

Obesity Health Alliance Submission to the House of Lords Inquiry into Food, Diet & Obesity

Context

The Obesity Health Alliance (OHA) is a coalition of nearly 60 health organisations including the British Heart Foundation, Cancer Research UK, Diabetes UK, the British Medical Association and medical royal colleges. The vision of the Obesity Health Alliance is to prevent obesity-related ill-health by supporting evidence-based population level policies to help address the wider environmental factors that lead to excess weight.

The House of Lords Food, Diet and Obesity Committee has been appointed to “consider the role of foods, such as ‘ultra-processed foods’, and foods high in fat, salt and sugar, in a healthy diet and tackling obesity.” This document is the OHA’s response to the Call for Evidence put out by the Committee on the 19th of February.

The OHA works with the UK Government in Westminster, and our sibling organisations Obesity Action Scotland and the Obesity Alliance Cymru work with devolved administrations. The policy areas under discussion in this discussion are largely devolved to the UK nations and England, Scotland and Wales are taking increasingly divergent approaches. Unless specified otherwise, the recommendations in this document relate to England and the Westminster Government only.

The OHA released ‘Turning the Tide: A 10-year Healthy Weight Strategy’ setting out 30 evidence-informed policy recommendations for governments to enact to support the UK population to achieve a healthier weight. Further information on the evidence for, and impact of, these proposals can be found in the final report.^{ci}

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Executive Summary

This submission covers the key evidence for action to reduce the UK’s high prevalence of excess weight, and the consensus priority recommendations to address supported by the health charities, campaign groups and medical royal colleges in our membership.

The recommendations cover six key areas, and a summary of the key recommendations in each section is outlined below.

1. Advertising & Availability of Less Healthy Food & Drink Products

- No product classified as High in Fat, Salt and Sugar under the UK Government’s Nutrient Profiling Model should be allowed to contain a claim about the health or nutrition benefits on its packaging or in its marketing.
- Ensure everyone has access to clear and transparent information, by mandating that all packaged food has colour-coded Front of Pack Labelling.
- Planned regulations on less healthy food products be extended from TV and online to physical spaces outdoors.
- Deliver on existing commitments, made and consulted on by Government in 2018/19, to restrict the sale of energy drinks to children under 16.
- Any product appropriate for children under 3 years old would have a large, clear warning label if it was classified as high in sugar or salt under the Nutrient and Promotion Profile Model.

- No product classified as High in Fat, Salt and Sugar under the UK Government's Nutrient Profiling Mode should be able to display a child-friendly image/cartoon on its packaging or marketing
- Extending existing regulations on the placement of less healthy food and drink products near high footfall areas in retail stores and online should be extended to large fast-food chains and delivery companies as well.

2.Planning

- National Government should publish new guidance that explicitly states that a primary purpose of the planning system is to promote good health and create places in which people of all residents can live safe, active and healthy lives, including objectives to reduce health inequalities and address public health priorities such as healthy weight.
- National Government should use the ongoing reforms to planning in England to make it for local authorities to control their local food environments.
- Any appeal made by a large business to a local authority's plan or planning decision made on public health grounds should be contested with the Planning Inspectorate by a national government department.
- National Government must also take a stronger stance against engagement with companies that engage in unethical behaviour that undermines public health.
- National Government should develop a best practice pathway for local authorities to assist existing businesses to transition to healthier practices and increase the prevalence of healthier options.

3.Public Health Grant

- 27% real-term cuts to public health grant should be immediately reversed, currently valued at a £1.5 billion uplift, and indexed to inflation in future. A wider review should be launched by central government into the adequacy of public health funding.

4.Reformulation

- In-line with the submission made by the Recipe for Change campaign, the OHA recommends:
 - For Government to build on the success of the Soft Drinks Industry Levy by introducing a new levy on unhealthy food.
 - For businesses to change the recipes of the food and drink that they sell to make them healthier for all of us.
 - To invest revenue raised from the levy in children's health and access to good food.
 - For the existing Soft Drinks Industry Levy to be uprated and extended to milk-based drinks (e.g milkshakes) that are consumed in and out of the home

5.Early Years

- Close existing legal loopholes¹ to protect families from misleading marketing that undermines breastfeeding and safe and appropriate formula feeding.
- Implement standards to improve the nutrition composition and marketing of commercial baby and toddler foods and drinks.

¹ Loopholes exists in UK legislation, whereby follow-on formula can be marketed for use from 6-12 months and 'growing-up' and toddler milks are marketed for children over 1 year of age. The same branding and virtually identical labelling to infant milks facilitates 'cross promotion', and the milks for over 1s are not regulated with respect to composition or marketing.

- Review and update the voluntary Eat Better Start Better guidance in partnership with early years settings and local authorities, to ensure settings are supported with guidance that is feasible, relevant and evidence-based.
- Invest sufficient funding in local community health programmes, including pregnancy and breastfeeding support, food provision and eligibility and investment in the Health Start scheme.
- Develop fair and ethical principles for interacting with the food industry, underpinned by the latest evidence on the commercial determinants of health.
- Independent monitoring and evaluation are necessary to support and guide effective implementation. All actions must be guided by up-to-date data to ensure strategies keep pace with the changing food and health environments.

6. Ultra Processed Foods

- It is the OHA's view that products that meet clearly defined 'unhealthy' criteria, using the Nutrient Profile Model, have the best evidence of harm and remain the priority for policy implementation.
- Further work should be done with speed to determine how best to integrate markers of harmful processing into the existing NPM model to inform policies. However, this must not stand in the way of immediate action to enable increased consumption of nutrient-dense, less processed foods.

Case for Action

The UK has the third highest rate of people being classed as overweight or obese in Europe, behind only Malta and Turkey. Rates are similar in Wales (62%) and England (64%) and highest in Scotland (67%).² Latest data on weight shows two in five children in England are leaving primary school above a healthy weight.³ Those children are five times more likely to go on to develop serious and life limiting diet related conditions in adulthood.⁴ This has profound implications for health inequalities - twice as many children are overweight in the poorest areas compared to the richest, driving vast disparities in health outcomes.⁵

A healthy population is the foundation of a strong economy

- OECD analysis found that the average UK tax bill is £500 per person per year more than if everyone was a healthy weight.⁶
- Frontier Economics estimates in 2023 that the total economic impact of obesity is £98 billion, accounting for the costs to the NHS and social care, lost productivity, workforce inactivity and welfare payments.⁷

² Welsh government (2022) National Survey for Wales headline results: April 2021 to March 2022 [https://www.gov.wales/national-survey-wales-headline-results-april-2021-march-2022.html#:~:text=36%25%20of%20people%20are%20a,\(including%2025%25%20obese\).](https://www.gov.wales/national-survey-wales-headline-results-april-2021-march-2022.html#:~:text=36%25%20of%20people%20are%20a,(including%2025%25%20obese).)

³ NHS Digital (2023) National Child Measurement Programme, England 2022/23 School Year <https://digital.nhs.uk/data-and-information/publications/statistical/national-child-measurement-programme>

⁴ Simmonds M, Llewellyn A, Owen CG, Woolacott N. Predicting adult obesity from childhood obesity: a systematic review and meta-analysis. *Obes Rev.* 2016 Feb;17(2):95-107.

⁵ NHS Digital (2023) National Child Measurement Programme, England 2022/23 School Year <https://digital.nhs.uk/data-and-information/publications/statistical/national-child-measurement-programme>

⁶ OECD (2019) The Heavy Burden of Obesity : The Economics of Prevention <https://www.oecd-ilibrary.org/sites/6cc2aacc-en/index.html?itemId=/content/component/6cc2aacc-en>

⁷ Frontier Economics (2023) Estimating the Full Cost of Obesity <https://www.frontier-economics.com/media/5094/the-full-cost-of-obesity-in-the-uk.pdf>

- The Institute for Government estimated the economic impact of obesity was equivalent to 1-2% of UK GDP, and that lack of government intervention is resulting in significantly reduced economic productivity and labour force participation.⁸
- 2020 Modelling by the Institute for Public Policy Research estimated that obesity among the current cohort of children - over the course of their lifetime – will cost the wider society an estimated £405 billion overall.⁹
- People living with obesity take four extra sick days a year annually - approximately equivalent to an extra 37 million sick days across the UK working population. An additional £4 billion is spent on welfare payments for obesity-related workforce inactivity¹⁰.

