline \[PH53\]](#), 28 May 2014

<sup>73</sup> National Institute for Health and Care Excellence, [Obesity: working with local communities, Public health guideline \[PH42\]](#), 5 Jun 2017

<sup>74</sup> Department for Health and Social Care, [Tackling obesity: empowering adults and children to live healthier lives](#), 27 Jul 2020

<sup>75</sup> Department for Health and Social Care press release, [New obesity strategy unveiled as country urged to lose weight to beat coronavirus \(COVID-19\) and protect the NHS](#), 27 Jul 2020

<sup>76</sup> Department of Health, [Commissioning responsibilities](#), 2011

<sup>77</sup> [The structure of the NHS in England](#), Commons Library Briefing Paper, CBP 07206, 7 Jul 2017

over the next 10 years.<sup>78</sup> Chapter 2 sets out action the NHS will take to strengthen its contribution to prevention and tackling health inequalities and includes a specific focus on reducing obesity.

The section of the Plan on what the NHS will do to tackle obesity can be found on pages 36 to 37. Some of the key measures and commitments are set out below:

- The NHS will provide a targeted support offer and access to weight management services in primary care for people with a diagnosis of type 2 diabetes or hypertension with a BMI of 30+ (adjusted appropriately for ethnicity).
- A committing to fund a doubling of the NHS Diabetes Prevention Programme over the next five years, including a new digital option to widen patient choice and target inequality.
- The NHS will continue to take action on healthy NHS premises. The next version of hospital food standards will strengthen requirements to provide healthy food for staff and patients.
- Together with the professional bodies and universities the NHS will ensure nutrition has a greater place in the education and training of healthcare professionals.

In its 2020 [obesity strategy](#), the Government committed to accelerate the expansion of the NHS Diabetes Prevention Programme to support those people are most at risk, and provide access to high-impact weight loss services for those who need it most.<sup>79</sup>

In a January 2019 [statement](#), Secretary of State for Health and Social Care Matt Hancock introduced the plan and said that “at the heart of the plan is the principle that prevention is better than cure”.<sup>80</sup> Matt Hancock said that “the role of the health service is just as much to prescribe behaviour change as it is to prescribe drugs”, and that the Government would introduce more than 1,000 trained social prescribing link workers within the next 2 years, to help refer over 900,000 people.<sup>81</sup>

During a [parliamentary debate](#), a number of members raised concerns about maintaining and improving healthcare services whilst facing reductions in local public health budgets.<sup>82</sup> The King's Fund considered that the delivery of the plan relied on tackling workforce shortages, and said that cuts to local government funding for public health services highlighted a need for “a more consistent approach across government to the population’s health”.<sup>83</sup> Shadow Health Secretary Jonathan Ashworth reportedly said that “the aspirations for improving patient

<sup>78</sup> NHS, [The NHS Long Term Plan](#), 7 Jan 2019

<sup>79</sup> Department of Health and Social Care, [Tackling obesity: empowering adults and children to live healthier lives](#), 27 Jul 2020

<sup>80</sup> [NHS Long-term plan](#), Hansard, 7 Jan 2019

<sup>81</sup> [Tackling obesity is a shared responsibility for society](#), HM Government, 14 Jan 2019

<sup>82</sup> HC Deb 7 Jan 2019, c80

<sup>83</sup> The King's Fund, [The King's Fund response to the NHS long-term plan](#), (accessed on 8 Nov 2020)

care...are welcome", but considered that "...the reality is the NHS will continue to be held back by cuts and chronic staff shortages." <sup>84</sup>

In his January 2019 [statement](#), Matt Hancock said that he had commissioned Baroness Dido Harding to undertake work regarding a workforce implementation plan. <sup>85</sup> Baroness Harding's [Interim NHS People Plan](#) was published in June 2019. <sup>86</sup> Her final recommendations were due to be published at the end of 2019, <sup>87</sup> however in a recent [PQ response](#), the Government said it had deferred the publication of the full NHS People Plan in order to enable the NHS to focus its efforts on the Covid-19 response. <sup>88</sup>

On 22 July 2019 the Government published its Prevention Green Paper, [Advancing our health: prevention in the 2020s](#) outlining the government's proposals against a range of ill health caused by tobacco use, physical inactivity and mental illness, amongst other factors. <sup>89</sup>

In it, the Government stated that "The 2020s will be the decade of proactive, predictive, and personalized prevention". <sup>90</sup> The Paper includes a section on "maintaining a healthy weight"; section 4.7 of this paper provides discussion on this.

The Government described its 2020 obesity strategy as "the start of this government's effort to shift healthcare to focus more on public health and prevention". <sup>91</sup> The strategy is discussed further in section 4.8 of this paper.

Most recently, the Government announced plans to move responsibility for obesity from PHE to a newly formed Office for Health Promotion. This is discussed in section 4.1 of this briefing.

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<sup>84</sup> [Reaction to the NHS long-term plan](#), The Pulse, 7 Jan 2019 (subscription required)

<sup>85</sup> [HC Deb 7 Jan 2019 c63](#)

<sup>86</sup> NHS, [Interim NHS People Plan](#), 3 Jun 2019

<sup>87</sup> [HC Deb 7 Jan 2019 c63](#)

<sup>88</sup> [HL4328 \[on NHS staff\]](#), 28 May 2020

<sup>89</sup> Cabinet Office and Department of Health and Social Care, [Advancing our health: prevention in the 2020s](#), 22 Jul 2019

<sup>90</sup> Cabinet Office and Department of Health and Social Care, [Advancing our health: prevention in the 2020s](#), 22 Jul 2019

<sup>91</sup> Department for Health and Social Care, [Tackling obesity: empowering adults and children to live healthier lives](#), 27 Jul 2020

## 4. Obesity policy

This section provides an overview of government obesity policy in recent years.

In 2010 the Conservative Government published its paper, [Healthy Lives, Healthy People: Our strategy for public health in England](#) which set out the government's plans for transforming public health in England. The Government recognised the threat that obesity posed to public health and identified opportunities to reduce infant mortality by tackling maternal obesity.<sup>92</sup> The report also recommended that PHE be responsible for funding and ensuring the provision of services for obesity.

### 4.1 Responsibility for obesity work

In recent years, work on reducing obesity has been within the remit of PHE. In August 2020, the Government announced that a new body, the National Institute for Health Protection (NIHP), would adopt the work of PHE, NHS Test and Trace as well as the analytical capability of the Joint Biosecurity Centre. The [press release](#) described the restructure as 'the first step towards becoming a single organisation, focused on tackling COVID-19 and protecting the nation's health'.<sup>93</sup>

The press release set out a range of work for which the NIHP would take responsibility, with a general focus on infectious disease and biosecurity. Questions remained about the ownership of long-term work to improve public health that is currently provided by PHE.<sup>94</sup> The Government [had said](#) that it was 'considering the future location of current Public Health England functions'.<sup>95</sup>

More information about the NIHP is available in a Commons Library Insight, [Establishing the National Institute for Health Protection](#).<sup>96</sup>

In an apparent change to plans to introduce the NIHP, in March 2021, the Government published a [policy paper](#), where it set out reforms to the public health system in England.<sup>97</sup> This set out details of a new body, the UK Health Security Agency (UKSHA), whose primary concern would be 'protecting against infectious diseases and external health threats'. Health Secretary Matt Hancock reportedly said that the new name 'would better reflect the UK-wide focus of the organisation'.<sup>98</sup>

<sup>92</sup> Department of Health and Social Care, [Healthy lives, healthy people: our strategy for public health in England](#), 30 Nov 2010

<sup>93</sup> DHSC and The Rt Hon Matt Hancock MP, [Government creates new National Institute for Health Protection](#), 18 Aug 2020

<sup>94</sup> Science Media Centre, [Expert reaction to media reports suggesting that the pandemic response work of PHE may be merged with NHS Test and Trace into a new body called the National Institute for Health Protection](#), 16 Aug 2020

<sup>95</sup> [PQ 82529](#), 10 Sep 2020

<sup>96</sup> Commons Library, [Establishing the National Institute for Health Protection](#), 17 Feb 2021

<sup>97</sup> DHSC, [Transforming the public health system: reforming the public health system for the challenges of our times](#), 29 Mar 2021

<sup>98</sup> *The Independent*, [Covid: Matt Hancock announces new health agency focusing on preventing future pandemics](#), 25 Mar 2021

At the same time, the Government gave details of a new Office for Health Promotion, which would sit within the DHSC, and 'drive our prevention agenda across government'. The Office is set to be led by the Chief Medical Officer. The Government explained its rationale for the creation of the two new bodies:

Since 2013, national responsibilities for health security and health improvement have sat together within a single body, Public Health England (PHE). To ensure we have a public health system fit for the future, we are ensuring that going forward both health security and health improvement have their own clear, dedicated focus at national level. By giving each the focus it deserves, and carefully managing the important interdependencies between these elements of our overall public health system, we can do both better.<sup>99</sup>

The Government set out the remit of the Office for Health Promotion:

The current health improvement, prevention and healthcare public health functions of PHE will transfer to new homes within the health system, aligned to achieve clarity of purpose, accountability and impact. A new Office for Health Promotion will be created in the Department of Health and Social Care, under the professional leadership of the Chief Medical Officer. The Office for Health Promotion will help the whole health family focus on delivering greater action on prevention; and – working with a new cross-government ministerial board on prevention – it will drive and support the whole of government to go further in improving health.

Alongside this, we are strengthening NHS England's focus on prevention and population health, transferring to it important national capabilities that will help drive and support improved health as a priority for the whole NHS. And important national disease registries functions will move to NHS Digital.

As we implement these changes, PHE will close, and a new public health landscape will take shape during 2021.<sup>100</sup>

The Government said it was 'redoubling [its] efforts to reduce obesity',

The Government proposed to move most of the functions that directly support development and delivery of national health improvement policy from PHE to the Office for Health Promotion, alongside existing DHSC capability on prevention and health improvement. This would include obesity.

The Government also set out plans to develop a new 'incubator' function to support action in areas such as obesity:

To strengthen behaviour change activity across public health, we are developing options for a new 'incubator' function to support action on prevention in priority areas (such as obesity and smoking) in the public health system. The incubator would draw together behavioural science, digital and design expertise, and work to support policy teams in designing and delivering behaviour change interventions. It would give us better capability to translate science and evidence on behaviour change into action

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<sup>99</sup> DHSC, [Transforming the public health system: reforming the public health system for the challenges of our times](#), 29 Mar 2021

<sup>100</sup> DHSC, [Transforming the public health system: reforming the public health system for the challenges of our times](#), 29 Mar 2021

at scale, growing our knowledge of what works while also testing and building our ability to translate this knowledge into high-quality delivery through the different delivery routes at our disposal.<sup>101</sup>

## 4.2 Public Health England reports on sugar reduction

In 2014, PHE published its report [Sugar reduction, Responding to the challenge](#).<sup>102</sup> The paper outlined the steps that PHE would take to help people reduce their sugar intake, and how PHE would study possible initiatives to further reduce sugar consumption. The report highlighted PHE's existing work, such as the Change4Life campaign and the '5 a day' campaign. PHE said that it would explore the evidence base and emerging practice across key areas, including; developing PHE's social marketing, training professionals to support healthier behaviour, regulating the advertising of sugary foods, in-store and on pack promotions, labelling, portion size and fiscal levers. The resulting report in 2015, [Sugar Reduction, the Evidence for Action](#) made suggestions for programmes that could have an impact including work on price promotions, a clear definition of high sugar foods, a tax or levy on full sugar soft drinks and introducing the Government Buying Standards for Food and Catering Services (GBSF) across the public sector.<sup>103</sup>

## 4.3 Health Committee inquiry on childhood obesity

The Health Committee carried out an inquiry into childhood obesity in 2015. In its November 2015 report; [Childhood obesity- brave and bold action](#), the Committee urged the then Prime Minister David Cameron, to "make a positive and lasting difference to children's health and life changes through his obesity strategy".<sup>104</sup> The Committee made a number of recommendations:

- Strong controls on price promotions of unhealthy food and drink.
- Tougher controls on marketing and advertising of unhealthy food and drink.
- A centrally led reformulation programme to reduce sugar in food and drink.
- A sugary drinks tax on full sugar soft drinks, in order to help change behaviour, with all proceeds targeted to help those children at greatest risk of obesity.
- Labelling of single portions of products with added sugar to show sugar content in teaspoons.
- Improved education and information about diet.

<sup>101</sup> DHSC, [Transforming the public health system: reforming the public health system for the challenges of our times](#), 29 Mar 2021

<sup>102</sup> Public Health England, [Sugar reduction: responding to the challenge](#), 26 Jun 2014

<sup>103</sup> Public Health England, [Sugar reduction: from evidence into action](#), 22 Oct 2015

<sup>104</sup> House of Commons Health Committee, [Childhood obesity- brave and bold action](#), 30 Nov 2015, HC 465- I 2015-16

- Universal school food standards.
- Greater powers for local authorities to tackle the environment leading to obesity.
- Early intervention to offer help to families of children affected by obesity and further research into the most effective interventions.<sup>105</sup>

### Government response

The Government published its [response](#) to the report in September 2016, welcoming the Committee's report, its conclusions and recommendations.<sup>106</sup> The Government highlighted a range of existing work on obesity, and also committed to:

- Lead a broad structured independently monitored sugar reduction programme to reduce sugar in children's diets, as well as broader work on reducing calories.
- Challenge all sectors of the food and drink industry to reduce, by 2020, overall sugar in products that contribute to children's sugar intakes by at least 20%, with a 5% reduction in the first year of the plan. The programme would be led and run by PHE.

