



Department
of Health &
Social Care

Consultation on proposal to end the sale of energy drinks to children

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1. What this document is about

The Government is consulting on ending the sale of energy drinks to children. This was announced as part of [Childhood Obesity: a plan for action, chapter 2](#). The aim of the policy is to prevent excessive consumption of high-caffeine energy drinks by children.

What is an energy drink?

Energy drinks are soft drinks that contain higher levels of caffeine than other soft drinks, and may also contain a lot of sugar (though low- or zero-calorie energy drinks are available).

Under current labelling rules, any drink, other than tea or coffee, that contains over 150mg of caffeine per litre requires a warning label saying: 'High caffeine content. Not recommended for children or pregnant or breast-feeding women'.

As part of this consultation we invite stakeholder views on whether these are the appropriate criteria to use when determining which products would be affected by any restriction on the sale of energy drinks to children.

2. The problem we need to tackle

The effects of caffeine consumption on children

Evidence suggests that excessive consumption of energy drinks by children is linked to negative health outcomes; affecting children's physical and mental health, as well as sleep latency and durationⁱ.

Research has found that adolescents (aged 12-18) who consume energy drinks several times a day are 4.5 times more likely to report experiencing headaches, 3.5 times more likely to report sleeping problems, and 3.4 times more likely to report experiencing tiredness than adolescents who do not consume energy drinksⁱⁱ.

A separate study found that 34% of adolescents who consumed energy drinks said that their ability to concentrate at school was affected by not getting enough sleep, compared to 18% for non-energy drink usersⁱⁱⁱ.

Evidence has also linked energy drink consumption with depressive symptoms, emotional difficulties and lower well-being among children and adolescents; one study found that depressive symptoms were 11% higher and 'total difficulties' were 25% higher in those who consumed energy drinks 4+ times a week compared to those who never consumed energy drinks^{iv}.

Those who work with children are expressing concern about the effects that energy drinks are having on children. A recent survey by the NASUWT teaching union, for example, found that more than one in ten (13%) teachers and school leaders identified energy drinks as a key contributor to the poor behaviour they had witnessed.^v

Energy drinks sometimes also contain high levels of sugar – one study found that regular energy drinks contain, on average, 60% more calories and 65% more sugar than other regular soft drinks^{vi} – and may therefore contribute to obesity and dental problems in children.

Levels of energy drink consumption among children

Manufacturers are currently required by European Union law to label all energy drinks containing over 150mg of caffeine per litre as 'not recommended for children'.

Despite the warning labels, children are still consuming these drinks; recent evidence shows that more than two thirds of UK children aged 10-17, and nearly a quarter of those aged 6-9, are energy drink consumers.

What's more, adolescents (aged 10-17) who drink energy drinks are drinking, on average, 50% more than the EU average for that age group.^{vii} Though some of these children may only have an energy drink occasionally, data tells us that a quarter of children who consume energy drinks will have three or more in one sitting^{viii} – potentially meaning that some children are consuming very large amounts of caffeine in one go.

Evidence also suggests that children, especially younger children, may not be aware of the potential health implications of consuming energy drinks; a European study found that 42% of children aged 3-9 could not confidently tell the difference between energy drinks and other soft drinks.^{ix} This raises questions about whether children and their parents are aware of what energy drinks contain, specifically their high caffeine content.

3. The action we propose to take

We are hearing strong calls from parents, health professionals, teachers and some industry bodies and retailers for an end to the sale of high-caffeine energy drinks to children.

Many larger retailers and supermarkets have voluntarily stopped selling energy drinks to under-16s. While we recognise the efforts of retailers who have already acted, there are still many retailers who continue to sell these drinks to children.

Legislating to end the sale of high-caffeine energy drinks to children would create a level playing field for businesses and create consistency, helping ensure that children do not have access to energy drinks in any shop.

We are therefore consulting on ending the sale of energy drinks to children, but we are aware that the evidence base around these products and their effects is complex. We want to use this consultation to gather further views and evidence on the advantages and disadvantages of ending the sale of energy drinks to children, and on alternative options, before making a decision.