A healthy population relieves enormous pressure from our NHS and allows resources to be targeted at those most in need.

- Frontier Economics estimates that the NHS (across the UK) spends £6.5 billion annually on treating obesity-related ill health¹¹, with Government analysis in 2017 projecting this to reach £9.7bn by 2050.¹²
- IPPR predict that excess weight amongst the current cohort of children will cost the NHS £74 billion over their lifespan.¹³
- Diabetes care alone accounts for nearly 10% of the NHS budget¹⁴, and the number of Type 2 diabetes diagnoses has doubled in the last 15 years. 87% of people diagnosed with Type 2 diabetes are living with overweight or obesity.¹⁵
- Excess weight is the second biggest preventable cause of cancer, after smoking. Over 1 in 20 UK cancer cases are due to excess weight and obesity is predicted to overtake smoking as the main preventable cause of cancer in women by 2035.¹⁶
- New drug treatments look promising for those with the highest levels of weight-related risk, however, increasing access to treatment without effective prevention strategies will simply add even greater pressure to NHS resources.¹⁷

A healthy population needs a healthy food system

At present, the country's food system is broken – unhealthy choices are easier, cheaper and more convenient than healthier ones. The UK's high obesity rates are largely a result of this broken food

⁸ Institute for Government (2023) Tackling obesity: Improving policy making on food and health

<https://www.instituteforgovernment.org.uk/publication/tackling-obesity>

⁹ IPPR (2020) The Whole Society Approach <https://www.ippr.org/files/2020-08/a-whole-society-approach-aug-2020.pdf>

¹⁰ Frontier Economics (2022) Estimating the Full Cost of Obesity <https://www.frontier-economics.com/media/5094/the-full-cost-of-obesity-in-the-uk.pdf>

¹¹ Frontier Economics (2022) Estimating the Full Cost of Obesity <https://www.frontier-economics.com/media/5094/the-full-cost-of-obesity-in-the-uk.pdf>

¹² PHE (2017) Health matters: obesity and the food environment <https://www.gov.uk/government/publications/health-matters-obesity-and-the-food-environment/health-matters-obesity-and-the-food-environment--2>

¹³ IPPR (2020) The Whole Society Approach <https://www.ippr.org/files/2020-08/a-whole-society-approach-aug-2020.pdf>

¹⁴ NHS Digital (2020) National Diabetes Audit 2018-19 Full Report 1, Characteristics of People with Diabetes <https://digital.nhs.uk/data-and-information/publications/statistical/national-diabetes-audit>

¹⁵ BJC (2015) The fraction of cancer attributable to modifiable risk factors in England, Wales, Scotland, Northern Ireland, and the United Kingdom in 2015 <https://www.nature.com/articles/s41416-018-0029-6ss>

¹⁶ Cancer Research UK (2018) Obesity could overtake smoking as biggest preventable cause of cancer in women [https://news.cancerresearchuk.org/2018/09/24/obesity-could-overtake-smoking-as-biggest-preventable-cause-of-cancer-in-women/#:~:text=Obesity%20could%20overtake%20smoking%20as%20biggest%20preventable%20cause%20of%20cancer%20in%20women,Category%3A%20Press%20release&text=These%20new%20projections%20calculate%20that,23%2C000%20cases\)%20by%20excess%20weight.](https://news.cancerresearchuk.org/2018/09/24/obesity-could-overtake-smoking-as-biggest-preventable-cause-of-cancer-in-women/#:~:text=Obesity%20could%20overtake%20smoking%20as%20biggest%20preventable%20cause%20of%20cancer%20in%20women,Category%3A%20Press%20release&text=These%20new%20projections%20calculate%20that,23%2C000%20cases)%20by%20excess%20weight.)

¹⁷ NESTA (2023) Can weight loss drugs 'solve' obesity <https://www.nesta.org.uk/blog/can-weight-loss-drugs-solve-obesity/>

system which is full of commercial influences from industries that profit from selling health-harming products. We need to create environments across the country that are conducive to good health.

Every community in the country should be a healthy place for children to grow, learn and play. Local businesses need a healthy workforce to drive economic productivity and sustainable growth. People should be able to walk down their high streets without being constantly pressured to make choices that will harm their future health. The healthy choice should be the easy choice for everyone.

1: Advertising & Availability of Less Healthy Food & Drink Products

Context & Evidence

The current Government has delayed major regulations of food and drink products classified by the existing Nutrient Profile Model (NPM) as high in fat, salt and sugar (HFSS) from January 2023 to October 2025. This means that the regulations will need to be implemented by the next Government. The first action that any Government must do is to commit to the introduction of these regulations without further delay.

The evidence base for these regulations and the case for further action to protect children from unhealthy food and drink marketing is well established.¹⁸ There are a number of further measures that could be undertaken to build on the existing upcoming regulations to shift the advertising spotlight on to healthier options, and away from the food and drink products that most harm children's health.

All of the policies below are based around the principle of protecting children and parents from manipulative or misleading marketing. They also will require no significant Government spending, have no cost of living implications and will receive a welcome reception from third sector organisations.

Impact of Food Industry Lobbying on Planned Advertising Regulations

Specifically in response to question 8 of the call for evidence, "The role of the food and drink industry in driving food and diet trends and on the policymaking process", the Obesity Health Alliance wishes to submit the following information for consideration by the inquiry.

In the Summer of 2020, the Government announced its intention to protect children from unhealthy advertising to improve their health and tackle obesity. Government analysis estimated the policy could remove up to 7.2 billion calories from children's diets per year in the UK and reduce the number of children living with obesity by around 20,000.¹⁹

Attempts to weaken or undermine the regulations were made after they were proposed, including numerous misleading and inaccurate arguments made by representatives of the food and drink industry and their surrogates.²⁰ Likewise, several amendments were tabled by parliamentary opponents of this legislation designed to weaken the proposals, including having the regulations only apply on weekends, inserting exemptions for specific products into primary legislation and

¹⁸ Please see the Obesity Health Alliance 'Turning the Tide' Report (2021) pages 68 to 73, available here: <https://obesityhealthalliance.org.uk/wp-content/uploads/2021/09/Turning-the-Tide-A-10-year-Healthy-Weight-Strategy.pdf>

¹⁹ DHSC (2021) Impact Assessment <https://assets.publishing.service.gov.uk/media/60d35279e90e0743934f6c3a/impact-assessment-hfss-advertising.pdf>

²⁰ An overview of the arguments made by the food and drink industry against these regulations, and the rebuttals to those arguments, can be provided by the Obesity Health Alliance upon request.

inserting a 'sunset clause' whereby the policy would be repealed after five years if certain unspecified criteria were not met.²¹

These amendments were unsuccessful, but following the Bill receiving Royal Assent, the Government took the decision to change the date of implementation of the regulations from January 2023 to October 2025. The official reason stated was to "give the industry more time to prepare" for the regulations, despite them having already had since 2018 to prepare for the regulations. However, media reports attributed the decision to political pressure applied from parliamentarians with ideological objections to the regulations.^{22,23}

Since then, the Advertising Standards Authority's (ASA) has launched a consultation on the implementation guidance to advertisers, which closed in February 2024. The ASA are producing guidance that will meet the needs of the broadcasters, online platforms, and the advertisers they serve. The ASA will serve as the frontline regulator for these regulations.²⁴

The OHA has expressed concerns to the Secretary of State for Health and Social Care about the unfettered influence of food and drink trade bodies during a pre-consultation exercise for this guidance, which has not been shared with stakeholders or DHSC. According to documents from these bodies, "A pre-consultation exercise with CAP and BCAP member bodies, and industry trade associations including the Food and Drink Federation, and the British Retail Consortium was also carried out with the aim of better understanding industry's informational requirements".²⁵

In the view of the OHA, this has contributed to the ASA's unreasonably narrow interpretation of 'less healthy food and drink products' and draft guidance that no longer reflects the intent of the legislation.²⁶ The food and drink industry has already been granted many generous exemptions, and this new guidance states that unless a specific single product is clearly shown in an advert, it is exempt. Images of takeaways and 'generic' (e.g. unbranded) less healthy products such as doughnuts, milkshakes, cakes and pizzas²⁷ would be allowed on our children's screens, with no repercussions for advertisers. This will especially benefit multinational businesses with large portfolios, and delivery platforms that sell food on behalf of other food businesses.

