# The Association of Directors of Public Health Consultation Response

# Banning the sale of high-caffeine energy drinks to children

## Objectives and Scope

This consultation seeks views on banning the sale of high-caffeine energy drinks to children under the age of 16 years (that is, children aged 15 years and under). This includes proposals on:

- The minimum age of sale for high-caffeine energy drinks.
- The products and businesses in scope of the ban.
- How the ban will apply in vending machines.
- The length of time that businesses and enforcement authorities need to implement the ban.
- How the ban would be enforced.

The proposed ban would apply in England only, since policy relating to high-caffeine energy drinks is a devolved matter.

### About ADPH

ADPH is the representative body for Directors of Public Health (DsPH), and is a collaborative organisation, working in partnership with others to strengthen the voice for public health, with a heritage which dates back over 160 years. ADPH works closely with a range of Government departments, including UKHSA and OHID as well as the four CMOs, NHS, devolved administrations, local authorities (LAs) and national organisations across all sectors to minimise the use of resources as well as maximise our voice.

ADPH aims to improve and protect the health of the population by:

- Representing the views of DsPH on public health policy.
- Advising on public health policy and legislation at a local, regional, national and international level.
- Providing a support network for DsPH to share ideas and good practice.
- Identifying and providing professional development opportunities for DsPH.

## Banning the sale of high-caffeine energy drinks to children

The Government has committed to banning the sale of high-caffeine energy drinks to children in England. This supports the bold ambition to raise the healthiest generation of children ever.

The Government has listened to the health organisations, experts, researchers, public health leaders, teachers, and parents, calling for urgent action on high-caffeine energy drinks to protect children's health.

**Do you agree or disagree with the proposal to ban the sale of high-caffeine energy drinks based on age?**

- **Agree**

- Neither agree nor disagree
- Disagree
- Don't know

We support a statutory ban on the sale of high-caffeine energy drinks to children.
There is a growing body of evidence linking high-caffeine energy drink consumption with physical and mental health harms in children. These include, but are not limited to cardiovascular problems, sleep disruption, anxiety, poor academic performance, and behavioural issues in schools. Many studies have also reported a strong link between energy drink consumption and smoking, alcohol use, binge drinking, other substance use and the intentions to initiate these behaviours.[i,ii]

- Despite voluntary action by some retailers, research shows these drinks remain easily accessible to young people.[iii,iv] A recent study from the North East of England found that 81.8% of surveyed students aged 13-14 consume energy drinks, with most drinking them two to four times a week and many started before the age of 12.[iv] Energy drinks are often marketed towards children and sold at low prices, disproportionately affecting children from deprived communities and widening existing health inequalities.[v]
- High-caffeine energy drinks are already labelled as 'not suitable for children' and should not be readily available to them.[vi] Every child deserves the right to, and benefit from, a healthy, happy childhood, and should grow up in an environment that enables this.
- Alongside the ban, we recommend clear public communication and education campaigns for children, parents, and carers on the risks of excessive caffeine intake and on healthier ways to maintain energy and focus.[vii] Directors of Public Health are already working with local authorities to restrict unhealthy product advertising on council-owned property, but this local action must be backed by national regulation.

## Minimum age of sale

The Government proposes that the minimum age of sale for high-caffeine energy drinks should be 16 years (that is, sales to children aged 15 years and under will be banned). Banning sales to children under 16 years recognises the lower relative risk of harm from underage sales of high-caffeine energy drinks, compared to other age-restricted products such as alcohol (where the minimum age of sale is 18 years).

**Do you agree or disagree that the minimum age of sale for high-caffeine energy drinks should be 16 years?**

- Agree
- Neither agree nor disagree
- **Disagree**
- Don't know

**If you do not agree with the proposal, what should the minimum age of sale be?**

- We recommend setting the minimum age of sale at 18. Research shows that young people aged 16-18 are the highest consumers of high-caffeine energy drinks.[viii] Setting the limit at 16 years would therefore leave this group unprotected.

