

Nuffield Council on Bioethics

Response to the House of Lords Select Committee on Food, Poverty, Health, and the Environment

12 September 2019

- 1 The Nuffield Council's response to the Select Committee's consultation draws on the conclusions and recommendations of our 2007 report *Public health: ethical issues*, which considers the ethical and social issues that arise when designing measures to improve public health.¹
- 2 Our response focuses on the report's case study on a public health approach to obesity, and on the general principles that we believe should underpin public health policy in this area.

Background

- 3 The 2007 report sets out the duty of the state to provide conditions that allow people to lead a healthy life. Everyone should have a fair opportunity to lead a healthy life, and therefore governments should try to remove inequalities that affect disadvantaged groups or individuals. To support this duty, our report proposes a 'stewardship model' that outlines ethical principles that should be considered by public health policy-makers; and sets out a series of public health goals (see **Appendix 1** below for a summary of the stewardship model). In seeking to attain appropriate public health goals, the state should minimise the degree of intrusion or coercion in people's private lives and choices.
- 4 Our report also presents an 'intervention ladder' (see **Appendix 2** below, and **Box 3.2** in our report) as a way of thinking about the acceptability and justification of different public health policies. Any intervention should be proportionate to the effect that it is intended to achieve, and should be supported by evidence (or, in the absence of robust evidence, should be accompanied by an evidence-gathering programme). Interventions that are higher up the ladder are more intrusive and therefore require a stronger justification.
- 5 It should be noted that the public health model described in the report does not only entail responsibilities for central government. Other actors, including local government, industry, and individuals, also have responsibilities for helping people secure healthy lives.

Response

Question 2: What are some of the key ways in which diet (including food insecurity) impacts on public health? Has sufficient progress been made on tackling childhood obesity and, if not, why not?

- 6 Epidemiological research indicates that obesity is an important risk factor for a wide range of chronic diseases, including type 2 diabetes, hypertension, coronary heart disease, stroke, osteoarthritis, some cancers, respiratory dysfunction, liver dysfunction, gall-

¹ Nuffield Council on Bioethics (2007) *Public health: ethical issues*, available at: <http://nuffieldbioethics.org/project/public-health>.

bladder diseases, and metabolic syndromes.² In England, the majority of adults (64%) are either overweight or obese.³

- 7 Sufficient progress has not been made on tackling childhood obesity. It remains a serious public health concern, with over a fifth of children in England in reception year and over a third of year 6 children either overweight or obese. Since the publication of our report in 2007, the prevalence of obesity is slightly lower for reception children, but higher for year 6 over the same time period (in England). Between 2006-7 and 2017-8, the gap between obesity prevalence in children living in the most and least deprived areas has increased. In both reception year and year 6, obesity prevalence was over twice as high in the most deprived areas compared with the least deprived areas.⁴

Question 4: What role can local authorities play in promoting healthy eating in their local populations, especially among children and young people, and those on lower incomes? How effectively are local authorities able to fulfil their responsibilities to improve the health of people living in their areas? Are you aware of any existing local authority or education initiatives that have been particularly successful (for example, schemes around holiday hunger, providing information on healthy eating, or supporting access to sport and exercise)?

- 8 Schools provide an important means of influencing many of the sociocultural factors that have a lasting impact on both food choices and exercise habits. They have a prominent role in the community, are a source of support for parents and families, and can produce community change in environments, knowledge, and behaviour. It is therefore appropriate for schools to seek to positively influence the food and exercise habits of children. Children's choices are generally constrained by their situation and the choices of the adults around them: the state therefore has an additional role in making healthier choices available to them. This could include supporting schools to achieve a more positive culture towards food, cooking, and physical activity.
- 9 Planning decisions by local authorities should include the objective of encouraging people to be physically active. This may entail some restrictions on people's freedoms, for example to drive anywhere they wish to, but these restrictions could be justified by reference to public health benefits.
- 10 Initiatives that have been successful in promoting healthy eating among children and young people in particular include that undertaken by Leeds City Council. In May 2019, Leeds reported data that indicated that it had become the first city in the UK to lower its childhood obesity rate, particularly among families living in the most deprived areas of the city, with the biggest decline noted for children in reception class. The city employed the Henry programme, which uses authoritative parenting to give children choices while parents remain 'in charge': for example, "instead of being asked what vegetable they want

² See, for example, WHO (2018) *Obesity and overweight*, available at: <https://www.who.int/news-room/fact-sheets/detail/obesity-and-overweight>; and Chooi YC, Ding C, and Magkos F (2019) The epidemiology of obesity *Metabolism - Clinical and Experimental* **92**: 6-10. See also: Larqué E, Labayen I, Flodmark C-E *et al.* (2019) From conception to infancy – early risk factors for childhood obesity *Nature Reviews Endocrinology* **15(8)**: 456-78.