OHA analysis of a recent popular family entertainment TV programme (aired before the watershed and therefore subject to the regulations) showed that under this interpretation, approximately half of the adverts that should be covered by the regulations would be excluded.²⁸

Policy Recommendations

²¹ House of Lords (2022) Health and Care Bill - Third Marshalled List for Committee <https://bills.parliament.uk/publications/44689/documents/1250> - please see amendments 245, 245A, 247, 248, 249A, 250ZA, 250A, 251, 252A, 253ZA, 253A, 255, 255A, 255B, 256, 257, 257A, 257B,

²² The Independent (2022) Boris Johnson accused of 'playing politics with children's health' after junk food U-turn <https://www.independent.co.uk/news/uk/politics/junk-food-advertising-boris-johnson-b2078731.html>

²³ The Times (2022) Obesity U-turn is weak, shallow and immoral <https://www.thetimes.co.uk/article/this-obesity-u-turn-shames-our-ministers-pvdfbkp5k>

²⁴ ASA (2023) Consultation on restrictions on ads for "less healthy" foods <https://www.asa.org.uk/resource/lhf-consultation.htm>

²⁵ Committee of Advertising Practice (2023) CAP and BCAP Consultation (Page 6) <https://www.asa.org.uk/static/f5e991b7-22ed-4317-844670cd61315764/2023-12-11-LHF-consultation-document-FINAL.pdf>

²⁶ An advertisement is for an identifiable less healthy product (LHP), if people in the UK can reasonably be expected to identify the advertisement as

being for that product. There is two-stage test for determining if a product is classified as less healthy. These are whether it is:

1) Within one of the categories of food or drink products set out in proposed secondary legislation currently subject to an ongoing Government consultation process and

2) Defined as HFSS under the 2004-05 nutrient profiling model. (DHSC's nutrient profiling technical guidance.)

²⁷ DHSC (2021) The Food (Promotion and Placement) (England) Regulations 2021

<https://www.legislation.gov.uk/ukdsi/2021/9780348226195>

²⁸ Please see Appendix – OHA Masked Singer Analysis

In addition to implementing the planned TV and online regulations without further delay, the OHA recommends further policies to limit the impact of marketing of less healthy products. The full details of the evidence base for the following recommendations can be found in the OHA's 2021 'Turning the Tide' 10 year strategy.²⁹

1. **'Health Halos' & Misleading Health Claims**

Policy: No product classified as HFSS under the NPM could contain a claim about the health or nutrition benefits on its packaging or in its marketing.

Mechanism: Consultation followed by secondary legislation to amend the Food Safety Act 1990

2. **Mandatory Front of Pack Labelling**

Policy: Ensure everyone has access to clear and transparent information, by mandating that all packaged food has colour-coded Front of Pack Labelling

Mechanism: Consultation undertaken, secondary legislation to amend the Food Safety Act 1990.

3. **Outdoor HFSS Advertising**

Policy: The regulations on less healthy food products be extended from TV and online to physical spaces outdoors.

Mechanism: This could either be done as a blanket ban (eg via an amendment to the Communications Act 2003 or bespoke primary legislation as with 'The Tobacco Advertising and Promotion Act 2002'), or by codifying the exclusion zone model seen in London within certain distances (currently 400m) of 'child focussed places'. The latter option should only be taken if it functionally covers all areas where children could be exposed to advertising. This may need to be bolstered with specific measures to address e.g. buses that move in between regions regularly.

4. **Introduce 'Age of Sale' Restrictions on Energy Drinks**

Policy: Deliver on existing commitments, made and consulted on by the UK Government in 2018/19, to restrict the sale of energy drinks to children under 16.³⁰ Since this consultation, further evidence has emerged outlining the significant negative impacts of these drinks on children's physical and mental health, and educational outcomes.³¹

Mechanism: Publication or re-issuing of existing consultation and response, followed by primary legislation.

5. **Warning Labels for Sugar & Salt on Infant Food Products**

Policy: Any product appropriate for children under 3 years old would have a large, clear warning label if it was classified as high in sugar or salt under the Nutrient and Promotion Profile Model.

Mechanism: Consultation followed by secondary legislation to amend the Food Safety Act 1990.

6. **Child Friendly Images on Packaging**

Policy: No product classified as HFSS under the NPM could have a child-friendly image/cartoon on its packaging or marketing

Mechanism: Consultation followed by primary legislation to amend the Food Safety Act 2003.³²

²⁹ Obesity Health Alliance 'Turning the Tide' Report (2021) pages 68 to 73, available here: <https://obesityhealthalliance.org.uk/wp-content/uploads/2021/09/Turning-the-Tide-A-10-year-Healthy-Weight-Strategy.pdf>

³⁰ DHSC (2018) Ending the sale of energy drinks to children <https://www.gov.uk/government/consultations/ending-the-sale-of-energy-drinks-to-children>

³¹ Lake et al (2024) Consumption of energy drinks by children and young people: a systematic review examining evidence of physical effects and consumer attitudes <https://www.sciencedirect.com/science/article/pii/S0033350623003189>

³² Early-stage work on this issue was conducted under the May administration in 2016, but was then abandoned.

7. Extending HFSS Locations Restrictions to Out of Home

Policy: Unhealthy food already cannot be placed near high footfall areas in retail stores and online – this should be extended to large fast-food chains and delivery companies as well.

Mechanism: Update Impact Assessment and consultation followed by secondary legislation to amend the Food Safety Act 1990.

2: Planning

Context & Evidence

Planning is an upstream tool that can influence the built environment to improve health and help reduce obesity and excess weight in local communities. Local planning authorities can influence local food environments by limiting new fast-food outlets near schools; prioritising active travel; and ensuring access to green space to promote physical activity. This recommendation focuses specifically on policies that can impact the local food environment, particularly hot food takeaways and home deliveries.

The average UK diet exceeds recommended dietary levels of sugar, salt, calories and fat, and in recent years, the proportion of food eaten outside the home has increased and this food tends to have a higher calorie content than food purchased in a supermarket.³³ Out of home (including home deliveries) food tends to have larger portion sizes, resulting in greater caloric intake when eating out of home more frequently as compared to in the home.³⁴ Even for the same brand, portion sizes are larger in out of home settings versus at the supermarket.³⁵

Evidence from England shows that more deprived areas have the highest concentration of fast-food outlets, with some of the most deprived areas having almost five times as many outlets than more affluent areas.³⁶ Hot food takeaways within easy walking distance of schools can provide an attractive and affordable food option for pupils.³⁷ Research has shown associations between exposure to takeaway outlets, takeaway consumption and body weight in adults. There was some evidence that these associations were stronger in groups with lower levels of education, which may contribute further to socioeconomic inequalities in obesity.³⁸

At present in England, there is potential for councils to adopt a planning policy, based on strong local health evidence, that will restrict the number of hot food take-aways in a particular area, though it cannot restrict businesses such as newsagents and petrol stations that sell unhealthy items.³⁹ A

³³ PHE (2017) Health matters: obesity and the food environment <https://www.gov.uk/government/publications/health-matters-obesity-and-the-food-environment/health-matters-obesity-and-the-food-environment--2>

³⁴ Goffe L, Rushton S, White M, Adamson A, Adams J. Relationship between mean daily energy intake and frequency of consumption of out-of-home meals in the UK National Diet and Nutrition Survey. *International Journal of Behavioral Nutrition and Physical Activity*. 2017;14(1):131.