We are also seeking views on how a restriction on sales of energy drinks to children would be enforced in a way that is fair and proportionate, and on the appropriate implementation period, in the event that Government does decide to take such an approach.

4. Our proposals in more detail

Products in scope

Under current labelling rules, any drink, other than tea or coffee, that contains over 150mg of caffeine per litre requires a warning label saying: 'High caffeine content. Not recommended for children or pregnant or breast-feeding women'.

We propose to use these criteria to determine which drinks should be included in any action to end the sale of energy drinks to children, as this would align with what the public and businesses already think of as an energy drink. Using these criteria would also mean that it is easy for businesses and consumers to identify the relevant drinks by looking at the labelling on product packaging.

Age limit

We are consulting on whether the age limit for an end to sales of energy drinks to children should be 16 or 18 years of age.

A number of retailers, including all major supermarkets, have already stopped the sale of energy drinks to under-16s. An age limit of 16 would therefore be consistent with existing voluntary limits that many retailers have already applied.

However, 16 and 17 year olds are the highest consumers of energy drinks. Furthermore, the age of 18 is widely recognised as the age at which one becomes an adult, gaining full citizenship rights and responsibilities, and is also the age limit for purchasing other age-restricted substances, such as tobacco and alcohol. Other countries that have already ended the sale of energy drinks to children, such as Latvia and Lithuania, have used 18 as the age limit.

We welcome views and evidence on which age limit would be appropriate if the Government does decide to end the sale of energy drinks to children in England.

Businesses in scope

We are proposing that any restriction on the sale of energy drinks to children would apply to all retailers in England, including both on-site and online sales. This is to ensure that children do not have access to energy drinks in any shop, and that no particular retailer is disadvantaged.

We will work closely with devolved administrations in Wales, Scotland and Northern Ireland to ensure our approaches are aligned as much as possible.

Vending machines

We are proposing that sales of energy drinks to children from vending machines are also restricted.

As adults may also buy energy drinks from vending machines, we are consulting on how sales from vending machines could be restricted in a way that is proportionate.

The consultation suggests three possible approaches for restricting sales from vending machines:

- Prohibiting all sales of energy drinks from all vending machines, regardless of the age of the person buying them;

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- Imposing age restrictions on sales of energy drinks from vending machines, to be enforced by the businesses or organisation on whose property the vending machine is located; or
- Prohibiting sales of energy drinks from vending machines in specific locations with high child footfall, for example educational establishments, sports centres and youth centres.

The consultation also invites views on whether there is another approach to restricting vending machine sales that would be more appropriate.

5. Consultation proposals and questions

Summary of proposals

- We are consulting on whether ending the sale of energy drinks to children by all retailers is the right approach to take to prevent children from consuming energy drinks, particularly in excessive quantities.
- We are proposing that if a restriction on the sale of energy drinks to children is introduced, the drinks in scope would be any drink, other than tea or coffee, which contains over 150mg of caffeine per litre.
- We are seeking views on whether if introduced, the age limit for a restriction on sales of energy drinks to children should be 16 or 18 years of age.
- We propose that if introduced, any restriction should be implemented by all retailers in England, including on-site and online sales.
- We are consulting on whether sales of energy drinks from vending machines should also be restricted.

Questions for consultation

1. Should businesses be prohibited from selling high-caffeine energy drinks to children?
2. Are there any other approaches that you think should be implemented instead of, or as well as, a prohibition on sales of energy drinks to children, in order to address the issue of excess consumption of energy drinks by children?
3. Which age limit would be most appropriate for a prohibition on sales of energy drinks to children?
 - 16 years old
 - 18 years old
 - Other (please specify)
4. Should a prohibition on sales of energy drinks to children apply to any drink that contains over 150mg of caffeine per litre, except coffee and tea?
5. Should a prohibition on sales of energy drinks to children apply to all retailers who operate in England, including online businesses and the out-of-home sector (cafes, restaurants, takeaways and so on)?
6. Should children be prevented from buying energy drinks from vending machines?
7. If children are prevented from buying energy drinks from vending machines, how should this be done?
 - All sales of energy drinks from all vending machines should be prohibited, regardless of the age of the person buying them.