³ NHS Digital (2019) *Statistics on obesity, physical activity and diet, England, 2019*, available at: <https://digital.nhs.uk/data-and-information/publications/statistical/statistics-on-obesity-physical-activity-and-diet/statistics-on-obesity-physical-activity-and-diet-england-2019/part-4-childhood-obesity>.

⁴ Ibid.

with dinner, children might be asked whether they would like carrots or broccoli.”⁵ Internationally, Amsterdam has also made impressive progress in reducing its levels of childhood obesity as a result of its healthy-weight programme.⁶

- 11 In September 2018, the Department of Health and Social Care invited local authorities to apply to its Trailblazer programme for funding for proposals to tackle childhood obesity in local areas.⁷ Five local authorities received funding.⁸ Following-up the success of these schemes will, we suggest, be important to any future assessment of childhood obesity reduction in England.

Question 5: What can be learnt from food banks and other charitable responses to hunger? What role should they play?

- 12 While the voluntary sector has an important role to play (for example, by contributing to the public health policy process through responses to consultations), it should not be a substitute for the state’s responsibility to enable its citizens to lead healthy lives.

Question 7: What impact do food production processes (including product formulation, portion size, packaging and labelling) have on consumers’ dietary choices and does this differ across income groups?

- 13 A complex mix of factors contribute to weight gain. At a simplistic level, weight gain occurs when more energy is consumed than expended and the excess energy is laid down as fat. However, the underlying factors that contribute to the increase of obesity at the population level are not well understood. There are several hypotheses relating to food production processes to explain what might have changed in the previous decades to lead to an intake on the energy side of the equation:

- The energy density of food has increased, and this ‘short-circuits’ normal satiety mechanisms.
- Food, especially food high in fat and sugar, has become cheaper and more available.
- People are eating more processed food and are less aware of their nutrient content. Processed food may have a higher fat and sugar content than that prepared in the home.
- Portion sizes have increased.
- Energy-dense foods are heavily marketed and advertised, especially to children.

⁵ The Guardian (1 May 2019) *Leeds becomes first UK city to lower its childhood obesity rate*, available at: <https://www.theguardian.com/world/2019/may/01/leeds-becomes-first-uk-city-to-lower-its-childhood-obesity-rate>. See also: <https://www.henry.org.uk>.

⁶ Between 2012-15, there was a 12% fall in the number of overweight children living in Amsterdam. See: BBC News (2 April 2018) *How Amsterdam is reducing child obesity*, available at: <https://www.bbc.co.uk/news/health-43113760>. See also: Obesity Policy Research Unit (2017) *What can be learned from the Amsterdam Healthy Weight programme to inform the policy response to obesity in England?*, available at: <https://www.ucl.ac.uk/obesity-policy-research-unit/sites/obesity-policy-research-unit/files/what-learned-from-amsterdam-healthy-weight-programme-inform-policy-response-obesity-england.pdf>.

⁷ Local Government Association (2019) *Childhood Obesity Trailblazer Programme*, available at: <https://www.local.gov.uk/childhood-obesity-trailblazer-programme>.

⁸ The five authorities are: Birmingham City Council, Pennine Lancashire Consortium of Local Authorities, City of Bradford Metropolitan District Council, London Borough of Lewisham, and Nottinghamshire County Council.