³⁵ Davies S. Time to Solve Childhood Obesity. An Independent Report by the Chief Medical Officer, 2019. Professor Dame Sally Davies. London: Department of Health and Social Care; 2019. <https://www.gov.uk/government/publications/time-to-solve-childhood-obesity-cmo-special-report>

³⁶ PHE (2018) England's poorest areas are fast food hotspots <https://www.gov.uk/government/news/englands-poorest-areas-are-fast-food-hotspots>

³⁷ <https://pearl.plymouth.ac.uk/bitstream/handle/10026.1/10825/C%20Turbutt%20J%20Richardson%20C%20Pettinger%202017%20-JPH%20%282%29%20all%20changes%20accepted.pdf?sequence=2&isAllowed=y>

³⁸ BMJ (2014) Associations between exposure to takeaway food outlets, takeaway food consumption, and body weight in Cambridgeshire, UK: population based, cross sectional study <https://www.bmj.com/content/348/bmj.g1464>

³⁹ NHS London Healthy Urban Development Unit, 2013

qualitative study from 2021 found that planning policies can successfully regulate takeaway food outlets with the intention of improving health and wellbeing.⁴⁰ Planning policies and decisions can also influence whether new housing developments include other sources of healthy food (e.g private gardens, public allotments, spaces for community orchards) and how these features are distributed.

The first major barrier to progress is the limitations in existing national guidance, and that promoting good health is just one of very many considerations that planning policy is supposed to consider. A number of individual documents considered by planners give indications that action should be taken to support good health, but they lack a clear overarching objective or direction from national government that these outcomes are a priority. Without this direction, actions such as reducing the prevalence of hot food take-aways will appear to be of low importance and easy to contest.

Much national guidance also does not reference the need to prevent ill-health from health-harming commercial factors. This can lead local authorities to believe that their responsibilities are solely to provide services to help people be healthier (e.g cycle lanes or community allotments), and not taking action to limit factors that cause health harms (e.g unhealthy food outlets).

- The National Planning Policy Framework (NPPF) states that planning policies should “enable and support healthy lifestyles”, with examples given of “safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling”.⁴¹ There is currently no clear reference to preventing ill-health and reducing the prevalence of commercial factors that contribute to ill-health.
- The NICE Public Health Guideline on Cardiovascular disease prevention recommends action to encourage local planning authorities to restrict planning permission for takeaways and other food retail outlets in specific areas (for example, within walking distance of schools).⁴²
- The Planning Practice Guidance (PPG) supports actions to limit the proliferation of less healthy uses such as hot food takeaways. Many local planning authorities (LPAs) have developed local plans referring to hot food takeaways.⁴³
 - Supplementary Planning Documents (SPDs) are available to guide local authorities in delivery of impactful planning policies, including to promote healthy weight environments.⁴⁴ Some councils have used SPDs to restrict the hours of operation of hot food takeaways within 400m of primary and secondary schools.⁴⁵
 - A census of local authorities in England found that 164 (50.5%) of local government areas had a policy specifically targeting takeaway food outlets. Of these, 56 (34.1%) focused on health⁴⁶ through policies such as exclusion zones around places children and families congregate, especially schools.

⁴⁰ <https://www.sciencedirect.com/science/article/pii/S135382921930783X#sec5>

⁴¹ DLUHC (2023) National Planning Policy Framework https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

⁴² NICE (2010) Cardiovascular disease prevention <https://www.nice.org.uk/guidance/ph25>

⁴³ MHCLG (2014) Healthy and safe communities <https://www.gov.uk/guidance/health-and-wellbeing>

⁴⁴ Chang (2020) Using planning powers to promote healthy weight environments in England [version 1; peer review: 2 approved] <https://emeraldopenresearch.com/articles/2-68>

⁴⁵ University of Plymouth (2018) The impact of hot food takeaways near schools in the UK on childhood obesity: A systematic review of the evidence <https://pearl.plymouth.ac.uk/bitstream/handle/10026.1/10825/C%20Turbutt%20J%20Richardson%20C%20Pettinger%202017%20-JPH%20%282%29%20all%20changes%20accepted.pdf?sequence=2&isAllowed=y>

⁴⁶ Keeble, Burgoine, White, Summerbell, Cummins, Adams (2019) How does local government use the planning system to regulate hot food takeaway outlets? A census of current practice in England using document review, Health & Place, Volume 57 <https://doi.org/10.1016/j.healthplace.2019.03.010>. <https://www.sciencedirect.com/science/article/pii/S1353829218310414>

Under these existing policies, local authorities can in certain circumstance reject applications for new hot food takeaways. Local leaders have taken the initiative in certain areas to introduce exclusion zones for takeaways near schools or reject new fast-food outlets in areas of high obesity in councils such as Gateshead, several London boroughs and Blackburn and Darwen⁴⁷.

In 2021, the UK government updated the Use Classes for planning to make hot food takeaways ‘sui generis’ – meaning local authorities have discretion to handle these outlets as they see fit, and they require planning permission to open. However, the definition of a hot food takeaway is limited only to those without indoor seating. Many businesses that primarily sell unhealthy food and drink (including many large fast-food chains) do have indoor seating, and are classified as ‘Use Class E - Commercial, Business and Service’. Use Class E includes a vast range of businesses, including shops, financial and professional services, and cafes and restaurants. These businesses do not require planning permission to change from one Use Class E business to another.⁴⁸

There is currently major reform of the national planning policy framework underway, with direction for all local authorities to have a local plan in place by late 2024. SPDs are due to be replaced by ‘Design Codes’ as part of the planned reforms. National Development Management Policies (NDMP) will also be introduced. NDMPs are designed so that any local policy that duplicates national policy will be removed from local plans, and that any conflict between local and national policy will be resolved in favour of national policy.⁴⁹ It is unknown if either Design Codes or NDMPs will address healthy food environments.⁵⁰ Ongoing national changes to planning will also make it easier to convert unhealthy food outlets to other uses, particularly affordable housing. The Department for Levelling Up, Housing and Communities announced intentions in July 2023 to relax planning laws to enable more real estate, including hot food takeaways and shops, to be converted into housing⁵¹.