## 4.4 Childhood obesity plan- Chapter One

In August 2016, the Government published its childhood obesity plan, [Childhood Obesity, A Plan for Action](#) (also referred to as 'Chapter One').<sup>107</sup> The Government said that it aimed to significantly reduce England's rate of childhood obesity within the next ten years, and that a long term, sustainable change would only be achieved through the active engagement of schools, communities, families and individuals. A summary of the main commitments outlined in Chapter One are provided below in Box 1.

### Box 1: Summary of the main government commitments from Chapter One

- Introduce a soft drinks industry levy across the UK
- Launch a sugar reduction programme, led and run by PHE, to remove sugar from products children eat the most
- Review the nutrient profile model to ensure that it reflects the latest government dietary guidelines
- Encourage local authorities to adopt the Government Buying Standards for Food and Catering Services, and ensure full uptake of these in central government departments
- Re-commit to the Healthy Start scheme

<sup>105</sup> House of Commons Health Committee, [Childhood obesity- brave and bold action](#), 30 Nov 2015, HC 465- I 2015-16

<sup>106</sup> Department of Health and Social Care, [Government Response to the House of Commons Health Select Committee report on Childhood obesity – brave and bold action, First Report of Session 2015-16, Cm 9330](#), 9 Sep 2016

<sup>107</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

- PHE to develop advice for schools to help them understand what help is available with regards to spending the Primary PE and Sport Premium on specific interventions
- Continue investing in walking and cycling to school, and producing a Cycling and Walking Investment Strategy
- Introduce a voluntary healthy rating scheme for primary schools
- Ofsted to undertake a thematic review on obesity, healthy eating and physical activity in schools
- Launch a campaign to raise awareness of voluntary guidelines for early years settings to help them meet Government dietary recommendations<sup>108</sup>

The soft drinks industry levy came into effect in April 2018; further discussion is provided in section 5 of this paper.

### Chapter One- reports of an earlier draft

Following the publication of Chapter One in August 2016, there were criticisms from campaigners and health organisations that it was a 'watered down' version of a draft plan, reportedly seen prior to publication.<sup>109</sup>

Channel 4 [reported](#) that the *Dispatches* programme had obtained a document which it said "demonstrates how Theresa May's government dismantled David Cameron's obesity strategy in 36 days".<sup>110</sup> *Dispatches* reported that the draft strategy had detailed plans to:

- Cut childhood obesity by half within the next ten years
- Require restaurants, cafes and takeaways to put calorie information on menus
- Require supermarkets to remove unhealthy food and drink from prominent locations such as check-outs and end of aisles
- Limit supermarkets' use of price promotions on unhealthy foods
- Introduce measures to further reduce families' exposure to adverts for unhealthy food
- Consider the contribution of exercise to addressing childhood obesity

Reporting on the same claim, *The Times* [cited concerns](#) from a number of stakeholders, including Graham MacGregor, chairman of campaign group Action on Sugar, who said that the published plan wouldn't have any effect on childhood obesity.<sup>111</sup> Mr MacGregor praised the draft plan, and said that it had been "eroded".<sup>112</sup>

<sup>108</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

<sup>109</sup> "[Clinicians underwhelmed by "watered down" childhood obesity strategy](#)", *British Medical Journal*, 22 Aug 2016, (accessed on 8 Nov 2020)

<sup>110</sup> "[The Secret Plan to Save Fat Britain: Channel 4 Dispatches](#)", *Channel 4*, 31 Oct 2016, (accessed on 8 Nov 2020)

<sup>111</sup> "[Junk food ban dropped after ministers bow to lobbyists](#)", *The Times*, 15 Jul 2016 (accessed 8 Nov 2020)

<sup>112</sup> "[Junk food ban dropped after ministers bow to lobbyists](#)", *The Times*, 15 Jul 2016 (accessed 8 Nov 2020)

## Responses from stakeholders

Chapter One drew a number of responses from stakeholders. Many welcomed the government's introduction of the soft drinks levy, however the plan drew some criticism from those who considered the strategy weaker than necessary to effectively tackle childhood obesity.

The Royal Society for Public Health, an independent health education charity, [welcomed](#) a number of elements of the plan whilst expressing concerns about measures which were not included:

RSPH has welcomed a number of elements of the plan, including the introduction of a sugar levy, a target for primary school children to undertake an hour of physical activity each day, and a pledge to introduce clearer food labelling.

However, RSPH believes the plan risks being undermined as many of the key planks which an effective and comprehensive strategy would contain are absent; most notably measures to tackle junk food advertising and marketing, and the failure to introduce mandatory targets to cut sugar content in food products.<sup>113</sup>

In an August 2016 [blog piece](#), the King's Fund, an independent health and care charity, expressed some concern at Chapter One's failure to discuss the impact of obesity to the economy, and about the brevity of the plan. The piece compared the proposals in Chapter One to the recommendations made by the Health Select Committee in their November 2015 report, [Childhood obesity- brave and bold action](#).<sup>114</sup> This was also discussed in a separate May 2017 [article](#), with the King's Fund noting that some of the recommendations had not been met.<sup>115</sup> The piece was also critical of the strategy's advocacy of voluntary action from industry and deemed the plan weak in this regard.<sup>116</sup>

The British Dietetics Association (BDA) [expressed support](#) for the strategy, but considered that more action was needed:

The BDA supports and welcomes the government's current childhood obesity strategy, published in August 2016. The strategy includes actions to reduce sugar intake, such as a sugar levy on soft drinks, guidance on reformulation of high sugar foods for industry and calorie reduction programmes. These are all welcomed and supported by the BDA. However, the association strongly believes that additional actions are needed to reduce the unacceptably high prevalence of childhood obesity in the UK. It is widely accepted that no one solution can reverse childhood obesity, and that a combination of measures is required.<sup>117</sup>

Similarly, the Association of Directors of Public Health (ADPH) "[welcomed](#) the ambitious soft drinks levy" and said that the plan contained "some important measures", however "would have liked to

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<sup>113</sup> [New childhood obesity plan falls short](#), Royal Society of Public Health [online], 18 Aug 2016, (accessed 8 Nov 2020)

<sup>114</sup> House of Commons Health Committee, [Childhood obesity- brave and bold action](#), 30 Nov 2015, HC 465- I 2015-16

<sup>115</sup> "[Did the government meet its pledge to tackle childhood obesity?](#)", The King's Fund [online], 12 May 2017, (accessed 8 Nov 2020)

<sup>116</sup> "[The childhood obesity plan- brave and bold action?](#)", The Kings Fund [online], 26 Aug 2020, (accessed 8 Nov 2020)

<sup>117</sup> [Policy Statement- UK Government's childhood obesity strategy](#), The Association of UK Dietitians, 1 Apr 2018

see more powers to control the irresponsible promotion of unhealthy foods to children".<sup>118</sup>

## 4.5 Health Committee follow-up on childhood obesity

The Commons Health Committee followed up its predecessor's work in the last Parliament, and published its report [Childhood obesity: follow-up](#) in March 2017.<sup>119</sup> It welcomed the measures the Government had included in Chapter One but were "extremely disappointed that several key areas for action that could have made the strategy more effective have not been included". The Committee called on the Government to set clear targets for reducing overall levels of childhood obesity.

The Committee made a number of other recommendations to the Government which included:

- Monitor whether the Soft Drinks Industry Levy (SDIL) is being passed on to include a price differential between high and low or no sugar drinks at the point of sale
- Extend the SDIL to include milk-based drinks which have extra sugar added
- Urging the Government to "set out the policy proposals which it is prepared to implement if the voluntary reformulation programme does not go as far or as fast as necessary to tackle childhood obesity"
- Regulate to further reduce the impact of deep discounting and price promotions on sales of unhealthy foods
- Re-examining the case for further restrictions on advertising of HFSS food and drink

### Government response

The Government published its [response](#) to the Committee's report in January 2018.<sup>120</sup> The Government outlined ongoing work on obesity, and committed to including milk drinks and juices that were excluded from the SDIL within PHE's sugar reduction and wider reformulation programme. The Government said that HM Treasury would review the exclusion for milk drinks in 2020 when PHE publish their overall assessment of progress by industry towards achieving the 20% reduction in sugar coming from categories included in the programme.

It also said it was considering other levers that could be put into place if the voluntary sugar reduction and wider reformulation programme did not match their expectations. It explained the reasons for not introducing additional limits on price promotions:

<sup>118</sup> [Response to the Government's Childhood Obesity Plan for Action](#), The Association of Directors of Public Health UK, 18 Aug 2016

<sup>119</sup> House of Commons Health Committee, [Childhood obesity: follow up](#), HC 928-7, 2016-17, Mar 2017

<sup>120</sup> Department of Health, [Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up. Seventh Report of Session 2016-17](#), Cm 9531, Jan 2018

We welcome the action taken by forward thinking retailers which shows that all organisations can take action on discounting and price promotions. For example, Sainsbury's has moved away from multibuy-offers such as two-for-one, and committed to using their store layouts to promote healthier diets, including the use of end-of-aisle. The childhood obesity plan continues to drive this shift in the market and help people make healthier choices.

Monitoring of progress by PHE towards achieving the 20% sugar reduction in 2018 and 2020, with an additional detailed report in March 2019, will be achieved through the continued use of sales weighted average sugar levels and reviewing changes in product sales towards lower or no added sugar products. If businesses over promote high sugar products they will be less likely to achieve the sales weighted average sugar level per 100g for the 20% reduction.<sup>121</sup>

The Government welcomed the Committees of Advertising Practice (CAP) review of non-broadcast advertising to introduce new rules on advertising to children but made no commitments.

## 4.6 The Health Committee's 2018 report on childhood obesity

The House of Commons Health Committee published its third report, [Childhood obesity: Time for action](#) in May 2018.<sup>122</sup> The Committee identified work in a number of key areas which it said "demand attention as a matter of urgency by the Government before the next chapter of the plan is finalised"<sup>123</sup>, and the Committee:

- Called for the establishment of a cross-department, Cabinet-level committee to review and evaluate the implementation and effectiveness of the childhood obesity plan
- Endorsed calls for a 9pm watershed on HFSS advertising
- Urged the Government to tighten regulations around non-broadcast media to bring them in line with broadcast media restrictions
- Endorsed findings of the predecessor Committee to regulate to restrict discounting and price promotions on HFSS foods and drinks
- Recommended that the Government should put in place further measures around early years and the first 1000 days of life to combat childhood obesity
- Promoting and supporting breastfeeding for all infants in all areas, and a ban on the advertising and promotion of follow on formula milk

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<sup>121</sup> Department of Health, [Government Response to the House of Commons Health Select Committee report on Childhood obesity: Follow-up, Seventh Report of Session 2016-17](#), Cm 9531, Jan 2018

<sup>122</sup> House of Commons Health Committee, [Childhood obesity: Time for action](#), 30 May 2018, HC 882-8, 2017-19

<sup>123</sup> In [Chapter One of the Childhood Obesity Plan](#), the Government had said that its launch represented "the start of a conversation, rather than the final word".

## Government response

The Government published its [response](#) to the Committee's 2018 report in January 2019.<sup>124</sup> In this, the Government highlighted its commitment to consult on introducing a 9pm watershed on TV advertising of HFSS products. It also said that it would consider whether current regulatory approaches to advertising continue to be the right approach and would "explore options to ensure that any restrictions are proportionate". It also committed to consult on banning price promotions, and on restricting the placement of HFSS foods by location in the retail and out of home sector by legislation. The Government highlighted existing legislation on the labelling and marketing of infant formulae, and follow-on formulae.

## 4.7 Childhood obesity plan- Chapter Two

The Government published [Childhood obesity: a plan for action, Chapter 2](#) in June 2018.<sup>125</sup> It opened with a national ambition to halve childhood obesity rates by 2030 and significantly reduce the health inequalities that persist. The Plan spoke of a joint effort needed to achieve this:

Achieving this is not going to be easy. It will require us all to get behind this ambition to play our part in making healthier decisions, providing healthier options and creating healthier environments. As Government we are committed to playing our part but recognise that this will require sustained collaboration across the political divide, across society and across public and private sector organisations.<sup>126</sup>

The Government made commitments to consult on a number of issues, including the sale of energy drinks to children and introducing a 9pm watershed for HFSS food advertising. A number of these consultations have already taken place and are referenced in later sections of this paper.

A summary of the main commitments outlined in Chapter Two are provided below in Box 2.