- Processed food is often low in protein, and it is thought that the body may regulate protein intake more precisely than fat and carbohydrate. In attempting to increase protein intake, excess carbohydrate and fat is taken in as a side effect.⁹
- 14 Consumers' choices of food and drink are at least partly driven by the products available and the way they are promoted, priced, and distributed. There is therefore a strong case for clear and consistent labelling so that people know what food products they are choosing. Readily-understandable food labelling might also exert pressure from consumers on manufacturers to produce healthier products, or on shops to stock a wider range of products.
- 15 In developed countries, obesity is more prevalent in lower income and in lower socioeconomic groups and in certain minorities. Research suggests that calories contained in healthier food choices are up to three times the cost per calorie than unhealthy food.¹⁰

Question 7: What impact do food outlets (including supermarkets, delivery services, or fast food outlets) have on the average UK diet? How important are factors such as advertising, packaging, or product placement in influencing consumer choice, particularly for those in lower income groups?

- 16 The availability, promotion, and presentation of food through sales outlets can significantly affect diet. For example, fast food consumption is associated with increased BMI, the likelihood of obesity, and high fat-to-body ratios. Those who live near fast food outlets are more likely to consume fast food,¹¹ and the UK has seen a 34% increase in fast food outlets from 2010 to 2018.¹²

Question 8: Do you have any comment to make on how the food industry might be encouraged to do more to support or promote healthy and sustainable diets? Is Government regulation an effective driver of change in this respect?

- 17 There is a complex web of responsibility for public health, of which genuine corporate social responsibility (CSR) is a key part. If CSR is taken seriously, interventions by the state – for example, the introduction of a sugar tax (see paragraph 21 below)¹³ – might not be necessary. We therefore suggest that the food industry has a responsibility to help individuals make healthier choices, and should review the composition of products they manufacture, and the ways they are marketed and sold. Where the industry fails to uphold its responsibilities, whether through reformulating products or adopting easy-to-read packaging across the sector, regulation by the Government is ethically justified.¹⁴

⁹ Nuffield Council on Bioethics (2007) *Public health: ethical issues*, available at: <http://nuffieldbioethics.org/wp-content/uploads/2014/07/Public-health-ethical-issues.pdf>, at paragraph 5.7.

¹⁰ POST (2016) *Barriers to healthy food*, available at <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/POST-PN-0522>.

¹¹ Burgoine T, Forouhi NG, Griffin SJ *et al.* (2014) Associations between exposure to takeaway food outlets, takeaway food consumption, and body weight in Cambridgeshire, UK: population based, cross sectional study *BMJ* **348**: g1464.

¹² BBC (2018) *More takeaways on high street despite anti-obesity push*, available at: <https://www.bbc.co.uk/news/uk-45875294>.

¹³ HM Treasury (5 April 2018) *Soft drinks industry levy comes into effect*, available at: <https://www.gov.uk/government/news/soft-drinks-industry-levy-comes-into-effect>.

¹⁴ Nuffield Council on Bioethics (2007) *Public health: ethical issues*, available at: <http://nuffieldbioethics.org/wp-content/uploads/2014/07/Public-health-ethical-issues.pdf>, at paragraphs 2.47-2.50, and 5.25.

- 18 There have been a number of voluntary initiatives directed at the food industry to create healthier products, primarily aimed at reducing sugar, salt, saturated fats, and/or trans-fats. Many of these voluntary initiatives have shown that much can be achieved through self-regulation. For example, seven-to-eight years after the introduction of the Food Standards Agency's voluntary salt reduction programme, the salt content of many food products was reduced through reformulation, alongside the introduction of a number of low-salt versions of products to the market.¹⁵ However, later figures published by Public Health England showed a more mixed picture for the food industry's progress in meeting the Government's salt reduction targets: for 'at home' products, just over half of all average salt reduction targets were met, with retailers making more progress than manufacturers. For the out-of-home sector, salt levels were noted to be generally higher than for products consumed at home.¹⁶ On the relationship between government and industry, Public Health England have also found that 90% of people support the Government working with the food industry to make food healthier (particularly in the context of sugar and calorie reduction).¹⁷
- 19 For all the merits of voluntary initiatives, there are a number of factors that can interfere with them: government changes, departmental shifts within government, changes in public opinion, resistance from industry, or the state of the economy, to name a few examples. Effective obesity strategies are likely to be implemented over a long period of time.
- 20 A leading argument against interventions high up the ladder is that they hinder an individual's personal freedoms or autonomy: regulation might be perceived as the product of a 'nanny state' telling people what to eat or drink. However, the notion of individual choice is difficult to apply in relation to obesity, since people's behaviour 'choices' may be heavily influenced by other factors: for example, what consumers choose to eat is partly influenced by the products available and the way they are promoted, priced, and distributed.¹⁸
- 21 Our intervention ladder suggests a way of thinking about the acceptability and justification of public health policies. The higher up the ladder, the more intrusive the policy and therefore, the stronger the justification has to be. Much can be achieved through self-regulation of the industry. However, where self-regulation fails to deliver, regulation can be necessary as an effective driver of change. A key example of this is the introduction of