A second major barrier to action is legal action (or threats thereof) to any policies introduced by local authorities, by larger or multinational companies operating hot food takeaways and fast food outlets. The Local Government Association has identified this as a major barrier⁵², and noted that the legal action can be entirely spurious in nature and still deliver the desired outcome for the company, as most local authorities do not have the financial resources to legally contest the challenges. This issue has received significant media attention in 2023, when it was revealed that Kentucky Fried Chicken had launched legal challenges to dozens of UK councils, successfully overturning childhood obesity plans in sixteen councils and watering down plans in a further nine.⁵³

⁴⁷ See attached appendix ‘Case Studies’

⁴⁸ PHE (2021) Addendum: Hot food takeaways use in the new Use Class Order <https://www.gov.uk/government/publications/healthy-weight-environments-using-the-planning-system/addendum-hot-food-takeaways-use-in-the-new-use-class-order>

⁴⁹ DLUHC (2023) Levelling-up and Regeneration Bill: reforms to national planning policy <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>

⁵⁰ DLUHC (2023) Plan-making reforms: consultation on implementation <https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation>

⁵¹ BBC (2023) Michael Gove relaxes planning rules to create more homes in city centres <https://www.bbc.co.uk/news/uk-politics-66287810>

⁵² LGA (2018) Written Evidence from Local Government Association <https://committees.parliament.uk/writtenevidence/90672/html/>

⁵³ The Times (2023) Revealed: KFC thwarting efforts to stop fast-food outlets near schools <https://www.thetimes.co.uk/article/kfc-local-councils-child-obesity-investigation-78vp0f5sl>

The existing appeals system was designed for local residents and businesses to object to specific elements of local authority plans and planning policy.⁵⁴ Multinational corporations are able to exploit this system by bringing a level of financial and legal resources that local authorities are unable to contest, and repeat this process across the whole country. National government, including the Department for Health and Social Care, is able to access the level of resources needed to contest these legal tactics and has experience in successfully doing so, most recently in Kellogg's attempt to undermine the UK's Nutrient Profiling Model that underpins national public health policy on food.⁵⁵

The third major barrier to action is that there is not uniform support for interventions from planning officers and local government officials. Interviews with 26 Planning and Public Health professionals in England found generally high levels of support for action to address the issue of obesity⁵⁶. However, interviews with planners found many to have an insufficient understanding of the causes of obesity and particularly the role of the food environment in influencing obesity rates, which led to less willingness to use planning policies to address local obesity rates. Barriers included ideological objections to government intervention, conflicting priorities between local health and economic objectives, and poor understanding of the ability of planning policy to influence health outcomes.⁵⁷

Application decisions can be subject to an opaque appeal process by the National Planning Inspectorate. Research found that of the 52 appeals cases reviewed, 26 were upheld (local decision overturned and Planning Inspector (PI) found in favour of the business) and 26 dismissed (i.e. permission not given to the business).⁵⁸ A number of key factors influencing dismissal were found;

- Scepticism amongst PIs about the evidence of impact of hot food takeaways on obesity
- Ideological objections to the role government in addressing childhood obesity.
- Economic factors, and the impacts on high-streets, council revenue and employment

The Local Government Association's recommendations for councils to take a whole-systems approach to tackling obesity through the built environment are:

- A review should be undertaken into planning rules regarding the density and location of hot food takeaways, as well as their proximity to schools, nurseries and other places where children and young people congregate.
- A national review should be made into Planning Inspectorate decisions on council's decisions to limit the proliferation of hot food takeaways.
- Local areas need more support from national government to respond to well-funded legal challenges by these companies.

⁵⁴ Planning Inspectorate (2024) Procedural Guide: Planning appeals – England <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england>

⁵⁵ National Archives (2022) KELLOGG MARKETING AND SALES COMPANY (UK) LIMITED & Anor (R on the application of) v SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE [2022] EWHC 1710 <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2022/1710?query=kellogg%27s>

⁵⁶ Keeble, Burgoine, White, Summerbell, Cummins, Adams (2021) Planning and Public Health professionals' experiences of using the planning system to regulate hot food takeaway outlets in England: A qualitative study Health & Place, Volume 67 <https://www.sciencedirect.com/science/article/pii/S135382921930783X>

⁵⁷ Keeble, Burgoine, White, Summerbell, Cummins, Adams (2021) Planning and Public Health professionals' experiences of using the planning system to regulate hot food takeaway outlets in England: A qualitative study Health & Place, Volume 67 <https://www.sciencedirect.com/science/article/pii/S135382921930783X>

⁵⁸ O'Malley, Lake & Moore (2020) Exploring the fast food and planning appeals system in England and Wales: decisions made by the Planning Inspectorate (PINS) <https://journals.sagepub.com/doi/10.1177/1757913920924424>

- Councils appreciate that a flourishing hospitality sector in our towns and cities is good for local economies and where they have introduced restrictions on takeaways are working with businesses to help create healthier menus for their customers.

OHA's 2023 YouGov polling data shows that 58% of the public support councils using the planning system to reduce the number of unhealthy food outlets in their local area, including over 60% of Labour, Conservative and Liberal Democrat voters.⁵⁹

Policy Recommendations

- 1. National Government should publish new guidance that explicitly states that a primary purpose of the planning system is to promote good health and create places in which people of all residents can live safe, active and healthy lives, including objectives to reduce health inequalities and address public health priorities such as healthy weight.**
 - a. This should include clear guidance to local authorities about using their local planning policies to increase the number of healthy food options and decrease the number of unhealthy food options, and that public health be given appropriate priority in all planning decisions.
 - b. This should begin with strengthened wording in the National Planning Policy Framework and the Planning Practice Guidance, and then cascaded down to all relevant planning documents that inform local government planning policies.
 - c. This guidance must be adequately conveyed to local planning officers and the Planning Inspectorate to ensure that individual lack of understanding of the issue, or ideological views, do not undermine public health initiatives. This should include additional training where necessary.
 - d. Per the Local Government Association's recommendations, national reviews should take place into the density and location of hot food takeaways to inform local authority policymaking, and the Planning Inspectorate's decisions on industry appeals to council policies.
- 2. National Government should use the ongoing reforms to planning in England to make it for local authorities to control their local food environments.**
 - a. The new 'Design Codes' and National Development Management Policies should explicitly address healthy food environments, including hot food takeaways.
 - b. Use Classes should be reviewed to ensure that local authorities have control over those food businesses classified as 'Class E' as well as the 'sui generis' Hot Food Takeaway designation.
 - c. Changes to make it easier for hot food takeaways to be converted into affordable housing should be promoted to increase local buy-in for improvements to the food environment.
- 3. Any appeal made by a large business to a local authority's plan or planning decision made on public health grounds should be contested with the Planning Inspectorate by a national government department.**
 - a. National government departments have the experience and resources to mitigate the impact of multinational companies' financial and legal resources, and in doing so can free up local public health teams to prioritise supporting local communities rather than fighting legal battles.
 - b. Either the Department for Health and Social Care or the Department for Levelling-up Housing and Communities could take on this responsibility.

⁵⁹ Obesity Health Alliance (2023) YouGov Poll Conducted May 2023 of 2037 GB Adults
https://docs.cdn.yougov.com/fvma14vk1/ObesityHealthAlliance_Results_230516_W.pdf

- c. A large business, for the purpose of these regulations, would be defined as having more than 250 Full Time Employees. This is aligned to definitions in other regulations, such as the regulations on unhealthy food and drink advertising on TV and online.
 - d. This must be done alongside amendments to national guidance, to ensure that that Planning Inspectorate and companies are fully aware that such actions are within the powers of local authorities and in line with national priorities.
4. **National Government must also take a stronger stance against engagement with companies that engage in unethical behaviour that undermines public health.** In particular, companies that use spurious lawsuits and similar tactics should not be invited to engage with government, both directly or via trade associations.
 5. **National Government should develop a best practice pathway for local authorities to assist existing businesses to transition to healthier practices and increase the prevalence of healthier options.**

3: Public Health Grant

Context & Evidence

The public health grant has been cut by 27% on a real-term per person basis since 2015/16, despite providing excellent value for money. The grant is used by local council leaders to invest in the health of their residents. Failure to invest in vital preventive services will mean health worsening further, widening health inequalities, and the costs of dealing with this poor health will be felt across society and the economy.

In 2015/2016, the UK Government devolved the funding from the public health grant to local authorities in England⁶⁰ directly, along with the responsibility to deliver public health interventions at a community level. However, the level of funding provided to local authorities was not tied to inflation, which means that the grant is being cut in real terms every year. Devolving responsibilities to local government without sufficient resources undermines the central concept of devolution and prevents any potential benefits from greater local control of policymaking.