### **Box 2: Summary of the main government commitments from Chapter Two**

- Update the School Food Standards to reduce sugar consumption
- Promote a national ambition for every primary school to adopt an active mile initiative, such as the Daily Mile
- Invest over £1.6 million during 2018/19 to support cycling and walking to school

<sup>124</sup> Department of Health and Social Care, [Government response to the Health and Social Care Select Committee report on Childhood obesity: Time for action](#), CP23, 30 Jan 2019

<sup>125</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, [Childhood obesity: a plan for action, Chapter 2](#), 25 Jun 2018

<sup>126</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, [Childhood obesity: a plan for action, Chapter 2](#), 25 Jun 2018

- Consider whether self-regulation of online advertising rules by the CAP alongside the Advertising Standards Authority (ASA) continues to be the right approach, or if legislation is necessary
- Consider the sugar reduction progress achieved in sugary milk drinks as part of its 2020 review of the milk drinks exemption from the SDIL, and their inclusion in the SDIL if progress is insufficient
- Consider further use of the tax system to promote healthy food

## Parliamentary Response

On the day of Chapter Two's publication, the then Parliamentary Under-Secretary of State for Health and Social Care, Steve Brine, responded to an [Urgent Question](#) in the House of Commons, calling on him to make a statement about the Government's childhood obesity plan. He said:

Today the Government published the second chapter of our childhood obesity plan. The plan is informed by the latest evidence. It sets a new national ambition to halve childhood obesity and significantly reduce the gap in obesity between children from the most and least deprived areas by 2030.<sup>127</sup>

Several Members welcomed the plan. Some considered that it "takes us further in a number of areas", while others acknowledged that the proposals had been the asks of groups such as the All-Party Parliamentary Group on Diabetes, and Diabetes UK, for a number of years.<sup>128</sup>

Shadow Health Secretary Jonathan Ashworth said that many of the policies in Chapter Two, had originally been proposed by Labour.<sup>129</sup> He also said that the plan didn't introduce a number of other measures, such as extending the SDIL to milk drinks and a 9pm watershed on television advertising of HFSS foods. Other Members expressed criticism of Chapter Two, raising concerns about the number of consultations proposed, and making suggestions that the Government did not possess the "sense of urgency to tackle this crisis."<sup>130</sup> The [Ministerial Statement](#) also received criticism in the House of Lords, where Members raised concerns about a lack of a proposal, timetable or draft Bill for legislation to ban the advertising of HFSS products; and questioned whether voluntary action by industry would enable the possibility of delivering the reductions in childhood obesity.<sup>131</sup>

## Responses from stakeholders

Many organisations and groups responded to the publication of the plan. Support came from the then Chief Medical Officer Professor Sally Davies who [called](#) the plan "strong, robust and bold",<sup>132</sup> and the President of the Royal College of Paediatrics and Child Health who [said](#) that "Policies relating to restrictions on junk food advertising,

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<sup>127</sup> [HC Deb 25 Jun 2018 c624](#)

<sup>128</sup> [HC Deb 25 Jun 2018 c626- 627](#)

<sup>129</sup> [HC Deb 25 Jun 2018 c625](#)

<sup>130</sup> [HC Deb 25 Jun 2018 c625](#)

<sup>131</sup> [HL Deb 27 Jun 2018 c55](#)

<sup>132</sup> "[Childhood obesity: government's plan targets energy drinks and junk food advertising](#)", *British Medical Journal*, [online], 25 Jun 2018, (accessed 8 Nov 2020)

mandatory calorie labelling, price promotions, and supermarket product placement are all to be applauded".<sup>133</sup>

The Obesity Health Alliance (OHA), a coalition of organisations working to influence Government policy, were receptive of Chapter Two, [welcomed](#) the Government's commitments, whilst urging swift action from Government departments and industry.<sup>134</sup>

Criticism of Chapter Two was mainly centred on the extent of consultation proposed by the Government. Chairman of the National Obesity Forum Tam Fry, [expressed disappointment](#) at the proposals, considering that "We've had all the consultations we need, what we need now is action".<sup>135</sup>

Ben Reynolds, Deputy Chief Executive of food charity Sustain echoed this, [saying](#):

"We fully support the Government's intentions on junk food promotions and marketing, but the consultations to come will be crucial. A commitment to consider is not a commitment to act, and children's health needs decisive action."<sup>136</sup>

There was also concern regarding the Government's decision to employ voluntary regulation by the food industry. A group of academics published an [editorial](#) in the BMJ encouraging the Government to "draw upon growing national and international evidence that self-regulation by the food and drink industry does not meet public health objectives."<sup>137</sup>

## 4.8 Childhood obesity plan- Chapter Three

Chapter Three was published in July 2019, as part of the Government's prevention green paper; [Advancing our health: prevention in the 2020s](#).<sup>138</sup> The Government said that it was seeking views on proposals to tackle the causes of preventable ill health in England and outlined their plans in a number of areas including precision medicine, being smoke-free and facilitating leading health research.

A summary of the main commitments outlined in Chapter Three are provided below in Box 3.

### Box 3: Summary of the main government commitments from Chapter Three

- Ban the sale of energy drinks to children under the age of 16

<sup>133</sup> "[Childhood obesity: government's plan targets energy drinks and junk food advertising](#)", *British Medical Journal*, [online], 25 Jun 2018, (accessed 8 Nov 2020)

<sup>134</sup> [Our response to 'chapter 2' of the Government's childhood obesity plan](#), Obesity Health Alliance, (accessed 8 Nov 2020)

<sup>135</sup> "[Government's New Plan To Halve Child Obesity 'Is An Absolute Travesty'](#)", [Say Health Campaign Groups](#)", *Huffington Post* [online], 24 Jun 2018, (accessed 8 Nov 2020)

<sup>136</sup> [Sustain hails success in Government's new plan to tackle child obesity](#), Sustain, (accessed 8 Nov 2020)

<sup>137</sup> "[England's childhood obesity action plan II](#)", *British Medical Journal* [online], 16 Jul 2018, (accessed 8 Nov 2020)

<sup>138</sup> HM Government, [Advancing our health: prevention in the 2020s](#), CP 110, 22 Jul 2019

- Commission an infant feeding survey to provide information on breastfeeding and the use of foods and drinks other than breastmilk in infancy
- Challenge businesses to improve the nutritional content of commercially available baby food and drinks
- Explore how the marketing and labelling of infant foods can be improved
- Consult, by the end of 2019, on how the success of the current front-of-pack nutritional labelling scheme can be built on following our departure from the European Union
- Consider the extension of the SDIL to sugary milk drinks
- Aim to reduce population salt intake to 7g per day, and in 2020, publish revised salt reduction targets for industry to achieve by mid-2023 and report on industry's progress by 2024

Proposals outlined by Chapter Three included a number of measures to address baby and infant nutrition. These included the commissioning of an infant feeding survey, exploration of how to improve the marketing and labelling of infant food, and a challenge to business to improve the nutritional content of commercially available baby food, with PHE to publish industry guidance in early 2020.<sup>139</sup> Following calls to see the SDIL extended to milk based drinks,<sup>140 141</sup> the Government said that it would consider this “if evidence shows that industry has not made enough progress on reducing sugar”.<sup>142</sup>

## Responses from stakeholders

The OHA were pleased to see the Government announce further plans addressing important areas such as infant nutrition and labelling, and [welcomed](#) the “recommitment to consider extending the sugar levy to high sugar milk drinks”.<sup>143</sup> The OHA called on the Government “to swiftly and fully implement plans announced over a year ago to introduce calorie labelling menus, restrict unhealthy promotions and introduce a 9pm watershed on junk food adverts on TV and online”.

The Food Foundation [called](#) the initiatives and actions set out in the green paper ‘positive’, and praised the inclusion of infant feeding, but determined that it ‘sadly lacks truly bold, big and new proposals’.<sup>144</sup>

David Buck, senior fellow at health think tank The King’s Fund [said](#) that the overall plan “falls short of the scale and ambition needed to address the big health challenge”.<sup>145</sup>

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<sup>139</sup> HM Government, [Advancing our health: prevention in the 2020s](#), CP 110, 22 Jul 2019

<sup>140</sup> “[Jamie Oliver wants the Government to extend sugar tax to include milk drinks](#)”, Huffington Post [online], 1 May 2018, (accessed 20 Nov 2020)

<sup>141</sup> “[Sugar Tax: George Osborne says it should include milk drinks](#)”, BBC News [online], 5 Apr 2018, (accessed 20 Nov 2020)

<sup>142</sup> HM Government, [Advancing our health: prevention in the 2020s](#), CP 110, 22 Jul 2019

<sup>143</sup> [Statement: prevention green paper](#), Obesity Health Alliance, (accessed 20 Nov 2020)

<sup>144</sup> “[The Prevention Green Paper” Response: We need much more, much faster](#), The Food Foundation, (accessed 20 Nov 2020)

<sup>145</sup> [The King’s Fund responds to the government’s open consultation ‘Advancing our health: prevention in the 2020s’](#), The King’s Fund, (accessed 20 Nov 2020)

There was some concern about the manner in which the Plan had been “tucked away” within the green paper, with a feeling that “childhood obesity needs government’s full attention”.<sup>146</sup>

## 4.9 The 2020 obesity strategy

In July 2020, PHE launched its national Better Health campaign to encourage millions of adults to “kick start their health and reduce their risk of serious illness, including Covid-19”.<sup>147</sup>

The campaign encourages adults to introduce changes that will help them work towards a healthier weight and provides free tools and apps to support people to eat better, drink less alcohol and get active.<sup>148</sup> WW (formerly Weight Watchers), Slimming World and Get Slim are listed as campaign partners.<sup>149</sup> A Government [press release](#) stated that the campaign had been released as part of the “government’s new obesity strategy”.<sup>150</sup>

In July 2020, the Government published its policy paper, [Tackling obesity: empowering adults and children to live healthier lives](#).<sup>151</sup> The Government identified obesity as “one of the greatest long-term health challenges this country faces”, and expressed concern about the “consistent evidence that people who are overweight or living with obesity who contract coronavirus (Covid-19) are more likely to be admitted to hospital, to an intensive care unit and, sadly to die from Covid-19 compared to those of a healthy body weight”.<sup>152</sup> The global Covid-19 pandemic had increased general concern about levels of obesity and those who are overweight when it became apparent that obesity increases the risk of an individual becoming seriously ill.<sup>153</sup>

The Government committed to taking a range of actions, as summarised below in Box 4.

### Box 4: Government commitments from 2020 obesity strategy

- Introduce the Better Health campaign delivered by PHE
- Expand weight management services available through the NHS, and accelerate the expansion of the NHS Diabetes Prevention Programme
- Publish a 4-nation public consultation to gather views and evidence on the current “traffic light” food labelling system

<sup>146</sup> School Food Matters, [Childhood obesity plan chapter 3?](#), (accessed 9 Nov 2020)

<sup>147</sup> Public Health England Press Release, [Major new campaign encourages millions to lose weight and cut COVID-19 risk](#), 27 Jul 2020

<sup>148</sup> Public Health England Press Release, [Major new campaign encourages millions to lose weight and cut COVID-19 risk](#), 27 Jul 2020

<sup>149</sup> Public Health England Press Release, [Major new campaign encourages millions to lose weight and cut COVID-19 risk](#), 27 Jul 2020

<sup>150</sup> Department of Health and Social Care Press Release, [New obesity strategy unveiled as country urged to lose weight to beat coronavirus \(COVID-19\) and protect the NHS](#), 27 July 2020

<sup>151</sup> Department of Health and Social Care, [Tackling obesity: empowering adults and children to live healthier lives](#), 27 Jul 2020

<sup>152</sup> Department of Health and Social Care, [Tackling obesity: empowering adults and children to live healthier lives](#), 27 Jul 2020

<sup>153</sup> NHS, [Who’s at higher risk from coronavirus](#), (accessed 11 Aug 2020)

- Introduce legislation to require large out-of-home food businesses to add calorie labels to the food they sell
- Consult on the intention to make companies provide calorie labelling on alcohol
- Legislate to end the promotion of HFSS foods by restricting volume promotions such as “buy one get one free”, and the placement of these foods in locations intended to encourage purchasing, both online and in physical stores in England
- Ban the advertising of HFSS products shown on TV and online before 9pm, and consult on how to introduce a total HFSS advertising restriction online
- Offer all Primary Care Networks the opportunity to equip their staff to become healthy weight coaches
- Implement incentives for doctors to ensure that everyone living with obesity is offered support for weight loss through the Quality Outcomes Framework

The Government also highlighted a range of further measures that would be needed, including:

- Improving public sector procurement of food and drink as part of the forthcoming National Food Strategy
- Supporting disabled people to move towards a healthier weight as part of the National Strategy for Disabled People
- Continued work with business and industry through the Government’s reduction and reformulation programmes on sugar, calories and salt

## Parliamentary and stakeholder responses

Shadow Health and Social Care Minister Alex Norris responded to the Government’s new strategy:

Labour has long campaigned for radical action to tackle obesity.

We’ve had big promises before from Tory ministers on banning junk food advertising only for measures to be kicked into the long grass of consultation.

