

## Response to the Scottish Government's consultation on 'Reducing health harms of foods high in fat, sugar or salt'

January 2019

- 1 The Council's response draws on the conclusions and recommendations of our report [Public health: ethical issues](#), published in 2007, which considers the ethical and social issues that arise when designing measures to improve public health.<sup>1</sup> Our response focuses particularly on one of the case studies addressed in our report, which discusses a public health approach to obesity, and the general principles that we believe should underpin any public health policy. Our response does not address practical aspects of the Scottish Government's inquiry, but we have responded below to selected questions.

### Background

- 2 Our report takes the position that the state has a duty 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 position, our report proposes a 'stewardship model' that outlines the 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), and presents an 'intervention ladder' (see **Appendix 2** below, and Box 3.2 in our report) as a useful way of thinking about the acceptability and justification of different public health policies. Interventions that are higher up the ladder are more intrusive and therefore require a stronger justification.

### **Question 1. To what degree do you agree or disagree that mandatory measures should be introduced to restrict the promotion and marketing of foods high in fat, sugar or salt to reduce health harms associated with their excessive consumption?**

- 3 We agree that the state is ethically justified in introducing mandatory measures to restrict the promotion and marketing of foods high in fat, sugar, or salt to reduce health harms associated with their excessive consumption.
- 4 Under the stewardship model, the state has an ethical duty to provide conditions that allow people to lead a healthy life. Food and drinks businesses also have an ethical duty to help individuals make healthier choices and minimise the potential harms of their products. We agree with the statement outlined in 2.7 of your consultation document: while much can be achieved through voluntary

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

measures, if industry fails to adequately deliver on its duties, then the state could be ethically justified in intervening: for example, by regulating the advertising and marketing of unhealthy foods and drinks.

- 5 We welcome the Scottish Government's plan to restrict broadcast and non-broadcast advertising of HFSS foods to children. We suggest that, given the potential vulnerability of children, under the stewardship model public health policies should pay special attention to the health and wellbeing of children and other vulnerable people. Our report highlights evidence that shows that children's early diet has a long-term impact on health, and observes that children may be particularly susceptible to external influences, including marketing by the food and drink industry.<sup>2</sup>
- 6 This answer can also be applied to **question 6** on the approach the Scottish Government is proposing to take to restrict forms of promotion and marketing outlined in section 5.

**Question 7. Should the restrictions apply to any place where targeted foods are sold to the public, except where they are not sold in the course of business (e.g. charity bake sales)?**

- 7 Where possible, restrictions should be applied to any place where targeted foods are sold to the public in the course of business. Corporate social responsibility does not just apply to food retail businesses, but also the 'out of home' sector and other outlets where food is sold on a commercial basis.<sup>3</sup>

**Question 8. Please comment on whether, and if so to what extent, restrictions should be applied online.**

- 8 The justifications for restricting the promotion and marketing of foods high in fat, sugar, or salt to reduce health harms set out above would also apply to online purchases, where this is feasible.

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<sup>2</sup> Nuffield Council on Bioethics (2007) *Public health: ethical issues*, see paragraphs 5.22-23.

<sup>3</sup> Nuffield Council on Bioethics (2007) *Public health: ethical issues*, see paragraph 5.25.

## **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

<b>Eliminate choice:</b> regulation in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious diseases.
<b>Restrict choice:</b> 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.
<b>Guide choice through disincentives:</b> 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.
<b>Guide choices through incentives:</b> 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.
<b>Guide choices through changing the default policy:</b> 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).
<b>Enable choice:</b> 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.
<b>Provide information:</b> 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.
<b>Do nothing or simply monitor the current situation</b>