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- Sales of energy drinks from vending machines should be subject to age restrictions, to be enforced by the businesses or organisation on whose property the vending machine is located.
 - All sales of energy drinks from vending machines should be prohibited in specific locations with high child footfall, for example educational establishments, sports centres and youth centres.
 - Other approach (please give details of the approach you are suggesting).
8. If the sale of energy drinks to children is prohibited, would 12 months be an appropriate implementation period for all businesses?
9. If you are a business selling energy drinks, have you already imposed limits on sales to children?
10. If you have not already limited sales of energy drinks to children, have you committed to do so or are you planning to do so in future?
11. If you have already limited sales of energy drinks to children, have you faced any obstacles in implementing this effectively?
12. If you have already limited sales of energy drinks to children, please explain how this has affected your business, either positively or negatively, providing supporting evidence where possible.
13. If you have any suggestions for how this requirement could be enforced in a way that is fair and not overly burdensome, please provide details.
14. If you have any further evidence or data you wish to submit for us to consider for our final impact assessment, please provide it here.
15. If you have any further evidence or data that you would like to submit specifically on the likely cost that may occur to your business as a result of the proposal, please provide it here.
16. Are there any other potential impacts of restricting the sale of energy drinks to children that you think we should consider?
17. Do you think that this proposal would be likely to have an impact on people on the basis of any of the following characteristics?
- Age
 - Sex
 - Race
 - Religion
 - Sexual orientation
 - Pregnancy and maternity
 - Disability
 - Gender reassignment
 - Marriage/civil partnership
18. Do you think this proposal would help achieve any of the following aims?
- Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

Consultation proposals and questions

- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.
- Where applicable, please provide more detail on how you think the measure would achieve these aims.
- If you do not think this proposal would help achieve any of these aims, please explain why and whether the proposal could be changed to help achieve these aims.

19. Do you think that this proposal would be likely to have any impact on people from lower socio-economic backgrounds?

20. If there are any further matters that you would like to raise or any further information that you would like to provide in relation to this consultation, please give details here.

6. References

- ⁱ EFSA NDA Panel (EFSA Panel on Dietetic Products, Nutrition and Allergies), 2015. Scientific Opinion on the safety of caffeine. *EFSA Journal* 2015;13(5):4102, 120 pp.
doi:10.2903/j.efsa.2015.4102
- ⁱⁱ Huhtinen, H., Lindfors, P., & Rimpelä, A. (2013). Adolescents' use of energy drinks and caffeine induced health complaints in Finland: Arja Rimpelä. *The European Journal of Public Health*, 23(1), 123-050.
- ⁱⁱⁱ Brooks, F., Klemmer, E., & Magnussen, J. (2015). Young People and Energy Drink Consumption: Findings from the WHO Health Behaviour in School Aged Children Survey (HBSC). Unpublished manuscript.
- ^{iv} Utter, J., Denny, S., Teevale, T., & Sheridan, J. (2017). Energy drink consumption among New Zealand adolescents: associations with mental health, health risk behaviours and body size. *Journal of paediatrics and child health*, 54(3), 279-283.
- ^v NASUWT Big Question Survey 2017
- ^{vi} DHSC Analysis of Kantar WorldPanel Data, 2017
- ^{vii} Zucconi S., Volpato C., Adinolfi F., Gandini E., Gentile E., Loi A., Fioriti L.; "Gathering consumption data on specific consumer groups of energy drinks". Supporting Publications 2013:EN-394.
- ^{viii} EFSA NDA Panel (EFSA Panel on Dietetic Products, Nutrition and Allergies), 2015. Scientific Opinion on the safety of caffeine. *EFSA Journal* 2015;13(5):4102, 120 pp.
doi:10.2903/j.efsa.2015.4102
- ^{ix} Zucconi, S., Volpato, C., Adinolfi, F., Gandini, E., Gentile, E., Loi, A., & Fioriti, L. (2013). Gathering consumption data on specific consumer groups of energy drinks. *EFSA Supporting Publications*, 10(3).