But an effective obesity strategy needs action, not consultation. The Tories have pared public health to the bone and people are paying the price for ten years of this complacency.<sup>154</sup>

An [editorial](#) by The Lancet Diabetes & Endocrinology expressed supported for efforts to achieve a healthier nation but raised concerns that the ban on food promotions and advertisements might result in higher prices and growing inequalities, which it said could themselves contribute to obesity and poor health outcomes.<sup>155</sup> The Lancet also considered that the strategy failed to take the impact of biological, societal and psychological factors on obesity. The Lancet said that the strategy may have employed guilt and shame to communicate its message.<sup>156</sup>

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<sup>154</sup> [‘An effective obesity strategy needs action, not consultation’- Alex Norris, Labour.org](#), (accessed 9 Nov 2020)

<sup>155</sup> [“Obesity and Covid-19: Blame isn’t a strategy”](#), *The Lancet Diabetes & Endocrinology* [online], 7 Aug 2020 (accessed 8 Nov 2020)

<sup>156</sup> [“Obesity and Covid-19: Blame isn’t a strategy”](#), *The Lancet Diabetes & Endocrinology* [online], 7 Aug 2020 (accessed 8 Nov 2020)

Adam Briggs, Senior Policy Fellow at the Health Foundation credited the strategy with having included “some positive steps” to tackle obesity but considered that the strategy was “likely a missed opportunity to provide everyone with an equal chance of living a healthy life”.<sup>157</sup> He discussed the need for policy to acknowledge the impact of economic and social factors on obesity:

A credible strategy would go further to modify the environment and the circumstances in which we live – the multiple factors that shape whether we can be active or eat healthily. It would acknowledge the role of economic and social factors like poverty and unemployment that drive poor health and inequalities, and the impact of year-on-year cuts to local authority budgets. It would use the range of powerful levers that the government has at its disposal to implement evidence-based practical solutions – from more space for cycling and walking to restricting fast food outlets near schools – which have broad public support.

Many of today's announcements are not new ideas – they have been included in previous childhood obesity plans but never implemented. Too much time has already been lost, we must now see decisive action.<sup>158</sup>

Concerns were also raised by restaurant and food leaders. Some criticised the timing for plans to make large cafes and restaurants display calorie information, as they attempted to recover from the economic impacts of the Covid-19 pandemic.<sup>159</sup>

Sue Eustace, Director of Public Affairs at the Advertising Association [expressed a lack of support](#) for the proposals on HFSS advertising outlined in the strategy:

We are bitterly disappointed by the announcement today by the Government that they are to press ahead with measures against advertising that are misguided, unfounded and will be totally ineffective in the fight against obesity. The Government's very own research has shown that a 9pm watershed ban on HFSS advertising will reduce a child's calorie intake by a miniscule 1.7 calories per day – the equivalent of half a Smartie.<sup>160</sup>

Ms Eustace called the ban “unwarranted and unprecedented” and a “totally disproportionate measure” and said that they “will not solve the structural inequalities linked to deprivation that cause higher rates of obesity among people”.

## 4.10 The 2021 Women and Equalities Committee inquiry on body image

In April 2021, the House of Commons Women and Equalities Committee published its report [Changing the perfect picture: an inquiry](#)

<sup>157</sup> The Health Foundation, [The government's strategy is likely to be a missed opportunity to address the root causes of obesity](#), (accessed 8 Nov 2020)

<sup>158</sup> The Health Foundation, [The government's strategy is likely to be a missed opportunity to address the root causes of obesity](#), (accessed 8 Nov 2020)

<sup>159</sup> “[Government Unveils New Obesity Strategy Following COVID-19 'Wake-Up Call'](#)”, *The Speaker* [online], 27 Jul 2020, (accessed on 8 Nov 2020)

<sup>160</sup> [AA statement on HFSS advertising measures](#), Advertising Association, (accessed 8 Nov 2020)

[into body image](#).<sup>161</sup> The inquiry sought to determine which groups were most at risk of developing poor body image, the factors driving its prevalence, and the impact of poor body image on the lives of those affected by it. The Committee also considered the role Government should play through health and other interventions to reduce the prevalence and impact of poor body image in the UK.

The report described the Government's latest obesity strategy as "at best ineffective and at worst perpetuating unhealthy behaviours" and expressed disappointment that no review of the effectiveness of the current or previous obesity strategies had taken place.<sup>162</sup>

As part of its recommendations, the Committee called for the Government to abandon plans to introduce calorie labelling in restaurants, cafes and takeaways "as these could negatively affect those with, or at risk of developing, eating disorders".<sup>163</sup>

The Committee also recommended that the Government should commission, within three months, an independent review of its obesity strategy to determine the evidence base for its policies, with the findings to be reported within six months. The Committee also urged the Government to "only use evidence-based policies in its Obesity Strategies".<sup>164</sup>

Regarding the weighing of primary school children under the National Child Measurement Programme, the Committee argued that it was "likely to cause harm to children's mental health and could hinder the development of a positive body image". The Committee recommended that the Government "urgently assess the need for the programme and seek other ways to collect this data".<sup>165</sup>

The Committee also recommended that the Department for Education regularly review the new relationships, sex and health education curriculum to ensure that it is having a positive impact on wellbeing and decreases levels of body dissatisfaction.<sup>166</sup> Additionally, the Committee asked the DfE to explore other policy initiatives to encourage schools to take a 'whole school approach' to encouraging positive body image.<sup>167</sup>

## 4.11 The Health and Care Bill: changes to food labelling and advertising

In February 2021, the DHSC set out [proposals for a Health and Care Bill](#) which would build on proposals set out in the NHS Long Term Plan as well as respond to the challenges presented by Covid-19, an increased and aged population and increasing multimorbidity, diabetes, obesity,

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<sup>161</sup> House of Commons Women and Equalities Committee, [Changing the perfect picture: an inquiry into body image](#), 9 April 2021, HC 274, 2019-21

<sup>162</sup> Ibid

<sup>163</sup> Ibid

<sup>164</sup> Ibid

<sup>165</sup> Ibid

<sup>166</sup> Ibid

<sup>167</sup> Ibid

dementia and mental ill health.<sup>168</sup> The Government said that its proposals would ‘help the NHS and local government in the immediate work of recovery from the pandemic by making joint planning and delivery of services easier, and over the long term by helping to address the needs of everyone, from children to older people, at different stages of their lives’.<sup>169</sup>

Within the policy paper, the Government announced legislative changes to strengthen food labelling requirements:

- 5.129 We are proposing to amend section 16 of the Food Safety Act 1990 to give ministers the power to amend the EU Food Information to Consumers (2011/1169) regulations that have been transposed into UK law. This will allow ministers to introduce new strengthened labelling requirements that best meet the needs of the consumer to make more informed, healthier choices subject to approval by Parliament.
- 5.130 This power will enable the swift introduction of key obesity strategy policies such as changes to our front-of-pack nutrition labelling scheme and mandatory alcohol calorie labelling, following consultation. We are considering the impact of this clause with the devolved administrations and will continue to engage them on our current and any future policy proposals.<sup>170</sup>

Under section 16 of *The Food Safety Act 1990*, the Government can currently:

- Make provision for imposing requirements or prohibitions concerning the labelling, marking, presenting or advertising of food, and the descriptions which may be applied to food

The Government said that the new requirements would ‘best meet the needs of the consumer to make more informed, healthier choices’.<sup>171</sup>

The Government also set out that the new power would enable other obesity strategy policies, and gave consideration to its impact on the Devolved Administrations:

- 5.130 This power will enable the swift introduction of key obesity strategy policies such as changes to our front-of-pack nutrition labelling scheme and mandatory alcohol calorie labelling, following consultation. We are considering the impact of this clause with the devolved administrations and will continue to engage them on our current and any future policy proposals.<sup>172</sup>

This proposed change is in addition to the government’s proposed ‘traffic light’ front-of-pack nutrition labels which was subject to a [public consultation in 2020](#). The Government is due to publish its response to the consultation.<sup>173</sup>

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<sup>168</sup> DHSC, [Integration and Innovation: working together to improve health and social care for all](#), 11 Feb 2021

<sup>169</sup> Ibid

<sup>170</sup> Ibid

<sup>171</sup> Ibid

<sup>172</sup> Ibid

<sup>173</sup> [PO 172006](#), 25 Mar 2021

The Government also set out plans to ban the advertisement of HFSS products on TV before 9pm:

- 5.131 It is the government's intention to introduce further advertising restrictions to prohibit advertisements for products high in fat, sugar or salt (HFSS) being shown on TV before 9pm. In November and December 2020, we consulted on how to go further and implement an online restriction for HFSS advertisements. Depending on the outcome of this consultation, it is our intention to take forward further online advertising restrictions simultaneously in this legislation.<sup>174</sup>

HFSS advertising is discussed further in section 7 of this briefing.

Commenting generally on the White Paper's proposed changes relating to adult social care and public health, the King's Fund said that they represented "pragmatic, targeted solutions to tightly defined problems".<sup>175</sup>

In the 2021 Queen's Speech, the Government said that it would bring forward measures to support the health and wellbeing of the nation, including to tackle obesity.<sup>176</sup>

Professor Graham MacGregor CBE, Chairman of Action on Sugar and Action on Salt, expressed strong support for the proposals:

We warmly welcome the news that the Government will finally be making Britain healthier. Whilst bringing in these landmark obesity policies will make the UK world-leading, it's absolutely crucial that we not only prevent obesity, but also treat those who are overweight. This must include product reformulation.<sup>177</sup>

Kate Nicholls, Chief Executive of UKHospitality expressed concern about the about the effect that mandatory calorie labelling might have on hospitality businesses, particularly in the wake of financial pressures caused by the Covid-19 pandemic.<sup>178</sup> She urged the Government to "consult meaningfully" with the hospitality sector via the new Office for Health Promotion on any measures that are included in the Health and Social Care Bill.

Others also raised concern about the potential risk that mandatory calorie labelling might have on individuals with eating disorders.<sup>179</sup>

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<sup>174</sup> DHSC, [Integration and Innovation: working together to improve health and social care for all](#), 11 Feb 2021

<sup>175</sup> The King's Fund, [The health and social care White Paper explained](#), 9 Mar 2021

<sup>176</sup> The Prime Minister's Office, [Queen's Speech 2021](#), 11 May 2021

<sup>177</sup> New Food Magazine, [How will UK Government's new health Bill impact the food sector and consumer?](#), 14 May 2021

<sup>178</sup> Big Hospitality, [Government urged to consult with hospitality on legislation to tackle obesity](#), 11 May 2021

<sup>179</sup> New Food Magazine, [How will UK Government's new health Bill impact the food sector and consumer?](#), 14 May 2021

## 5. The Soft Drinks Industry Levy

Calls for the introduction of a tax on sugar-sweetened beverages (SSB) were made as early as 2015 by PHE,<sup>180</sup> and reiterated by the Commons Health Committee.<sup>181</sup>

In the 2016 Budget, the then Chancellor of the Exchequer George Osborne, announced “a new soft drinks industry levy targeted at producers and importers of soft drinks that contain added sugar”.<sup>182</sup>

A Gov.uk [webpage](#) sets out all of the conditions a drink must meet in order to be eligible for the soft drinks industry levy (SDIL):

A drink is liable for the Soft Drinks Industry Levy if it meets all of the following conditions:

- it has had sugar added during production, or anything (other than fruit juice, vegetable juice and milk) that contains sugar, such as honey
- it contains at least 5 grams (g) of sugar per 100 millilitres (ml) in its ready to drink or diluted form
- it's either ready to drink, or to be drunk it must be diluted with water, mixed with crushed ice or processed to make crushed ice, mixed with carbon dioxide, or a combination of these
- it's bottled, canned or otherwise packaged so it's ready to drink or be diluted
- it has a content of 1.2% alcohol by volume (ABV) or less<sup>183</sup>

<sup>184</sup>

The webpage also sets out which drinks are not liable for the levy, with notable examples including drinks comprising at least 75% milk, alcohol replacement drinks and drinks made with fruit or vegetable juice and do not have any other added sugar.

It was announced at the [Spring 2017 Budget](#) that that the tax rate for the levy would be set at:

- 18p per litre for lower sugar products (5g/100ml and above), and
- 24p per litre for higher sugar products (8g/100ml and above).<sup>185</sup>

In Chapter One of the Childhood Obesity Plan, the Government explained that the main purpose of the levy was to encourage reformulation and not to raise revenue.<sup>186</sup> Comments in the 2016

<sup>180</sup> Public Health England, [Sugar Reduction, the evidence for action](#), Oct 2015

<sup>181</sup> House of Commons Health Committee, [Childhood obesity- brave and bold action](#), 30 Nov 2015, HC 465- I 2015-16

<sup>182</sup> HM Treasury, [Budget 2016](#), 16 Mar 2016

<sup>183</sup> HM Revenue and Customs, Gov.uk, [Check if your drink is liable for the Soft Drinks Industry Levy](#), (accessed 8 Nov 2020)

<sup>184</sup> Also set out in Part 2 of the [Finance Act 2017](#)

<sup>185</sup> HM Treasury, [Spring Budget 2017](#), 8 Mar 2017

<sup>186</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

Budget echoed this, saying that the levy would be designed to encourage companies to reformulate their drinks.<sup>187</sup>

The levy was implemented through [The Finance Act 2017](#) and came into effect on 6 April 2018. The provisions of the Act apply across the UK.