- In the UK, the legal definition of a child is anyone under 18, in line with the UN Convention on the Rights of the Child.[ix] Current EU legislation, in place since 2011, requires all high-caffeine drinks (over 150mg) to be labelled 'not suitable for children' with the limits underpinning this guidance based on intakes up to age 18, not 16.[x]
- Aligning the minimum age with alcohol and tobacco laws would promote consistency across age-restricted products and simplify enforcement and compliance, acknowledging for example, that those under 16 are less likely to hold a valid ID.
- Although energy drinks are less harmful than other products restricted to under 18 year olds, the evidence is still clear that there is sufficient harm to those under 16. Applying the ban to under 18 year olds, strengthens the public health message that high-caffeine energy drinks are not suitable for children or adolescents.[xi]
- Setting the age of sale at 18 is a proportionate, preventative measure that aligns with wider efforts to protect young people's health and wellbeing.

## Products in scope

The Government proposes that all high-caffeine energy drinks that legally must be labelled 'High caffeine content. Not recommended for children or pregnant or breast-feeding women.' should be included in the ban. This includes any drink, other than tea or coffee, that contains over 150mg of caffeine per litre.

**Do you agree or disagree that the ban should apply to any drink, other than tea or coffee, that contains over 150 milligrams of caffeine per litre?**

- **Agree**
- Neither agree nor disagree
- Disagree
- Don't know

- We agree that this prohibition should apply to any drink that contains over 150mg of caffeine per litre, except coffee and tea, as aligned with the Food Standards Agency and EFSA report on the safety of caffeine. [x,xii]
- However, the Government should be aware that local authorities have noticed an emergence in high-caffeine products beyond drinks, including caffeine pouches, pre-workout supplements etc that are increasingly being marketed to young children, especially young boys.[xiii] Therefore, focusing on 'drinks' increases the risk of loopholes, similar to that seen in nicotine regulation.[xiv]

## Businesses in scope

The Government proposes the ban on the sale of high-caffeine energy drinks to children under 16 years should apply to all sellers, retailers and businesses of all sizes in England, including in store and online sales. This is to ensure that the ban is applied consistently in all locations where these drinks are sold. A ban, rather than voluntary action, is fairer for industry, as the same rules apply to all businesses. This means no retailer is disadvantaged by protecting the health of our children.

**Do you agree or disagree that the ban should apply to all sellers, retailers and businesses, both in store and online, who operate in England?**

- **Agree**
- Neither agree nor disagree
- Disagree
- Don't know

- We agree that the ban should be comprehensive across all retailers and seek to reduce harm across all settings where under 18s might be present. Exemptions would create unfair advantages and leave access points for children.
- A legal age restriction across all retailers would promote consistent compliance, aligning with other age-regulated products and strengthening a clear, unified public health message.
- Evidence shows voluntary measures are unreliable, with smaller retailers and online platforms often remaining accessible sources.[xv]
- Despite the 2018 voluntary ban, in which several UK supermarkets banned the sale of high-caffeine energy drinks to customers under 16, energy drinks remain easily accessible. A recent study found that many children believed there was a legal age limit but could still buy them in shops or online without ID checks, most often from corner/local shops with little enforcement.[iv]
- A comprehensive ban across all retailers is essential to ensure fairness, prevent loopholes, and protect young people's health by closing all remaining routes of access.

**For online sales of high-caffeine energy drinks, how should retailers ensure the ban is applied? (optional)**

- Age verification at the point of sale
- Age verification at the point of delivery
- Don't know
- **Another approach**

- For online sales, we argue that robust age verification should occur both at the point of sale and at delivery to minimise circumvention.
- Many online alcohol and tobacco retailers require customers to verify their age before completing a purchase, often through third-party verification services, and delivery personnel must also confirm the recipient's age upon delivery, refusing to hand over the order without valid proof of age.[xvi]
- This combined approach aligns with existing legal frameworks and industry best practice. [xvii,xviii]

## Vending machines

To ban the sale of high-caffeine energy drinks to children under 16 years in all locations where these drinks are sold, the Government must also ban their sale from vending machines. Vending machines are automated and often unsupervised, meaning it is not easy to prevent the sale of specific items based on age.

The Government has identified two main options to apply this policy to vending machines.