A clear priority must be reversing these real-terms cuts and ensuring that lessons are learned to prevent any future devolving of responsibilities to local authorities without providing sufficient resource to deliver those responsibilities. The Local Government Association continue to make the case for multi-year settlements and for more long-term certainty around public health funding, but so far, this has not come to fruition.⁶¹

Each additional year of good health achieved in the population by public health interventions costs £3,800, vs £13,500 from NHS interventions.⁶² Yet public health teams have faced, and continue to face, an unprecedented period of funding and demand pressures and means that economic goals and statutory services take priority over all other functions.⁶³

⁶⁰ The Public Health Grant only applies in England, with devolved nations receiving Barnett formula funding to deliver these intentions at their own discretion. Please contact the Obesity Action Scotland and the Obesity Alliance Cymru for public health funding in Scotland and Wales.

⁶¹ LGA (2023) Public Health Grant allocations to local authorities 2023/24 <https://www.local.gov.uk/parliament/briefings-and-responses/public-health-grant-allocations-local-authorities-202324>

⁶² Health Foundation (2023) Public health grant What it is and why greater investment is needed <https://www.health.org.uk/news-and-comment/charts-and-infographics/public-health-grant-what-it-is-and-why-greater-investment-is-needed>

⁶³ ADPH (2023) Grant allocation, "far too little, far too late" <https://www.adph.org.uk/2023/03/phgrant2324/>

- Services to address obesity in adults represents one of the biggest cuts in spending since 2015/2016 with a 27% reduction in spend (Expected to be £132 million in 2023/2024).⁶⁴
- Obesity services for children has also been cut by 15% since 2015/2016 (expected to be £98 million in 2023/2024).⁶⁵

Policy Recommendation

1. **27% real-term cuts to public health grant should be immediately reversed, currently valued at a £1.5 billion uplift, and indexed to inflation in future.** A wider review should be launched by central government into the adequacy of public health funding.
 - This funding uplift should be used to drive an increased focus on prevention.

Recommendation 4: Reformulation

Reformulation to improve the nutritional profile of products - by removing excess salt, sugar and saturated fat, while also ideally reducing portion size and increasing positive elements such as fibre and wholegrains - is a key public health intervention to improve population diet, change palates and prevent ill health. Companies are constantly reformulating their products for a number of reasons, including adapting to consumer tastes, removing allergens, and launching new products.

The OHA is a co-leader of the Recipe for Change, which is a campaign of 41 health organisations, Royal Medical Colleges and food campaigners led by Sustain, Obesity Health Alliance and Food Foundation, with support from British Heart Foundation, Action on Salt and Sugar and Impact on Urban Health. The campaign was launched in September 2023, calling for a new industry levy to help make our food healthier, while raising revenue that can be invested back into children's health.

This is building on the success of the Soft Drinks Industry Levy to date which has reduced the sales weighted average sugar in soft drinks by 46% since 2015, while raising £300-350 million every year in revenues. This money has been used to establish the National School Breakfast Programme, support the Holiday Food and Activities Programme and double the Primary School Sports & PE Premium, the former of which provides crucial access to healthy and affordable food for children living in lower income areas.

In comparison to the success of the SDIL, attempts to secure progress on reformulation voluntarily by the food and drink industry has stalled. The voluntary sugar reduction programme which ran between 2015 and 2020 achieved just a 3.5% average sugar reduction over the time period, in comparison to the 46% reduction achieved by the SDIL.⁶⁶ The voluntary calorie reduction programme, which ran between 2017 and 2021, showed only a single product category demonstrated a significant reduction in calorie content.⁶⁷

⁶⁴ Health Foundation (2023) Public health grant What it is and why greater investment is needed <https://www.health.org.uk/news-and-comment/charts-and-infographics/public-health-grant-what-it-is-and-why-greater-investment-is-needed>

⁶⁵ Health Foundation (2023) Public health grant What it is and why greater investment is needed <https://www.health.org.uk/news-and-comment/charts-and-infographics/public-health-grant-what-it-is-and-why-greater-investment-is-needed>

⁶⁶ OHID (2022) Sugar reduction programme: industry progress 2015 to 2020 <https://www.gov.uk/government/publications/sugar-reduction-programme-industry-progress-2015-to-2020>

⁶⁷ OHID (2024) Calorie reduction programme: industry progress 2017 to 2021 <https://www.gov.uk/government/publications/calorie-reduction-programme-industry-progress-2017-to-2021>

Our Recipe for Change campaign call to action:

1. For Government to build on the success of the Soft Drinks Industry Levy by introducing a new levy on unhealthy food.
2. For businesses to change the recipes of the food and drink that they sell to make them healthier for all of us.
3. To invest revenue raised from the levy in children's health and access to good food.
4. For the existing Soft Drinks Industry Levy to be updated and extended to milk-based drinks (e.g milkshakes) that are consumed in and out of the home

The Recipe for Change campaign has made a separate submission to this call for evidence that elaborates on this recommendation in more detail, and the OHA endorses this in full.

Recommendation 5: Early Years

Context & Evidence

Good diets in the early years create the foundation for life-time good health. Establishing a supportive food environment for young children aligns with the Government's commitment to ensure that all children get the best start in life. Doing so would maximise developmental and educational outcomes, and ensure healthy growth, thereby minimising the risk of diet-related illnesses. This will be key to delivering not only key government health priorities, but also levelling up and ensuring every child can reach their full potential, regardless of where they were born.

The early years (from pregnancy to five years old) is a crucial time where growth trajectories are established and behaviours are formed, that track into childhood and adulthood. Healthy behaviours in the early years, with a nutritious diet, is an important factor in helping children develop healthy food preferences, grow to their full potential both physically and mentally and thrive in school. There is a lack of initiatives to foster healthy diets in the early years, providing a unique moment for political action. The next government can make vital changes to help children grow up healthily. We propose a series of achievable, evidence-informed and cost-effective steps that will measurably improve the quality of diets in the early years.

Enabling women who want to breastfeed would result in significant health benefits and cost savings for the NHS and local authorities: breastfeeding reduces the risk of common childhood illnesses and diet-related disease later in life and protects mothers from certain cancers and heart disease. However, the UK has some of the lowest breastfeeding rates globally; 68% of babies in England are breastfed at birth⁶⁸, compared to 83% in the United States⁶⁹.

When babies are introduced to foods and drinks, they should meet their needs nutritionally and developmentally. Yet currently, many commercial baby and toddler foods and drinks are not appropriate to nourish and support healthy growth and development. Key issues relate to their nutrition composition (in particular high free sugars) and promotion of poor dietary habits (including snacking and early introduction of solids). They are also often marketed in a misleading way, with

⁶⁸ NHS Digital (2022). NHS Maternity Services Monthly Statistics, England, June 2022 – Babies. Available at: bit.ly/NHSbabystats

⁶⁹ Centers for Disease Control and Prevention (2022). Breastfeeding Report Card, United States 2022. [Online] Available at: <https://www.cdc.gov/breastfeeding/data/reportcard.htm>

the use of claims and statements on product packaging that imply they are healthier than they actually are; 41% of products aimed at children that claim to be healthy are in fact 'unhealthy'.⁷⁰

All children should have access to nutritious food and drink to contribute to them achieving their full potential. With more children attending early years settings (including nurseries and childminders), the meals, snacks and drinks served must be nutritionally appropriate. However, the current voluntary guidance for settings was last updated in 2017, has not been widely adopted and is frequently perceived to be impractical or culturally inappropriate.

Statutory services including health visiting, Family Hubs, and breastfeeding support have unique roles to play in providing guidance and support for pregnant women and families on healthier diets and feeding practices, particularly given the widespread misleading marketing of commercial infant and toddler formula, foods and drinks.