Chapter Two of the Childhood Obesity Plan stated that PHE had also published voluntary sugar reduction guidelines for fruit and vegetable juices and milk-based drinks with added sugar, which currently fall outside the scope of the Levy.<sup>188</sup> PHE's technical report, [Sugar reduction: juice and milk based drinks](#), was published in May 2018 and included sugar reduction and calorie guidelines for products likely to be consumed in a single occasion.<sup>189</sup>

The Commons Library briefing paper [The Soft Drinks Industry Levy](#) provides further background to the levy.<sup>190</sup>

## 5.1 Impact of the SDIL

HMRC asked PHE to monitor progress of the SDIL. In a September 2019 [report](#), PHE reported a number of findings regarding retailer own brand and manufacturer branded products using data from a 2015 baseline year and 2018 as year two.<sup>191</sup> PHE's main findings for the SDIL were:

- a 28.8% reduction in total sugar content per 100ml between 2015 and 2018 for the drinks subject to be included in the SDIL among retailer own brand and manufacturer branded products
- an increase in sales of drinks subject to the levy of 10.2%, but a reduction in the total sugar content in the drinks sold of 21.6%
- a shift in the volume of sales towards low sugar products (below 5g per 100ml) with no levy attached
- a decrease in total sugar purchased from drinks subject to the SDIL per household among all socio-economic groups
- the reduction in sugar purchased per household from drinks subject to the SDIL was smallest in the lowest socio-economic group (9% compared with 24% overall),
- the calorie content of drinks subject to the levy likely to be consumed on a single occasion fell by 20.5%
- for drinks consumed out of home, there was a reduction of 27.2% in the simple average total sugar per 100ml, and a

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<sup>187</sup> HM Treasury, [Budget 2016](#), 16 Mar 2016

<sup>188</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, [Childhood obesity: a plan for action, Chapter 2](#), 25 Jun 2018

<sup>189</sup> Public Health England, [Sugar reduction: juice and milk based drinks](#), 22 May 2018

<sup>190</sup> [The Soft Drinks Industry Levy](#), Commons Library Briefing Paper no 7876, 12 Apr 2017

<sup>191</sup> Public Health England, [Sugar reduction: report on progress between 2015 and 2018](#), 20 Sep 2019

reduction of 22.2% in calories for drinks likely to be consumed on a single occasion<sup>192</sup>

These findings reflect that following the introduction of the levy soft drinks companies, to differing levels, reformulated some drinks or promoted the sale of sugar free alternatives. High profile examples include the A G Barr reformulation programme (makers of Iron Bru). Sales of lower sugar drinks grown; PHE found:

- overall, sales (in litres) of soft drinks classified within the three sugar tiers of the levy have increased by 10.2% from 3,599,309 thousand litres in 2015 to 3,967,748 in 2018 which was due to an increase in sales of drinks containing less than 5g of sugar per 100ml
- at the same time the total sugar content within the soft drinks sold decreased by 21.6% from 139,718 tonnes in 2015 to 109,585 tonnes in 2018 which means that on average, the sugar content of drinks subject to the SDIL has decreased
- the sales weighted average total sugar content fell from 3.9g per 100ml in 2015 to 2.8g per 100ml, in 2018 which is a decrease of 28.8%
- the sales weighted average number of calories for products likely to be consumed on a single occasion
- there has been a large shift in sales towards lower sugar products as sales (in litres) of products with no levy attached (less than 5g sugar per 100ml) have increased by 35.5%, while sales of products with a levy attached have fallen by 45.5% for those in the 5g to less than 8g per 100ml group and by 35.1% for those in the 8g or more per 100ml group
- the proportion of sales with no levy attached has also increased from 65% to 80% while the proportion of products with no levy attached has also increased from 48% to 67%

Overall, PHE highlighted an increase in the amount of sugar sold in foods within the reformulation programme, compared to a decrease in that of soft drinks:

Overall the total tonnes of sugar sold in foods included in the reformulation programme from the in-home sector has increased by 2.6% between 2015 and 2018 (excluding cakes and morning goods), whereas the sugar sold in soft drinks subject to SDIL has decreased by 21.6%. Equivalent figures for the out of home sector are not available.<sup>193</sup>

The results were cited by some groups who felt that the levy had been more successful than the voluntary approach at encouraging manufacturers to reformulate. The Telegraph reported on [comments](#) from Tam Fry of the National Obesity Forum:

<sup>192</sup> Public Health England, [Sugar reduction: report on progress between 2015 and 2018](#), 20 Sep 2019

<sup>193</sup> Public Health England, [Sugar reduction: report on progress between 2015 and 2018](#), 20 Sep 2019

The resounding success of the sugary drinks levy is the only welcome news in this report.

The years of the Responsibility Deal earlier this decade, when government 'challenged' the food industry voluntarily to improve its products were a shambles and, by comparison, the drinks levy worked overnight.

[...]

Levies on a wide range of less than healthy foodstuffs must now be enacted. No ifs. No buts.<sup>194</sup>

An independent October 2019 [report](#) on childhood obesity by then CMO, Professor Dame Sally Davies commented on the progress of the SDIL:

The Soft Drinks Industry Levy (SDIL) has successfully driven reformulation and taken sugar out of children's drinks.<sup>10</sup> There is no evidence that it has had a negative impact on deprived groups. Increases in the price of soft drinks due to the levy have been minimal and have helped fund school sport and breakfast clubs. Children living in the most deprived areas are benefitting most, because of their higher rates of tooth decay.<sup>195</sup>

## 5.2 How has the SDIL been spent in England?

In the [2016 Budget](#), the Government set out that the revenue generated by the levy over the scorecard period would be used, in England, to:

- Doubling funding for the Primary PE and Sport Premium from £160 million per year to £320 million per year from September 2017. The premium, comprising annual ring-fenced funding for primary schools to improve the quality of the PE and sport they offer, has been provided since 2013.
- Providing "up to £285 million a year to give 25% of secondary schools increased opportunity to extend their school day."
- Providing £10 million per year to expand breakfast clubs in schools<sup>196</sup>

In the Budget, the Government said that the levy was expected to raise £520 million in its first year. The Budget also set out that Office for Budget Responsibility expected that this figure would fall over time. It was anticipated that as manufacturers reformulated their drinks to reduce sugar content, fewer products would be subject to the SDIL, thus reducing the revenue generated by the levy. The Devolved Administrations receive their funding through the Barnett Formula and choose how the funding is allocated.

Subsequently, at the [2017 Spring Budget](#), the then Chancellor Philip Hammond confirmed that revenue was expected to be lower as a result

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<sup>194</sup> "[Government sugar crackdown branded a 'shambles' as it emerges sweets got sweeter during campaign](#)", *The Telegraph* [online], 20 Sep 2019, (accessed 8 Nov 2020)

<sup>195</sup> Department of Health and Social Care, [Time to solve childhood obesity: an independent report by the Chief Medical Officer](#), 10 Oct 2019

<sup>196</sup> HM Treasury, [Budget 2016](#), 16 Mar 2016

of reformulation, but that the Government would fund the Department for Education up to the originally forecast £1 billion for the Parliament:

Unusually for a Chancellor, I am delighted to announce a reduction in the expected yield of a tax – the soft drinks levy.

I can confirm today the final rates of 18 and 24 pence per litre for the main and higher bands respectively.

But producers are already reformulating sugar out of their drinks, which means a lower revenue forecast for this tax.

This is good news for our children.

And in further good news for them, I can confirm that we will nonetheless fund Department for Education with the full £1 billion we originally expected from the levy this Parliament, to invest in school sports and healthy living programmes.<sup>197</sup>

In February 2021, Treasury Minister Kemi Badenoch set out a summary of SDIL revenue since its introduction:

Since its introduction in April 2018, the provisional total for revenue raised from the Soft Drinks Industry Levy up to and including December 2020 is £802 million. This consists of the following amounts raised per financial year:

2018-19: £240 million

2019-20: £337 million

2020-21: £224 million (provisional year to date total covering revenue received between April 2020 and December 2020).

The discrepancy of £1 million between the overall total (£802 million) and the sum of financial year subtotals (£801 million) is due to rounding used by HMRC when producing these statistics.<sup>198</sup>

## The Healthy Pupils Capital Fund

In a February 2017 [press release](#) the DfE committed to providing £415 million in England to pay for facilities to support PE, after school activities and healthy eating as part of a new healthy pupils capital programme.<sup>199</sup> Schools would also be able to use the funds to improve facilities for children with physical conditions or support young people struggling with mental health issues. The funding was made available for the 2018/19 financial year.<sup>200</sup>

A March 2017 Schools Week [article](#) reported on the announcement and suggested that funding originally purposed for extending the school day, announced at the 2016 Budget, would instead be used to fund the healthy pupils capital programme:

The government has scrapped a £285 million pledge to fund longer days at secondary school for pupils to access more sports and art activities.

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<sup>197</sup> HM Treasury, [Spring Budget 2017: Philip Hammond's speech](#), 8 Mar 2017

<sup>198</sup> [PO 145846](#), 8 Feb 2021

<sup>199</sup> Department for Education Press Release, [New funding to boost schools facilities and healthy lifestyles](#), 28 Feb 2017

<sup>200</sup> DfE, [School capital funding](#), 27 Nov 2020

The cash will instead be diverted to help fund a £415 million pot to build new sports facilities, announced by education secretary Justine Greening yesterday.<sup>201</sup>

The [article](#) reported that the Government had pledged to ensure that the amount schools receive in healthy pupil capital funding would “not fall below £415 million regardless of the funds generated by the levy”.<sup>202</sup> The DfE [press release](#) provided further information as to which schools would receive an allocation, and which schools would be eligible to bid for funding through a healthy pupils capital fund.<sup>203</sup> The [press release](#) additionally indicated that funding for the PE and sport premium and breakfast clubs, provided from SDIL revenue, would remain intact.

The Schools Week [article](#) included comments from stakeholders, highlighting concern about the effectiveness of the funding arrangements:

The main issue is the switch to capital from revenue funding. Largely we already have space and equipment, but we can't afford the extra hours to provide additional sports clubs and breakfast clubs on an ongoing basis.

Extended schools was a significant initiative announced in the last budget and has now been dropped without a whisper.<sup>204</sup>

## Reduction in funding for the Healthy Pupils Capital Fund

In a July 2017 [schools update](#), the then Secretary of State for Education, Justine Greening explained that funding for the healthy pupils capital fund would be reduced from £415 million to £100 million.<sup>205</sup>

The £315 million savings would be put towards £1.3 billion of “additional investment” in core schools funding for 2018/19 and 2019/20, and would be “funded in full from efficiencies and savings” in the DfE’s budget. Ms Greening said:

Efficiencies and savings across our main capital budget can, I believe, release £420 million. The majority of this will be from healthy pupils capital funding, from which we can make savings of £315 million. This reflects reductions in forecast revenue from the soft drinks industry levy. I will be able to channel the planned budget, which remains in place, to frontline schools, while meeting our commitment that every single pound of England’s share of spending from the levy will continue to be invested in improving children’s health; that includes £100 million in 2018-19 for healthy pupils capital.<sup>206</sup>

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<sup>201</sup> “[Government scraps longer school day pledge](#)”, Schools Week [online], 1 Mar 2017, (accessed 8 Nov 2020)

<sup>202</sup> “[Government scraps longer school day pledge](#)”, Schools Week [online], 1 Mar 2017, (accessed 8 Nov 2020)

<sup>203</sup> Department for Education Press Release, [New funding to boost schools facilities and healthy lifestyles](#), 28 Feb 2017

<sup>204</sup> “[Government scraps longer school day pledge](#)”, Schools Week [online], 1 Mar 2017, (accessed 8 Nov 2020)

<sup>205</sup> [HC Deb, 17 Jul 2017 c565](#)

<sup>206</sup> [HC Deb, 17 Jul 2017 c565](#)

She also reiterated the Department's commitment to double the PE and sports premium for primary schools.

The healthy pupil capital fund was allocated through the existing arrangements for schools' capital funding. An [October 2020 PQ response](#) set out how revenue from the fund had been spent.<sup>207</sup>

More information about how revenue from the SDIL was used to fund school sports and other activities can be found in the Library briefing [Physical education, physical activity and sport in schools](#).<sup>208</sup>

### 5.3 Future plans for the SDIL

Since its introduction, questions have been raised about the effectiveness of the SDIL, how far the SDIL might be extended to currently excluded beverages, and how generated revenue would be spent.

During the 2019 Conservative leadership campaign, Boris Johnson [expressed](#) an intention to undertake a review of wider "sin stealth taxes" to determine whether they were successful in challenging behaviour and whether they disproportionately affected poorer consumers.<sup>209</sup> A number of public health leaders [expressed concern](#) about Mr Johnson's proposals, noting that the SDIL had largely been successful.<sup>210</sup>

When questioned about the effectiveness of the SDIL in a July 2019 [evidence session](#), Secretary of State for Health and Social Care Matt Hancock said that he was supportive of "following the evidence" and had commissioned Chief Medical Officer Sally Davies to carry out a review around this.<sup>211</sup> The resulting independent report, [Time to solve childhood obesity](#), by the then CMO Professor Dame Sally Davies, was published in October 2019.<sup>212</sup> Dame Sally recommended that the SDIL be extended to sweetened milk-based drinks with added sugar.