**Option 1:** Banning sales from all vending machines regardless of the age of the person buying them. Option 1 is the most straightforward for businesses to implement and the relevant authorities to enforce. However, it would stop high-caffeine energy drinks being sold to people aged 16 and over, even though they are not in scope of the proposed ban. This option may also increase the impact on businesses.

**Option 2:** The business or organisation where the vending machine is located is responsible for the age of sale ban.

**Do you agree or disagree that the sale of high-caffeine energy drinks should be banned from all vending machines?**

- **Agree**
- Neither agree nor disagree
- Disagree
- Don't know

- We support Option 1, sales of energy drinks from all vending machines should be prohibited, regardless of the age of the person buying them. We believe the overriding priority should be to reduce harm to children and that this is the most practical way of achieving this.
- This is the most effective and enforceable approach. Automated systems cannot reliably restrict sales by age, and previous attempts with tobacco vending demonstrated that partial restrictions were ineffective. While age-verification technology exists, it is costly and impractical for lower-value products such as energy drinks.
- The advice from the UK Food Standards Agency's on healthier and more sustainable vending already advises against placing high-caffeine energy drinks in vending machines, therefore, placing a ban across all vending machines would both align with current guidance and protect children from accessing these drinks.
- A comprehensive prohibition will close a key loophole, protect children in unsupervised spaces, and simplify enforcement. Vending machines are commonly located in areas used by children and young people such as leisure centres, colleges, entertainment spaces, and are often found in lower-income or unsupervised settings. A universal ban helps prevent disproportionate exposure among vulnerable groups.

## Implementing the ban

The Government proposes that a six-month implementation period is appropriate, since many retailers already have processes for the sale of other age-restricted products that they can build on. These may include voluntary bans on the sale of high-caffeine energy drinks. They are interested in views on our proposed timescale to implement this ban, particularly from retailers or businesses selling high-caffeine energy drinks and from authorities who would enforce the ban, or their representative bodies.

**Do you agree or disagree that six months is an appropriate length of time for businesses and enforcement authorities to prepare to implement the ban?**

- **Agree**
- Neither agree nor disagree

- Disagree
- Don’t know

## New burdens for local authorities

The Government welcomes views from local authorities on the possible impact of the proposed enforcement approach, including information, evidence or data that they should take into account in their new burdens assessment on the ban. This assessment will consider the impact of the new legislation on local government. This question is specifically for people responding on behalf of a local authority or sharing views and experiences relating to local government.

**Please provide any further information, evidence or data that should inform the new burdens assessment (optional, maximum 300 words).**

- To ensure the ban is effective and sustainable, sufficient funding and clear guidance must accompany any new regulatory requirements.
- The introduction of a new age restriction on energy drink sales may place additional pressure on local authority Trading Standards teams, which are already stretched. Local authorities have noted that recent enforcement responsibilities, such as those relating to single-use vapes and the sale of vapes to children, have increased workloads without corresponding resources.

## Impact on groups with protected characteristics

**Do you think that this proposal would be likely to have an impact on people who share a protected characteristic in a way that is different from those who do not share it?**

- **Yes**
- No
- Don’t know

**Which protected characteristics do you think this applies to? Select all that apply.**

- **age**
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (including colour, nationality, ethnic or national origin)
- religion or belief
- **sex**
- sexual orientation

**Please provide any specific information or evidence about how the proposal might impact people differently because of any of these protected characteristics, including whether the impact is likely to be positive or negative.**

- **Age:** Young people have been shown to be the highest consumers of energy drinks, and this proposal is therefore expected to have a positive impact by protecting their health and wellbeing.[xix,xx] Energy drinks are often marketed and packaged to appeal to children and teenagers, with widespread promotion through influencers and adverts on platforms such as YouTube, Instagram, and TikTok.[iv] Research also shows that many young people find energy drinks easy to access, with some reporting that cheaper 'own brand' options are more affordable than water.
- **Sex:** Evidence suggests that boys, particularly adolescent males, are more likely to consume energy drinks than girls.[iv]
- **Health inequalities:** New research indicates that young people in more deprived areas are drinking more energy drinks, while consumption in wealthier communities is falling. This reflects widening inequalities and highlights the need for a comprehensive approach to reduce access and protect health in disadvantaged communities. [xxi]

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