Workforce shortages in England, and real term reductions in the public health funding, have left many families missing out on these vital services. Lastly, with the rising cost of food leaving healthy diets out of the reach of many, schemes such as Healthy Start (which helps pregnant teenagers and pregnant women and young families on low incomes access healthy foods and vitamins) are vital to provide a nutritional safety net for families at risk of food insecurity.

Policy Recommendations

1. Close existing legal loopholes⁷¹ to protect families from misleading marketing that undermines breastfeeding and safe and appropriate formula feeding.
2. Implement standards to improve the nutrition composition and marketing of commercial baby and toddler foods and drinks.
 - a. Align with the benchmarks set by the WHO Europe's Nutrient and Promotion Profile Model.⁷²
 - b. Mandate the enforcement of the standards to create a level playing field for businesses.
 - c. Ensure that commercial foods and drinks for infants and young children are appropriate for the age groups they are marketed to.
 - d. Ensure any marketing, labelling or packaging, does not include health and nutrition claims.
3. Review and update the voluntary Eat Better Start Better guidance in partnership with early years settings and local authorities, to ensure settings are supported with guidance that is feasible, relevant and evidence-based.
 - a. Legislate the updated guidance to ensure millions of children benefiting from early years education can access appropriate food and drink.
4. Invest sufficient funding in local community health programmes:

⁷⁰ The Ofcom nutrient profiling model (NPM) was used to assess if products were healthy. Garcia A, MorilloSantander G, Parrett A, et al (2019). Confused health and nutrition claims in food marketing to children could adversely affect food choice and increase risk of obesity. *Archives of Disease in Childhood*, 104, 541-546.

⁷¹ Loopholes exist in UK legislation, whereby follow-on formula can be marketed for use from 6-12 months and 'growing-up' and toddler milks are marketed for children over 1 year of age. The same branding and virtually identical labelling to infant milks facilitates 'cross promotion', and the milks for over 1s are not regulated with respect to composition or marketing.

⁷² <https://www.who.int/europe/publications/i/item/WHO-EURO-2022-6681-46447-67287>

- a. Help local authorities and trusted community professionals and services to level inequalities and ensure consistent, accessible and evidence-based programmes are available for all families. These should include:
 - i. Practical advice on eating well in pregnancy and for new mums
 - ii. Breastfeeding support, Support for complementary feeding.
 - iii. Review funding for food provision in early years settings and the thresholds for free school meals.
 - iv. Expand eligibility and increase investment into the Healthy Start scheme to ensure greater coverage and provision of a functional nutrition safety net
5. Health policy must be protected from commercial influence. Develop fair and ethical principles for interacting with the food industry, underpinned by the latest evidence on the commercial determinants of health.
6. Independent monitoring and evaluation are necessary to support and guide effective implementation. All actions must be guided by up-to-date data to ensure strategies keep pace with the changing food and health environments.

Recommendation 6: Ultra Processed Foods

Context & Evidence

There is a misinformed sense of competition between the two approaches used to define unhealthy food and drink. One is a processing approach using the definition of Ultra Processed Foods (UPF) based on the NOVA classification. The other is a nutrient-based approach using measures of High Fat, Sugar, or Salt (HFSS), also known as the Nutrient Profiling Model (NPM). The misplaced tension between these two approaches provides fertile ground for exploitation by the food and drink industry to delay, cast doubt, and derail current policy. Nutrient-based and processing-based approaches are complementary and overlapping, and action on both requires a constructive approach if we are to improve our food system.

The Nutrient Profile Model (NPM) categorisation encapsulates a large (est.~75-80%) proportion of NOVA-defined UPFs. Some, not all, of the remaining products are UPF but are more 'nutritionally balanced'. Existing policies based on the NPM are designed to reduce unhealthy food consumption at a food category level. They are already limited to processed food categories that contribute the most calories and sugar to children's diets (but not to babies' solid or liquid diets).

Data from research has suggested that, when applying NOVA, diets high in category 4 Ultra Processed Foods are associated with worse health outcomes. Our UK diet was found to be, on average, ~57% Ultra Processed Food. Analysis of dietary patterns in the early years, and of products on shelves, also suggests adolescents, children and infants consume particularly high levels of UPF.

Current evidence linking Ultra Processed Foods to adverse health outcomes demonstrates a correlation. The quality of the evidence, as is common in nutrition science, is mixed and largely observational (with one Randomised Control Trial). Nutrition studies rely heavily on food frequency questionnaires, which have limitations, e.g. clearly identifying specific products and potentially under-reporting foods known to be less healthy, the extent of these confounders is unknown.

However, the associative evidence and the robustness of reporting are growing and suggest a UPF-heavy dietary pattern is harmful above and beyond its nutritive components (i.e. calories, salt, saturated fats and sugars), even if there is still uncertainty around the drivers of this harm. The

Scientific Advisory Committee on Nutrition (SACN) has been consistently clear that current dietary patterns in the UK are poor and not aligned with health. In July 2023, SACN evaluated published, peer reviewed observational studies that met their limited criteria on processed food and health (9 systematic reviews summarising numerous studies were deemed robust,) and concluded that the strength of evidence was not yet ready to provoke a policy response. Still, given their concerns and the rapid progression of research awaiting peer-review, the committee will reconsider in June 2024. The evidence for saturated fat, salt and sugars, is strong and, according to SACN, causative.

Ultra-Processed Foods are not required in the diet, but they do feature very heavily. Similar to added sugars, which are not nutritionally required, yet are still heavily consumed in the UK. Due to clever marketing and cultural norms, many UPFs are perceived as an appealing, accessible and affordable food source including for those with financial and time constraints. Non-UPF versions of these foods can be made or bought, but access is not currently equal. Any future action to rebalance UPF and non-UPF food in our nation's diet must give tangible solutions on how to help people, assessing the consequences, both positive and negative, e.g. for families on low incomes, those with limited access to well-stocked food shops and large supermarkets, those without cooking skills, and those who rely on everyday foods like bread and breakfast cereal for fibre and micro-nutrient intake (NB fortification does not 'make' a food UPF). All households should have equitable access to nutrient dense foods that meet their nutritional needs.

The UK's Nutrient Profile Model (NPM 2011, DHSC) is a tool that defines whether a product is HFSS for use in policy, it has been tested and found robust in [UK courts](#). It considers negative nutrients (calories, salt, saturated fats, and sugars) and positive nutrients such as fibre, protein, nuts, fruit and vegetables. An expert group has reviewed it, the outcome of which has still not been [published](#).

The NPM is widely used in current policy, however:

- It is over 10 years old.
- It focuses on nutrients (making it easy to compare against the nutrient information panel and ingredients lists) but does not consider the extent or purpose of processing.
- It can be easy to 'game' products to pass by e.g. increasing protein or adding a starch to dilute the salt, fats or sugars.
- It is not applicable to food marketed for infants and young children, where the Nutrient and Promotion Profile Model ([NPPM](#)), supported by WHO, is the gold standard

There is a huge opportunity for research for the public good eg:

- To understand the mechanics driving the associations, whether some products, categories, or markers of processing may be less harmful than others.
- How the UPF definition can be rigorously applied at either a dietary pattern level or a product level to regulate Ultra Processed Foods (i.e. avoiding legal challenges). NB The Pan American Health Organization ([PAHO](#)) NPM captures UPFs plus HFSS, as yet to be implemented.
- Benefits to health of focusing regulation on UPF above and beyond the current Nutrient Profiling Model, i.e. HFSS, plus other markers such as sweeteners, flavourings and/or colourings.
- Exploring the health, economic, cultural and other benefits of increasing non-UPFs.
- How UPF applies where the NPM is known to be lenient eg ready meals, out of home meals.
- To understand how dietary changes will impact key nutrition indicators eg fibre.