In a January 2019 response to the Commons Health Select Committee's May 2018 [report on childhood obesity](#),<sup>213</sup> the Government [said](#) that "[...] no decision has been made about how revenue from the soft drinks industry levy may be invested in the future [...]"<sup>214</sup>

<sup>207</sup> [PQ 102089](#), 15 Oct 2020

<sup>208</sup> [Physical education, physical activity and sport in schools](#), Commons Library Briefing Paper no 6836, 17 Dec 2019

<sup>209</sup> "['Sin taxes': Boris Johnson vows to review sugar levy](#)", *The Guardian* [online], 3 Jul 2019, (accessed on 8 Nov 2020)

<sup>210</sup> "[Public health leaders slam Boris Johnson over 'sin tax' review plan](#)", *British Medical Journal* [online], 4 Jul 2019, (accessed on 8 Nov 2020)

<sup>211</sup> House of Commons Health and Social Care Committee, [Inquiry: Work of the Secretary of State- oral evidence](#), 9 Jul 2019, HC 523, q400

<sup>212</sup> Department for Health and Social Care, [Time to solve childhood obesity: CMO special report](#), 10 Oct 2019

<sup>213</sup> House of Commons Health Committee, [Childhood obesity: Time for action](#), 30 May 2018, HC 882-8, 2017-19

<sup>214</sup> Department of Health and Social Care, [Government response to the Health and Social Care Select Committee report on Childhood obesity: Time for action](#), CP23, 30 Jan 2019

September 2019 articles from [The Grocer](#)<sup>215</sup> and [Sustain](#)<sup>216</sup> expressed concern that the [2019 Spending Round](#) did not confirm any commitment to ring-fence income from the SDIL to send on programmes for children's health.<sup>217</sup>

[The Grocer reported](#) that "the Treasury confirmed that earlier commitments to ringfence the taxes raised by the levy to help tackle the obesity crisis in schools had been dropped".<sup>218</sup> The article included comment from a children's food campaigner expressing concern about the absence of a confirmation in the [Spending Round](#) about future ringfencing of levy revenue.<sup>219</sup>

In February 2021, Treasury Minister Kemi Badenoch set out that the Government had no plans to formally link revenue from the SDIL to any specific spending:

The Government has no plans to formally link revenue from the Soft Drinks Industry Levy to any specific spending. Departmental spend for children's food and to promote children's health is allocated through Spending Reviews. This provides departments with certainty over their programme budgets, as tax revenues vary year-to-year.

The Government continues to invest in children's health, through the Department for Education's promotion of healthy eating and physical activity in schools and holidays and the Department for Health's focus on health and wellbeing.<sup>220</sup>

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<sup>215</sup> "[Sajid Javid admits Treasury has swallowed sugar tax cash](#)", *The Grocer* [online], 6 Sep 2019, (accessed on 8 Nov 2020)

<sup>216</sup> "[Spending Review fails to confirm how Sugary Drinks Tax income will be spent](#)", *Sustain* [online], 4 Sep 2019, (accessed 8 Nov 2020)

<sup>217</sup> HM Treasury, [Spending Round 2019](#), 4 Sep 2019

<sup>218</sup> "[Sajid Javid admits Treasury has swallowed sugar tax cash](#)", *The Grocer* [online], 6 Sep 2019, (accessed on 8 Nov 2020)

<sup>219</sup> "[Soft drinks sugar levy revenues swallowed up by Treasury review](#)", *The Grocer* [online], 6 Sep 2019

<sup>220</sup> [PO 150949](#), 11 Feb 2021

## 6. PHE reformulation and reduction programme

PHE oversees the reduction and reformulation programme on behalf of the Government and covers a range of work being undertaken to reduce sugar, calories and salt. The term “food reformulation” can be defined as the process of altering a food or beverage product’s recipe or composition to improve the product’s health profile.<sup>221</sup>

### 6.1 Sugar reduction

Chapter One of the childhood obesity plan (2016) set out the Government’s plans for a voluntary reduction in sugar:

All sectors of the food and drinks industry will be challenged to reduce overall sugar across a range of products that contribute to children’s sugar intakes by at least 20% by 2020, including a 5% reduction in year one. This can be achieved thorough reduction of sugar levels in products, reducing portion size or shifting purchasing towards lower sugar alternatives.

This programme will be led and run by Public Health England (PHE) and will apply to all sectors of industry- retailers, manufacturers and the out of home sector (e.g. restaurants, takeaways and cafés)- and to all foods and drinks that contribute to children’s sugar intakes, including those aimed at very young children. The programme will initially focus on the nine categories that make the largest contributions to children’s sugar intakes: breakfast cereals, yoghurts, biscuits, cakes, confectionery, morning goods (e.g. pastries), puddings, ice cream and sweet spreads. Work will then move on to cover the remaining relevant foods and drinks, including any products that may be out of scope of the soft drinks industry levy, for example, milk-based drinks. The sugar reduction programme will also work to reduce the sugar content of product ranges explicitly targeted at babies and young children.”<sup>222</sup>

PHE reported a number of successes in its [May 2018 report](#), but the data also showed that industry had failed to reach the 5% year one sugar reduction target. The report provided information on the progress made by retailers and manufacturers:

SWA [sales weighted average] sugar levels have reduced by 2% over the programme as a whole between baseline and year 1 (excluding cakes and morning goods). Three categories – yogurts and fromage frais, breakfast cereals and sweet spreads and sauces – have met or exceeded the year 1 reduction guideline of 5%. Ice cream, lollies and sorbets (g) and sweet confectionery have made smaller reductions of 2% and 1% respectively. No change has been seen for biscuits or chocolate confectionery and there has been an increase of 1% for puddings (see category specific analyses in appendix 3).<sup>223</sup>

<sup>221</sup> Scott C, Hawkins B, Knai C. [Food and beverage product reformulation as a corporate political strategy](#). Soc Sci Med. 2017 Jan;172:37-45.

<sup>222</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

<sup>223</sup> Public Health England, [Sugar reduction and wider reformulation programme: Report on progress towards the first 5% reduction and next steps](#), 22 May 2018

PHE's September 2019 [report on progress](#) cited an overall 2.9% reduction in total sugar per 100g, however noted a 2.6% increase in the overall tonnes of sugar sold in foods included in the reformulation programme from the in-home sector between 2015 and 2018 (excluding cakes and morning goods).<sup>224</sup> The report listed a number of headline results:

#### Sugar content of products

Retailer own brand and manufacturer branded products (in home sector)

The main findings were (see Table ES1a):

- overall there was a 2.9% reduction in total sugar per 100g in products sold between 2015 and 2018
- there were larger reductions for some specific product categories (yogurts and fromage frais down 10.3% and breakfast cereals down 8.5% compared with 2015)
- there were small increases for 2 categories; puddings; and, sweet confectionery

#### Out of home sector products

The main findings were (see Table ES1a):

- the simple average of total sugar per 100g reduced by 4.9% between 2017 and 2018<sup>4</sup>
- the largest decreases were 23.5% for yogurts and fromage frais, 17.1% for breakfast cereals, 15.0% for puddings, 12.9% for ice creams, lollies and sorbets, 9.1% for morning goods and 6.9% for cakes (note the analysis for yogurts and fromage frais is only based on 54 products in 2017 and 38 products in 2018, and therefore should be treated with caution)
- there was an increase for chocolate confectionery of 3.6%
- for most categories, the simple average sugar content per 100g in products consumed out of home is roughly the same as the retailer own brand and manufacturer branded products purchased for consumption in home<sup>225</sup>

In Chapter Two of the childhood obesity plan (2018) the Government said that it believed that a voluntary approach was the right one needed to meet the 20% reduction by 2020 and that PHE would continue to monitor sugar levels.<sup>226</sup> The Government said that it would not “shy away from further action, including mandatory and fiscal levers, if industry is failing to face up to the scale of the problem through voluntary reduction programmes”.

PHE published its [third annual report on progress](#) in October 2020, which, for the first time included an assessment of changes in sugar

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<sup>224</sup> Public Health England, [Sugar reduction: progress between 2015 and 2018](#), 20 Sep 2019

<sup>225</sup> Public Health England, [Sugar reduction: progress between 2015 and 2018](#), 20 Sep 2019

<sup>226</sup> Department of Health and Social Care, [Childhood obesity: a plan for action, chapter 2](#), 25 Jun 2018

across the range of juice and milk based drink categories.<sup>227</sup> Key results included, for retailer and manufacturer branded products, a 3% reduction in the sales weighted average total sugar per 100g in products sold between baseline (2015) and year 3 (2019).<sup>228</sup> For juice and milk based drinks, PHE reported reductions in the sales weighted average sugar per 100ml for some categories, including 22.1% for pre-packed milk based drinks, 5.3% for pre-packed flavoured milk substitute drinks and 13.4% for pre-packed fermented (yogurt) drinks.<sup>229</sup>

## 6.2 The calorie reduction programme

In Chapter One of the childhood obesity plan, the Government committed to extending the reformulation programme to include calorie reduction.

PHE were commissioned to consider the evidence around children's calorie consumption and to set the ambition, scope and timeline for extending the reformulation programme to cover foods that contribute significantly to children's calorie intakes. PHE's subsequent March 2018 report, [Calorie reduction: The scope and ambition for action](#), acknowledged that the "foods included in the sugar reduction programme account for around 25% of children's calorie intakes", and that "a broader programme is needed" if children's excess calorie consumption is to be reduced and obesity trends reversed.<sup>230</sup>

The report provided an outline for the calorie reduction programme:

The calorie reduction programme challenges the food industry to achieve a 20% reduction in calories by 2024 in product categories that contribute significantly to children's calorie intakes and where there is scope for substantial reformulation and/or portion size reduction. This requires work to be undertaken by retailers and manufacturers, restaurants, pubs, cafes, takeaway and delivery services and others in the eating out of home sector. The products covered by the programme include ready meals, pizzas, meat products, savoury snack products, sauces and dressings, prepared sandwiches, composite salads and other "on the go" foods including meal deals. More detail is given in appendix 7. It does not cover foods included in the sugar reduction programme. Shifting consumer purchasing towards lower calorie options would be an additional mechanism for action for these products.<sup>231</sup>

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<sup>227</sup> Public Health England, [Sugar reduction, Report on progress between 2015 and 2019](#), 8 Oct 2020

<sup>228</sup> Public Health England, [Sugar reduction, Report on progress between 2015 and 2019](#), 8 Oct 2020

<sup>229</sup> Public Health England, [Sugar reduction, Report on progress between 2015 and 2019](#), 8 Oct 2020

<sup>230</sup> Public Health England, [Calorie reduction: the scope and ambition for action](#), 6 Mar 2018

<sup>231</sup> Public Health England, [Calorie reduction: the scope and ambition for action](#), 6 Mar 2018

In September 2020, PHE published a [technical report](#) outlining guidelines for industry, 2017 baseline calorie levels and setting out next steps.<sup>232</sup>

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<sup>232</sup> Public Health England, [Calorie reduction: guidelines for the food industry](#), 7 Sep 2020

## 7. Advertising of HFSS foods

### 7.1 Role of ASA

The [Advertising Standards Authority](#) (ASA) is the UK's single independent regulator of advertising across all mediums. It does this by enforcing the Advertising Codes; there are separate codes for non-broadcast and broadcast advertisements. The ASA is independent of both the Government and the advertising industry. Its remit includes acting on and investigating complaints about adverts as well as proactively monitoring and acting against "misleading, harmful or offensive" advertisements, sales promotions, and direct marketing. If a complaint is upheld, the advertiser must withdraw or amend the advertisement and not use the advertising approach again. All ASA adjudications are published.

The Advertising Codes are a mixture of self-regulation for non-broadcast advertising and co-regulation for broadcast advertising (with Ofcom). Adverts that appear in non-broadcast media (e.g. in newspapers, magazines, direct mail, posters, on billboards, in commercial email, text messages and paid for space on the internet) must comply with the [UK Code of Non-Broadcast Advertising, Sales, Promotion and Direct Marketing](#), known as the CAP code. The CAP code is maintained by the Committee of Advertising Practice. On 1 March 2011, the ASA's remit was extended significantly to cover marketing communications on companies' own websites and in other third-party space under their control, such as social networking sites like Twitter and Facebook. The CAP Code applies in full to this new space. Adverts that appear in the broadcast media (e.g. on television and radio) must comply with the [UK Code of Broadcast Advertising](#), known as the BCAP code. The BCAP code is maintained by the Broadcast Committee of Advertising Practice.

Both Codes contain wide-ranging rules designed to ensure that all advertising is "legal, decent, honest and truthful", and socially responsible. The **broad principles** apply regardless of the product being advertised. In addition, the Codes contain **special rules** for specified "sensitive" products, such as alcohol, tobacco, and HFSS foods.<sup>233</sup> There are also specific rules for advertising to children. These special rules sit on top of the general Code provisions that all advertisements must not "mislead, harm or offend" - they add an extra layer of protection.

A separate Library briefing paper, [Advertising to children](#) (CBP 8198), provides further detailed information about the current advertising regulatory system in the UK.

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<sup>233</sup> To identify HFSS products, the ASA relies on Department of Health [Food: HFSS Nutrient Profiling](#), ASA, 29 June 2017

## 7.2 Current regulation

In recent years, there has been an ongoing debate about the impact of advertising of HFSS foods on levels of childhood obesity. Various campaign groups and health bodies have called for tighter restrictions, particularly in respect of television and online advertising.

### Non-broadcast media

In response to wider societal concerns about childhood obesity, the Committee of Advertising Practice held a [public consultation](#)<sup>234</sup> between 13 May and 22 July 2016 on proposals to introduce new restrictions on the advertising of HFSS foods and soft drink to children. The Committee suggested there was a need to bring non-broadcast media, including online spaces, into line with the rules for broadcast advertising.