¹⁵ MacGregor GA, He FJ, and Pombo-Rodrigues S (2015) Food and the responsibility deal: how the salt reduction strategy was derailed *BMJ: British Medical Journal* **350**: h1936.

¹⁶ Public Health England (19 December 2018) *New report shows mixed progress by food industry to reduce salt*, available at: <https://www.gov.uk/government/news/new-report-shows-mixed-progress-by-food-industry-to-reduce-salt>.

¹⁷ Public Health England (20 November 2018) *Overwhelming public support for sugar and calorie reduction*, available at: <https://www.gov.uk/government/news/overwhelming-public-support-for-sugar-and-calorie-reduction>.

¹⁸ See, for example, Kotler JA, Schiffman JM, and Hanson KG (2012) The influence of media characters on children's food choices *Journal of Health Communication* **17(8)**: 886-98; Sacco J, Lillico HG, Chen E *et al.* (2016) The influence of menu labelling on food choices among children and adolescents: a systematic review of the literature *Perspectives in Public Health* **137(3)**: 173-81; Pitt E, Gallegos D, Comans T *et al.* (2017) Exploring the influence of local food environments on food behaviours: a systematic review of qualitative literature *Public Health Nutrition* **20(13)**: 2393-405; and Alvarez D, Zein AE, Vilaro M *et al.* (2019) P137 food insecure students identify price as the most important determinant of their food choices *Journal of Nutrition Education and Behavior* **51 (supplement 7)**: S94.

an industry levy (or ‘sugar tax’) for drinks that contain high levels of sugar. The drinks industry failed to act to reduce sugar levels, and the Government consequently intervened.¹⁹ The Government’s intervention was successful: between the announcement of the levy in 2016 and its introduction in 2018, over 50% of manufacturers reformulated their drinks to have a lower sugar content.²⁰ Research from the University of Sheffield also indicates that the levy has led to a 30% reduction in sales of sugary drinks.²¹

Question 12: A Public Health England report has concluded that “considerable and largely unprecedented” dietary shifts are required to meet Government guidance on healthy diets. What policy approaches (for example, fiscal or regulatory measures, voluntary guidelines, or attempts to change individual or population behaviour through information and education) would most effectively enable this? What role could public procurement play in improving dietary behaviours?

- 22 There is no silver bullet to combat obesity. Effective strategies are likely to incorporate many small changes implemented over a long time period by several different agencies.
- 23 Evidence suggests that policies designed to prevent obesity, rather than ‘cure’ obesity, are effective and may also be cost-effective.²² A review into interventions to prevent childhood overweight and obesity found that school-based interventions with combined diet and physical activity components and a home element had the greatest effectiveness in preventing childhood overweight and obesity.²³ Our report recommends that the UK Government departments responsible for food, health, and education should develop coordinated long-term strategies for schools with the aim of preventing obesity and changing food and exercise culture, accompanied by monitoring and follow-up.²⁴
- 24 Our report also highlights evidence that shows that children’s early diet has a long-term impact on health. We observe that children may be particularly susceptible to external influences, including marketing by the food and drink industry, and suggest that it would be desirable not to advertise to children foods and drinks high in fat, salt, and sugar (HFSS) by any medium (paragraphs 5.22-3). We welcome recent debates on advertising HFSS, and the work of the Advertising Standards Authority to introduce restrictions on HFSS advertising.²⁵ In April 2019, however, in response to the Department of Health and Social Care’s consultation on restricting promotions of HFSS by location and price²⁶ we noted the Department’s observation that consistent sector-wide action to restrict such

¹⁹ HM Treasury (5 April 2018) *Soft drinks industry levy comes into effect*, available at: <https://www.gov.uk/government/news/soft-drinks-industry-levy-comes-into-effect>.