Whilst the best current evidence remains for HFSS, policymakers should, with a sense of urgency, develop a framework that could incorporate HFSS + markers of processing. This should include a timeline of how and when each element could be introduced, and how it will be independently funded, which may include measures such as:

Actions for government:

- Implement the planned 9pm and online restrictions, and multi-buy restrictions, on Less Healthy Food
- Extend fiscal measures (aka the Soft Drinks Industry Levy) to broader categories of food and drink that have made little to no progress under the reformulation programmes - for retail, manufacturing and out of home, to fund access to more nutrient-dense foods for low-income families.
- Regulations for infant food composition and marketing to be brought in based on a suitable classification for infant food, eg the NPPM.
- Mandatory and properly enforced public sector procurement guidelines to incorporate minimal processing (E.G NOVA classifications 1-3), including school, nursery, prison and hospital food.
- Extend restrictions to other forms of marketing, including sports sponsorship, cartoons on packs - and to consider incorporating HFSS plus other markers of processing as seen in Latin America.
- Encourage governments to prioritise public health in policy-making by limiting the influence of the food industry, e.g. by publishing all meeting minutes and attendees, declaring all conflicts of interest, before then consulting with the food and beverage on implementation.

Actions to help individuals

- Review the EatWell Guide/dietary guidance to consider adding markers of processing.
- Better Health campaign or improvements in the Food scanner app, Change4Life (Education).
- Support policies aimed at increasing consumption of nutrient-rich unprocessed and minimally processed foods, e.g. enabling breastfeeding support, Healthy Start.

Actions to help future policy development

- Mandatory reporting of healthy/less healthy sales to include NPM-level and processing-level data, e.g via the [Food Data Transparency Partnership](#) - for retail, manufacturing and out of home
- Collect markers of processing in NDNS for ease of classification in research.
- Release the updated 2018 Nutrient Profile Model.
- Review the updated 2018 Nutrient Profile Model in line with more recent evidence on markers of processing, eg to give negative points for the presence of non-sugar sweeteners in beverages.

Recommendation

It is the OHA's view that products that meet clearly defined 'unhealthy' criteria, using the Nutrient Profile Model, have the best evidence of harm and remain the priority for policy implementation. Further work should be done with speed to determine how best to integrate markers of harmful processing into the existing NPM model to inform policies. However, this must not stand in the way of immediate action to enable increased consumption of nutrient-dense, less processed foods.

We welcome the scrutiny of the House of Lords into this important issue, and applaud the commitment to publicly declaring interests of the witnesses. Those with vested interests are trying to delay, cast doubt, derail current policy, and discourage the government from making lasting changes. We should collectively use the increased public awareness and support for action arising from the UPF debate to focus on stopping the food industry from further undermining nutrition policy and improving our food system.

Appendix: Obesity Health Alliance –Masked Singer Analysis

An Obesity Health Alliance snapshot analysis of TV adverts during The Masked Singer UK indicates that the new guidelines may only protect children from fewer than half of adverts for less healthy food. The Obesity Health Alliance (OHA) analysed unhealthy food adverts during two episodes of The Masked Singer UK, which airs on ITV1 at 7pm on Saturdays. The show was ranked 12th in the top 50 weekly shows (Jan 8th-14th) reaching an average audience of 4.72million people every week.⁷³

Further, The Masked Singer UK is currently the most popular TV programme among children who make up 60% of the total viewership.⁷⁴ Any adverts shown during this time would be subjected to the 9pm watershed legislation for advertising of less healthy food or drink⁷⁵ on TV, online and OnDemand programme services that is due to come into force in Oct 2025.⁷⁶ The findings suggest that children who watch their normal TV programmes before 9pm would only be protected from fewer than half of less healthy food adverts.

Key stats from The Masked Singer analysis

Our analysis shows that in two 90 minute episodes of The Masked Singer UK, a total of 107 adverts were shown with 22 of these for food and drink products. The majority, 77% (17), of adverts featured high in fat, salt and sugar products, but only 41% (7) of these would, based on our current understanding of the new ASA guidelines, be captured correctly within the proposed guidance. The remaining 10 (59%) would very likely be exempt by the proposed ASA guidelines on restrictions on advertising of less healthy foods and drink products on TV, online and OnDemand programmes.

Notably, even when an advert is in potentially in breach, parents of the children would have to report each advert to the ASA, meaning the ASA would have to investigate each individual breach after the child has been exposed to the advert. Below are some examples of adverts aired during the Masked Singer, alongside how the proposed ASA guidelines would apply for each. We highlight in particular cases where the ASA guidelines are unclear and may lead to unhealthy foods adverts continuing to be aired.

⁷³ BARB (2024) The Masked Singer – Most Viewed Programmes <https://www.barb.co.uk/viewing-data/most-viewed-programmes/>

⁷⁴ Think Box (2024) Top Programmes Report <https://www.thinkbox.tv/training-and-tools/barb-data/top-programmes-report>

⁷⁵ Less Healthy Food An advertisement is for an identifiable less healthy product (LHP), if people in the UK can reasonably be expected to identify the advertisement as being for that product. There is two-stage test for determining if a product is classified as less healthy.

These are whether it is:

- 1) Within one of the categories of food or drink products set out in proposed secondary legislation currently subject to an ongoing Government consultation process and
- 2) Defined as HFSS under the 2004-05 nutrient profiling model. (DHSC's nutrient profiling technical guidance.)

⁷⁶ DHSC (2022) Health and Care Bill: advertising of less healthy food and drink <https://www.gov.uk/government/publications/health-and-care-bill-factsheets/health-and-care-bill-advertising-of-less-healthy-food-and-drink>

- A **Just Eat** advert uses 'generic' products and imagery when advertising 'on behalf of' other companies. Products shown include a burger, ice-cream, bao buns and fries all of which fall under the Less healthy food categories.⁷⁷
 - Under the ASA guidelines, this advert **may not** be in breach as a specific product (a Stock Keeping Unit - SKU) is not identifiable, despite the majority of these products being HFSS, and as the range of food products are shown 'on behalf' of other companies. The OHA believe this advert **should be** in breach of the ASA guidelines as the products are shown with sufficient prominence, uses generic imagery and they would be classified as less healthy food
- **Deliveroo** are advertising a 'generic' pizza 'on behalf of' another company which the ASA guidelines suggest **may not** be in breach as the product is not identifiable. The OHA believe this advert **should be** in breach of the regulations, as pizza is clearly classified as less healthy food.⁷⁸
- **Asda** and **Tesco** in their own respective adverts show a range of party food, all of which are Less healthy foods and use generic imagery. As both Asda and Tesco sell a variety of products from their own brands and others, it is difficult to identify a specific product which may be tied to a specific food and drink company.⁷⁹⁸⁰
 - The ASA guidelines would suggest that these adverts **may not** in breach. The OHA believe that these adverts **should be** in breach due to sufficient prominence of Less healthy food and drink products.

Implications for child health

As shown in this snapshot analysis, children see a large volume of adverts in a short space of time. It is important that **all** less healthy food products are clearly aligned with the ASA proposed guidelines for the implementation of the 'less healthy food and drink'. This includes adverts that are for generic products, are not SKU identifiable, on behalf of others, those that fall within a product category range or variant, or are not 'sufficiently prominent'.

If children are only prevented from seeing such a small selection of less healthy product advertising, the policy will be less effective, and not adequately protect children's health, as the government intended by introducing these new regulations.

⁷⁷ YouTube (2024) Just Eat <https://www.youtube.com/watch?v=mJqG8YIPRh0&t=3s>

⁷⁸ YouTube (2024) Deliveroo Pizza Ad <https://www.youtube.com/watch?v=txQJJygYm0c>

⁷⁹ YouTube (2024) Asda 2023 Christmas advert with Michael Bublé <https://www.youtube.com/watch?v=ipZzvBCn3Qc>

⁸⁰ YouTube (2024) Tesco Party Food <https://www.youtube.com/watch?v=Qa8cl9mDMnA>