Following this consultation, the Committee published a [regulatory statement](#) in December 2016 outlining its decision to impose the following new restrictions in respect of non-broadcast advertising:

- prohibit HFSS advertising from appearing in children's media (children defined as being under 16)
- prohibit HFSS advertising in other media where children make up a significant proportion of the audience
- prohibit brand advertising (including, branding such as company logos or characters) that has the effect of promoting specific HFSS products, even if they are not featured directly
- apply to all media, including advertising in online platforms like social networks and techniques such as advergames
- use the Department of Health (DH) nutrient profiling model to differentiate between HFSS and non-HFSS products
- and allow advertisements for non-HFSS products to use promotions and licensed characters and celebrities popular with children to better promote healthier options.<sup>235</sup>

New rules on the advertising of HFSS products came into effect on 1 July 2017 (rules [15.4](#), [15.15](#) and [15.18](#) of the CAP Code) subjecting HFSS product advertisements to media placement restrictions.<sup>236</sup> In addition, HFSS adverts directed at under-12s through their content are not permitted to include promotions or celebrities and licensed characters popular with children.

### Broadcast media

In December 2003, the Government asked Ofcom to consider proposals for strengthening the rules on television advertising of food and drink to children. In a Department of Health [White Paper](#), published in

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<sup>234</sup> ["CAP Consultation: food and soft drink advertising to children – Introducing new restrictions on the advertising of food and soft drink products to children"](#), Committee of Advertising Practice (CAP), 13 May 2016

<sup>235</sup> ["CAP Consultation: food and soft drink advertising to children, Regulatory statement"](#), Committee of Advertising Practice (CAP), 8 December 2016

<sup>236</sup> Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), ["Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt \(HFSS\)"](#), 18 March 2019

November 2004,<sup>237</sup> the Government said there was a strong case to restrict further the advertising and promotion to children of HFSS products.

In November 2006, following consultation, Ofcom announced a ban on the scheduling of HFSS advertising during children's airtime and around programmes with a disproportionately high child audience (HFSS advertising would be permitted at other times). The aim being to reduce the exposure of children under 16 to HFSS product advertising in the hope that this would reduce their consumption.<sup>238</sup> On 22 February 2007, Ofcom published its [Final Statement](#) on the introduction of new restrictions in this area.<sup>239</sup>

Since the 1 July 2007, all advertising campaigns must comply with [content rules](#), including rules banning the use of celebrities and characters licensed from third parties, promotional offers, and health claims in HFSS product advertisements aimed at children. New [scheduling rules](#) were phased in from 1 April 2007. The final phase came into force on 1 January 2009, when all HFSS advertising was banned from children's channels. Ofcom's co-regulatory partners, the Broadcast Committee on Advertising Practice (BCAP) and the ASA, are responsible for implementing the new content and scheduling rules and securing compliance.

In July 2010, Ofcom published a [Final Review](#) on the effectiveness of the new restrictions, and concluded:

We are therefore satisfied that the restrictions have served to reduce significantly the amount of HFSS advertising seen by children, and to reduce the influence of techniques in HFSS advertising that are considered likely to be particularly attractive to children.<sup>240</sup>

More recently, in November 2015, the Health Committee's report "[Childhood obesity- brave and bold action](#)"<sup>241</sup> included recommendations to:

- restrict all advertising of HFSS foods and drinks to after the 9pm "watershed"
- extend current restrictions on advertising to all other forms of broadcast media, social media and advertising, cinemas, posters, in print, online and advergimes
- and tighten loopholes around the use of non-licenced cartoon characters and celebrities in children's advertising.

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<sup>237</sup> Department of Health, "[Choosing Health: making healthier choices easier White Paper](#)", November 2004

<sup>238</sup> For advertising purposes, HFSS products were defined by reference to a nutrient profiling model developed by the Food Standards Agency (FSA)

<sup>239</sup> Ofcom, "[Television Advertising of Food and Drink Products to Children – Final Statement](#)", 22 February 2007

<sup>240</sup> Ofcom, [HFSS advertising restrictions - final review](#), 26 Jul 2010

<sup>241</sup> [Childhood obesity- brave and bold action](#), Health Committee, 30 Nov 2015

Other health organisations have expressed their support for a 9 pm watershed including the [Obesity Health Alliance](#) (OHA) and the [British Medical Association](#).<sup>242 243</sup>

In April 2018, the Broadcasting Committee of Advertising Practice (BCAP) announced an open [Call for evidence](#) to assist in its regulation of television advertising for HFSS food and soft drink.<sup>244</sup> This BCAP announcement was made before the Government confirmed in June 2018 that it would consult on the possibility of further restricting advertisements for HFSS products (see below).<sup>245</sup>

### 7.3 Consultation (2019): further TV & online advertising restrictions of HFSS foods

In its "[Childhood Obesity Plan: a plan for action, chapter 2](#)", published in June 2018, the Government made a commitment to consult on the advertising and promotion of HFSS foods, specifically regarding the introduction of a 9pm television watershed.<sup>246</sup> It would also consider whether the self-regulation of online adverts for HFSS products continues to be the right approach for protecting children.<sup>247</sup>

In a briefing for a Westminster Hall debate in January 2018 on the impact of "junk food" marketing on children's obesity, the [OHA](#) expressed its support for tightening the control of advertising of HFSS foods:

Collectively we all agree we need to reduce children's exposure to junk food adverts to help reduce childhood obesity. Junk food adverts are adverts for products that are high in fat, sugar and salt (HFSS). We want existing regulations to be extended so that HFSS advertising is restricted until after the 9pm watershed.<sup>248</sup>

The Government held a consultation on [Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt \(HFSS\)](#) from 18 March to 10 June 2019.<sup>249</sup> That consultation sought views on a number of proposals, originally set out in the action plan, including the introduction of "watershed" restrictions in order to reduce children's exposure to HFSS advertising. In setting out its reasons for the consultation, the Government said:

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<sup>242</sup> [Restricting Children's Exposure to Junk Food Advertising – Obesity Health Alliance Policy Position](#), Obesity Health Alliance (OHA), February 2019

<sup>243</sup> [Food advertising to children on TV: an open call for evidence, BMA response](#), British Medical Association (BMA), 16 May 2018

<sup>244</sup> [BCAP call for evidence on food rules](#), Broadcasting Committee of Advertising Practice (BCAP), 4 April 2018

<sup>245</sup> Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), [Introducing further advertising restrictions on TV and online for products high in fat, sugar and salt \(HFSS\)](#), 18 March 2019 (last update 7 June 2019)

<sup>246</sup> Department of Health and Social Care (DHSC), [Childhood obesity: a plan for action Chapter 2](#), 25 June 2018

<sup>247</sup> Ibid

<sup>248</sup> "[Westminster Hall Debate: This House has considered the impact of junk food marketing on children's obesity](#)", Obesity Health Alliance (OHA), 16 January 2018

<sup>249</sup> Department of Health and Social Care (DHSC) and Department for Digital, Culture, Media and Sport (DCMS), [Further advertising restrictions on TV and online for products high in fat, sugar and salt \(HFSS\)](#), 18 March 2019

We are concerned that despite existing restrictions, children see a significant level of HFSS adverts through the media they engage with the most and that this can shape their food preferences and choices and, over time, lead to obesity. This document seeks views on options across broadcast and online media in order to reduce children's exposure to HFSS advertising. We want to ensure that any future restrictions are proportionate and targeted to the products of most concern to childhood obesity. We also want to ensure that they can be easily understood by parents, so that they are supported in making healthier choices for their families.<sup>250</sup>

The consultation was informed in part by the research of Kantar Consulting, who had been commissioned by the DCMS to [research levels of advertising to children of HFSS products in broadcast media and online](#).<sup>251</sup> An extract from the findings of Kantar Consulting research is reproduced below:

On average, the viewing population of children aged 4-15 (9.36m) saw 7 minutes of food and drink advertising per week in 2017. This was down from 8.6 minutes in 2016. Within this, 2.3 minutes were found to be for HFSS products, 4.4% of the total weekly commercial advertising minutage they see on TV (the average individual child viewed 52 minutes of commercial TV advertising per week in 2017 SOURCE: BARB).<sup>252</sup>

It considered that "a watershed would likely reduce children's exposure to HFSS advertising by 2.50bn impacts (72%)".

However, the [OHA](#) expressed concerns about Kantar's findings, writing:

[...] children and young people's *actual* exposure to digital HFSS marketing is, we consider, grossly underestimated by the Kantar analysis. Therefore, the savings and benefits to children's health, wider society and the public purse will be significantly greater than estimated in the Impact Assessment.<sup>253</sup>

Conversely, the [Advertising Association](#) (which represents UK advertisers, agencies and brands), wrote to the Government in August 2019 to suggest that the proposed restrictions would have little impact on children's diets.<sup>254</sup> It said:

The Government's own analysis shows that the proposed restrictions would only remove around 1.7 calories per day from children's diets, even if they were to succeed, which the evidence does not actually support. There are a number of examples of industry supporting healthy lifestyle campaigns, from the Daily Mile which gets children more active by running or walking a mile a day, to Veg Power. It is our firm belief that working in partnership with industry gets better results, and on the obesity strategy, we urge a more collaborative approach.<sup>255</sup>

<sup>250</sup> Department of Health and Social Care and Department for Digital, Culture, Media & Sport, "[Further advertising restrictions for products high in fat, salt and sugar](#)", 18 March 2019

<sup>251</sup> [HFSS advertising exposure research](#), Kantar Consulting, March 2019 (subscription required)

<sup>252</sup> Ibid

<sup>253</sup> [How much unhealthy food and drink advertising do our kids actually see online?](#), Obesity Health Alliance (OHA), 10 June 2019

<sup>254</sup> [AA writes to new ministers](#), Advertising Association, 5 August 2019

<sup>255</sup> [AA writes to new ministers](#), Advertising Association, 5 August 2019

The Government has confirmed that all responses to the 2019 consultation will be considered alongside responses to its 2020 consultation (see below) when “determining the best course of action”.<sup>256</sup>

## 7.4 Tackling obesity strategy (July 2020)

On 27 July 2020 the Government launched its [tackling obesity strategy](#),<sup>257</sup> to empower adults and children to live healthier lives. A relevant extract is reproduced below:

[...]

helping people to achieve and maintain a healthy weight is one of the most important things we can do to improve our nation's health. Not only because obesity is associated with reduced life expectancy and is a risk factor for a range of chronic diseases,<sup>258</sup> but there is now evidence that people who are overweight or living with obesity are at [greater risk of being seriously ill, and dying from COVID-19](#).

Therefore, it is more important than ever to support the nation in reducing overweight and obesity and help change attitudes and drivers around food and exercise. We also know from the evidence that tackling obesity requires a wide range of interventions that cover both our diet and our physical activity, and that everyone has a role to play.<sup>259</sup>

In highlighting obesity as one of the greatest long-term health challenges the UK faces, the Government said that [1 in 3 children leaving primary school are already overweight or living with obesity](#).<sup>260</sup> In addition, around [two-thirds \(63%\) of adults are above a healthy weight and of these, half are living with obesity](#).<sup>261</sup>

As part of its [tackling obesity strategy](#) the Government said it would introduce a 9pm watershed for all television adverts for HFSS foods by the end of 2022.<sup>262</sup> It also announced other measures to help people live healthier lives, these include:

- a new “Better Health” campaign
- increasing weight management services
- consulting on front of pack labelling
- requiring large out of home food businesses to add calorie labels to the food they sell

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<sup>256</sup> Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, “[Total restriction of online advertising for products high in fat, sugar and salt \(HFSS\)](#)”, 10 November 2020

<sup>257</sup> Department of Health and Social Care, “[Policy Paper: Tackling obesity: government strategy](#)”, 27 July 2020

<sup>258</sup> Guh et al. (2009) The incidence of co-morbidities related to obesity and overweight: A systematic review and meta-analysis, BMC Public Health [\[PDF\]](#)

<sup>259</sup> Department of Health and Social Care, “[Policy Paper: Tackling obesity: government strategy](#)”, 27 July 2020

<sup>260</sup> NHS Digital, “[National Child Measurement Programme, England 2018/19 School Year \[National Statistics\]](#)”, 10 October 2019

<sup>261</sup> NHS Digital, “[Statistics on Obesity, Physical Exercise, and Diet, England 2020](#)”, 5 May 2020

<sup>262</sup> Ibid

- consulting on introducing calorie labelling on alcohol
- and legislating to end the promotion of HFSS foods by restricting volume promotions and placement in certain locations.

Linked to this obesity strategy is the Government's [Sporting Future strategy](#), which focuses on how important it is that everyone has opportunities to be active for physical and mental wellbeing. The Government's [school sport and activity action plan](#) sets out how it intends to help increase children's activity levels, ensuring children enjoy being physically active and retain active habits throughout their lives.

## 7.5 Consultation (November 2020): total online HFSS advertising restriction

On 10 November 2020 the Government published a [consultation paper](#) outlining its proposals for a total online advertising restriction for HFSS products.<sup>263</sup> The Government regarded this consultation as an extension of its previous 2019 consultation,<sup>264</sup> and sought views on how best to design a restriction to effectively reduce the amount of HFSS online advertising children are exposed to. The consultation ended on 22 December 2020.