²⁰ Ibid.

²¹ The University of Sheffield (8 June 2018) *Sugar tax initiative leads to 30 per cent reduction in sales of sugary drinks, study finds*, available at: <https://www.sheffield.ac.uk/news/nr/sugar-tax-initiative-policy-sugary-drinks-impact-health-wellbeing-study-1.785230>

²² See: Brown T, Kelly S, and Summerbell C (2007) Prevention of obesity: a review of interventions *Obesity Reviews* **8(S1)**: 127-30.

²³ Bleich SN, Vercammen KA, Zatz LY *et al.* (2018) Interventions to prevent global childhood overweight and obesity: a systematic review *The Lancet Diabetes & Endocrinology* **6(4)**: 332-46.

²⁴ Nuffield Council on Bioethics (2007) *Public health: ethical issues*, available at: <http://nuffieldbioethics.org/wp-content/uploads/2014/07/Public-health-ethical-issues.pdf>, recommendation 9 (paragraph 5.36).

²⁵ ASA (27 June 2017) *Food: HFSS overview*, available at: <https://www.asa.org.uk/advice-online/food-hfss-overview.html>.

²⁶ DHSC (2019) *Consultation: restricting promotions of food and drink that is high in fat, sugar and salt*, available at: <https://www.gov.uk/government/consultations/restricting-promotions-of-food-and-drink-that-is-high-in-fat-sugar-and-salt>.

promotions is not possible through voluntary measures. We therefore concluded that the Government would be ethically justified in introducing legislation to address this issue.²⁷

- 25 There is a strong case for clear labelling of food so people can easily understand what they are choosing. The food industry has an ethical duty to help consumers make healthier choices and if they fail to provide universal, readily understandable front-of-pack nutrition labelling, regulation is justified.

Contact

Hugh Whittall

Director

hwhittall@nuffieldbioethics.org

²⁷ Nuffield Council on Bioethics (16 April 2019) *Response to the Department of Health and Social Care's consultation on restricting promotions of products high in fat, sugar, and salt by location and price*, available at: <http://nuffieldbioethics.org/wp-content/uploads/Response-from-the-Nuffield-Council-on-Bioethics-DHSC-promotion-of-HFSS-foods.pdf>.

Appendix 1: The stewardship model

Acceptable public health goals include:

- reducing the risks of ill health that result from other people's actions, such as drink-driving and smoking in public places
- reducing causes of ill health relating to environmental conditions, for instance provision of clean drinking water and setting housing standards
- protecting and promoting the health of children and other vulnerable people
- helping people to overcome addictions that are harmful to health or helping them to avoid unhealthy behaviours
- ensuring that it is easy for people to lead a healthy life, for example by providing convenient and safe opportunities for exercise
- ensuring that people have appropriate access to medical services
- reducing unfair health inequalities.

At the same time, public health programmes should:

- not attempt to coerce adults to lead healthy lives
- minimise the use of measures that are implemented without consulting people (either individually or using democratic procedures)
- minimise measures that are very intrusive or conflict with important aspects of personal life, such as privacy.

Appendix 2: The intervention ladder

Eliminate choice: regulation in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious diseases.
Restrict choice: regulation in such a way as to restrict the options available to people with the aim of protecting them, for example removing unhealthy ingredients from foods, or unhealthy foods from shops or restaurants.
Guide choice through disincentives: fiscal and other disincentives can be put in place to influence people not to pursue certain activities, for example through taxes on cigarettes, or by discouraging the use of cars in inner cities through charging schemes or limitations of parking spaces.
Guide choices through incentives: regulations can be offered that guide choices by fiscal and other incentives, for example offering tax-breaks for the purchase of bicycles that are used as a means of travelling to work.
Guide choices through changing the default policy: for example, in a restaurant, instead of providing chips as a standard side dish (with healthier options available), menus could be changed to provide a more healthy option as standard (with chips as an option available).
Enable choice: enable individuals to change their behaviours, for example by offering participation in an NHS 'stop smoking' programme, building cycle lanes, or providing free fruit in schools.
Provide information: inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day.
Do nothing or simply monitor the current situation