### Policy rationale

In explaining the reasons for this 2020 consultation, the Government said that evidence now shows (though it is not conclusive) that exposure to HFSS advertising can affect what and when children eat; in the short term by increasing the amount of food children eat immediately after being exposed to an advert and by shaping longer term food choices from a young age.<sup>265</sup> Restricting HFSS advertising might also influence adult purchases and consumption and generate significant health benefits.<sup>266</sup> In speaking about the risks associated with obesity and COVID-19, the Government said:

People who live in deprived areas have higher COVID-19 diagnosis and death rates and are more likely to be living with childhood and adult obesity. Studies suggest that children from the most deprived households spend more time online than those from the most affluent, and that HFSS adverts have a greater impact on those children who are already overweight or obese than non-overweight children. This indicates that children in more deprived communities are more likely to benefit from a reduction in HFSS advertising exposure.<sup>267</sup>

Given the scale of the obesity problem, the Government believes that a total restriction of online advertising for HFSS products is necessary "to

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<sup>263</sup> Ibid

<sup>264</sup> Department of Health and Social Care and Department for Digital, Culture, Media & Sport, "[Further advertising restrictions for products high in fat, salt and sugar](#)", 18 March 2019

<sup>265</sup> Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, "[Total restriction of online advertising for products high in fat, sugar and salt \(HFSS\)](#)", 10 November 2020

<sup>266</sup> Ibid

<sup>267</sup> Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, "[Total restriction of online advertising for products high in fat, sugar and salt \(HFSS\)](#)", 10 November 2020

effectively reduce children's online HFSS exposure and signal to industry, consumers and parents the government's determination to tackle it".<sup>268</sup>

The Government explained its policy rationale as follows:

Our objectives remain unchanged since the 2019 consultation. The main aim remains to reduce children's exposure to HFSS advertising, in order to help reduce their overconsumption of HFSS products. As part of this we also want to drive reformulation of products by brands, ensure that any potential future restrictions would be proportionate and targeted to the products of most concern to childhood obesity, and ensure that any potential future restrictions would be easily understood by parents, so that they can be supported in making healthy choices for their families.

In addition, one of the key drivers for the Government proposing a total online restriction is "the absence of any independent, comprehensive, gold-standard and publicly available means of audience measurement online".

The Government propose applying a "watershed" to the adverts shown "instream during programming on BvoD [broadcast video on demand] platforms to mirror our approach to linear TV, separate to the approach for other online media".<sup>269</sup>

In proposing a total restriction of online advertising for HFSS products, the Government's said it wants to "build on existing regulatory structures in order to minimise disruption to industry and regulators" and ensure that "online advertising regulation sufficiently incentivises compliance and drives rapid remedial action".<sup>270</sup>

## Detail of the proposal

As outlined in the 2020 consultation paper, the proposal is for the advertising restriction to apply to all online marketing communications intended (or likely) to come to the attention of UK consumers, and which have the effect of promoting identifiable HFSS products. The restriction would include (but would not be limited to) the following:

- commercial email, commercial text messaging and other messaging services
- marketers' activities in non-paid for space, for example on their website and on social media, where the marketer has editorial and/or financial control over the content
- online display ads in paid-for space (including banner ads and pre/mid-roll video ads)
- paid-for search listings (preferential listings on price comparison sites)
- viral advertisements (where content is considered to have been created by the marketer or a third party paid by the marketer or acting under the editorial control of the marketer, with the specific intention of being widely shared. Not content solely on the grounds it has gone viral)
- paid-for advertisements on social media channels - native content, influencers etc

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<sup>268</sup> Ibid

<sup>269</sup> Ibid

<sup>270</sup> Ibid

- in-game advertisements
- commercial classified advertisements
- advertisements which are pushed electronically to devices
- advertisements distributed through web widgets
- in-app advertising or apps intended to advertise
- advergames
- advertorials

However, it is proposed that the following be excluded from the restriction:

- marketing communications in online media targeted exclusively at business-to-business
- factual claims about products and services
- and communications with the principal purpose of facilitating an online sale.

Liability for compliance would rest with the advertiser. However, as part of the consultation, the Government sought views on whether other organisations in the “online advertising ecosystem” should also be held responsible for advertising that breaches an online restriction. In the Government’s view, this would depend on “the level of control which organisations had over the advertising that was served on their sites or placed through their ad networks”.<sup>271</sup>

In terms of enforcement, it is proposed that a statutory regulator be appointed with overall responsibility for the regulation of the restriction. It is not clear if this would be Ofcom or a new body. Importantly, the statutory regulator would have discretionary powers to take effective action against advertisers who breach the rules, especially in cases of more serious or repeat breaches. The Government said it was considering a “takedown requirement” for advertising that breaches the restriction after it has been brought to the relevant advertising networks’ attention.<sup>272</sup>

Day-to-day responsibility for applying the restriction, considering complaints, and providing guidance would remain with the ASA. Breaches would be resolved in line with current ASA policy, namely, responding to individual complaints and promoting voluntary compliance with the restriction. If this approach failed or advertisers were committing repeated or severe breaches relating to HFSS

marketing material, they would face stronger penalties through the statutory backstop. The “statutory backstop” is where the ASA refers certain offenders to trading standards authorities.

As envisaged by the Government, the statutory regulator’s role would be to ensure that appropriate measures are in place and monitoring the inline market. The statutory regulator would work with the ASA to

<sup>271</sup> Department of Health and Social Care and the Department for Digital, Culture, Media and Sport, “[Total restriction of online advertising for products high in fat, sugar and salt \(HFSS\)](#)”, 10 November 2020

<sup>272</sup> Ibid

identify areas or online service providers that require intervention. Importantly, the statutory regulator would have a discretionary power to impose civil fines for breaches.

Recognising the global nature of online media platforms and advertising, and the difficulty of applying statutory regulation to persons overseas (i.e. outside UK jurisdiction), the Government sought views on the extent to which a total restriction of online advertising for HFSS products in the UK could be made to apply to online advertising served in the UK, but originating from advertisers or intermediaries based overseas. It also sought views on whether this restriction would disproportionately affect UK-based companies.

A separate Library briefing paper, [Advertising to children](#) (CBP 8198), provides further detailed information about the 2020 consultation, including government statistics on children's media habits and HFSS online advertising. This briefing paper also provides information on the views of stakeholders.

## 7.6 Policy paper (February 2021)

On 11 February 2021, the Department of Health & Social Care published a policy paper on "[Integration and innovation: working together to improve health and social care for all](#)". This paper sets out the government's legislative proposals for a new *Health and Care Bill*. The overriding aim being to support the health and care system, build on the collaborations that took place during the coronavirus pandemic, and build on the NHS's own [Long Term Plan](#).<sup>273</sup>

The Government explains in this policy paper how the experience of the coronavirus pandemic has informed its public health proposals. It says:

[...] on public health, our experience of the pandemic underlines the importance of a population health approach, informed by insights from data: preventing disease, protecting people from threats to health, and supporting individuals and communities to improve their health and resilience. The government will publish in due course an update on proposals for the future design of the public health system, which will create strong foundations for the whole system to function at its best. But the measures in this legislation will address issues that require intervention through primary legislation.

The Government has developed an additional series of targeted proposals to improve social care, public health, and safety and quality. These proposals are not intended to form a coherent reform package in themselves (reforms to social care and public health will be dealt with outside this *Health and Care Bill*) but are intended to address specific problems. On public health, to help tackle obesity, the Government reiterated that it intended to ban HFSS products being shown on

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<sup>273</sup> Frontline health and care staff, patient groups and other experts have drawn up a [Long Term Plan](#) to make the NHS fit for the future and to ensure value for money. Sustainability and Transformation Partnerships (STPs) and Integrated Care Systems (ICs) are groups of local NHS organisations working together with each other, local councils and other partners. They are required to develop and implement their own strategies for the next 5 years on how they intend to take the ambitions that the NHS Long Plan details and turn them into local action.

television before 9 pm and would consult on how to introduce a total restriction of online advertising for HFSS products. The relevant extract is reproduced below:

It is the government's intention to introduce further advertising restrictions to prohibit advertisements for products high in fat, sugar or salt (HFSS) being shown on TV before 9pm. In November and December 2020, we consulted on how to go further and implement an online restriction for HFSS advertisements. Depending on the outcome of this consultation, it is our intention to take forward further online advertising restrictions simultaneously in this legislation.<sup>274</sup>

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<sup>274</sup> Department of Health & Social Care, "[Policy Paper: Integration and innovation: working together to improve health and social care for all](#)", 11 February 2021

## 8. Tackling Obesity in Schools

Chapter One of the childhood obesity plan introduced a number of commitments to tackling obese in and around work in schools.<sup>275</sup> These included the promotion of a national ambition for every primary school to adopt an active mile initiative such as the Daily Mile, the investment of over £1.6 million during 2018/19 to support cycling and walking to school and Ofsted's development of a new inspection framework for September 2019 which will consider how schools build knowledge across the whole curriculum, support pupils' personal development more broadly, including in relation to healthy behaviours.

Chapter One also announced PHE's development of advice to schools for the academic year 2017/18, setting out how schools can work with other stakeholders to help children develop a healthier lifestyle. Expanding on the funding pledge in Chapter One, Chapter Two saw the Government commit to producing a [Cycling and Walking Investment Strategy](#).<sup>276</sup> Published in 2017, the strategy set a target of increasing the percentage of children aged 5 to 10 that usually walk to school, from 49% in 2014 to 55% in 2025.

Chapter One also published a commitment to campaign for all schools to commit to the [School Food Standards](#), led by the Secretary of State for Education, which appeared not to have taken place at the time of writing.<sup>277</sup> Following this, in Chapter Two of the childhood obesity plan, the government said:

Compliance with the School Food Standards is a legal requirement for the majority of schools, including all maintained schools. Academies and free schools are required to comply with the Standards by virtue of their funding agreements, with the exception of a proportion that we expect to comply voluntarily. Government will ensure all schools are aware of their responsibility for quality nutrition.<sup>278</sup>

In Chapter Two, the Government said that it would review of how the least active children are being engaged in physical activity in and around the school day, and how the Primary PE and Sport Premium is being used.

### The Healthy Schools Rating Schemes

Chapter One of the childhood obesity plan announced a new scheme providing schools with an opportunity to demonstrate what they are doing to make their pupils more active.<sup>279</sup>

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<sup>275</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

<sup>276</sup> Department for Transport, [Cycling and walking investment strategy](#), 21 Apr 2017

<sup>277</sup> Department for Education, [Standards for school food in England](#), 8 Jan 2015

<sup>278</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, [Childhood obesity: a plan for action, chapter 2](#), 25 Jun 2018

<sup>279</sup> Department of Health and Social Care: Global Public Health Directorate: Obesity, Food and Nutrition/ 10800, [Childhood obesity: a plan for action, chapter 2](#), 25 Jun 2018

The [Healthy Schools Ratings Scheme](#) was published in July 2019.<sup>280</sup> Primary and secondary schools choosing to take part in the voluntary scheme can use the self-assessment criteria to generate a score, corresponding to a Gold, Silver, Bronze, or no award. The score is based on a school's activity around food education, compliance with the school food standards, time spent on physical education and the promotion of active travel.

The resulting report is sent only to school leaders, who can choose to share this or display their certificate which the scheme encourages.

Chapter One advised that the scheme would be taken into account during Ofsted inspections, and would be referred to in the school inspection handbook.<sup>281</sup> Published in July 2019, the DfE's [Healthy schools rating scheme](#) advises that schools "can notify Ofsted about the rating they have achieved", and that Ofsted inspectors "may wish to consider the scheme as evidence when reaching the judgement on 'personal development'".<sup>282</sup>

[Schools Week said](#) that this "appears to be a climb down on the previous plans", and also included [comments from Jamie Oliver](#) who said that the scheme should be made compulsory.<sup>283</sup> Parliamentary Under-Secretary of State for DfE Nadhim Zahawi [responded](#) to a July 2019 Parliamentary Question on introducing a compulsory healthy schools rating scheme, saying "we do not believe that it is appropriate to introduce a new compulsory duty on schools in this area".<sup>284</sup>

### **Ofsted review on healthy eating and physical activity in primary schools**

Chapter One of the childhood obesity plan advised that Ofsted would undertake a thematic review on obesity, healthy eating and physical activity in schools, providing examples of good practice and recommendations on what more schools can do in this area.<sup>285</sup>

Ofsted undertook research in autumn 2017 to develop a better understanding of what schools' contribution can be to reducing child obesity in England, publishing its report [Obesity, healthy eating and physical activity in primary schools](#) in July 2018.<sup>286</sup>

The report discusses the behaviours and attitudes of schools, parents and children with regard to health-related activities, such as school meal uptake, packed lunch content, provision of curricular and extra-curricular physical activity and healthy lifestyles as part of the taught curriculum. Importantly, Ofsted sought the views of parents and considered these alongside the efforts of the schools, with Ofsted's

<sup>280</sup> Department for Education, [Healthy schools rating scheme](#), 8 Jul 2019

<sup>281</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

<sup>282</sup> Department for Education, [Healthy schools rating scheme](#), 8 Jul 2019

<sup>283</sup> "'Healthy schools' rating scheme finally published – nearly 2 years late", *Schools Week* [online], 8 Jul 2019, (accessed on 8 Nov 2020)

<sup>284</sup> [PQ 275120, 9 Jul 2019](#)

<sup>285</sup> HM Government, [Childhood obesity: a plan for action](#), 18 Aug 2016

<sup>286</sup> Ofsted, [Obesity, healthy eating and physical activity in primary schools](#), 18 Jul 2019

Chief Inspector writing that “schools and parents need to reinforce each other’s roles more effectively”.

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