

Appendix A

Proposed Policy to control the advertising of High Fat Sugar and Salt (HFSS) products

Background to proposals

On the 7th of April 2022 full Council agreed a Notice of Motion seeking to obtain data about fast food & energy drink advertising on council properties. The Notice of Motion was subsequently referred to the 14 June 2022 meeting of the Adult Social Care & Public Health Sub-Committee where members agreed that an officer working group should be established to look at this issue, and that the group should report to the 08 November 2022 Health & Wellbeing Board meeting with proposals to improve Council policies in regard of advertising these products.

On the 8th November 2022 the Health & Wellbeing Board (which had a remit including matters relating to the Clinical Commissioning Group (CCG), the Local Safeguarding Board for Children and Adults and Healthwatch) recommended to the Policy and Resources Committee that a decision be taken to implement restrictions to the advertisement of high fat salt and sugar (HFSS) food and drinks on council owned and managed advertising space, this includes advertisement on the transport / bus system and other hoardings.

Why is the Council considering control of HFSS advertising?

Childhood obesity and overweight levels in Brighton and Hove have risen over the last few years. One in three 11-year-olds leaves primary school already overweight or obese. In some schools in the city this rises to one in two.

Nationally two out of three adults are overweight or obese, this brings with it a risk of diabetes, many cancers, heart disease and other health problems affecting our residents. Those children and adults living in more disadvantaged parts of our city have a higher chance of not being a healthy weight and suffering from the health problems that brings.

Advertising of foods that are high in fat salt and sugar has been shown to significantly increase purchase and consumption of these items. National evidence shows the relationship between the advertisement of unhealthy foods and more deprived areas. Restricting advertisements for these foods has been recommended as one of a range of evidence-based measures to reduce consumption of high calorie and less healthy food options, reducing the risk of obesity amongst children and adults. ¹

¹ Thomas, C., Breeze, P., Cummins, S. *et al.* The health, cost and equity impacts of restrictions on the advertisement of high fat, salt and sugar products across the transport for London network: a health

There is currently a restriction on advertising fast food takeaways within 100 metres of any school or youth club, NHS building, or public sector building/premises/facility/park/leisure centre primarily used by those under the age of 18 (or their guardian or carers).

The main feature of an HFSS advertising policy would be that it would ban the direct or indirect promotion of HFSS food and drink as defined by the UK Nutrient Profiling Model (NPM), but would not ban directional adverts e.g., “McDonald restaurant 200m left” or an advert purely showing a “healthy” product.

Application of proposed policy

This policy applies to:

- Council owned outside advertising sites (e.g., Bus Shelters, advertising hoardings)
- Advertisements at Brighton & Hove Council premises open to the public

The incumbent provider is aware that the Council are reviewing HFSS advertising and are happy to work with the Council, however both sides would have to agree to a contract amendment and sufficient notice would be required. It is highly unlikely that the incumbent provider would agree to a change in contract terms without requiring a discount of the concession fee, so it proposed that the policy is introduced into the specification for the next tender.

In addition, advertising space on hoardings is leased by the council estates team at five different sites across the city.

Private (non-council) advertising sites

The policy will only apply to council owned advertising sites. There are numerous advertising sites and displays both on and adjacent to the public highway. For example there are about 30 free standing digital advertising panels which are former BT phone boxes now managed by One Digital, some are within several metres of a bus shelter. These adverts cannot be controlled by the policy and so there could be a situation where a branded HFSS product was displayed within a few metres of similar branded non HFSS product blunting the impact of the policy on public health. The same applies to advertisements in shops and other premises facing the highway.

This conflict would have to be accepted until and unless there was comparable national legislation on the control of HFSS advertising in both the public and private realms.

How would the introduction of an HFSS policy fit in with the process and timescale for retendering the Bus Shelter Concession contract?

If the new policy was approved at Strategy, Finance and City Regeneration Committee on 7th December 2023 then it could be applied to the tender specification for the concession retendering. The current temporary contract is due to expire in March 2024 but will be extended to allow for the retendering timescales.

The preferred procurement approach for this procurement using the Open Procedure in accordance with the requirements of the Public Contracts Regulations 2015 (SI2015/102)] For a contract of this level of complexity the process usually takes up to 12 months which does not include a six-month mobilisation period for the preferred bidder.

Details of Proposed HFSS advertising policy

Purpose:

The policy details guidance relating to restrictions of High Fat, Salt, or Sugar (HFSS) products and requirements for advertising or sponsorship approvals.

Acknowledgement:

The contents and criteria of this policy have been adapted from the HFSS Guidance Policy published by Barnsley Metropolitan Borough Council, Bristol City Council and the London boroughs of Greenwich, Southwark, Haringey, and Merton.

General Principles: The Nutrient Profiling Model

The UK Nutrient Profiling Model (NPM) has been identified as the best way of identifying food that is high in fat, salt, or sugar. It has been subject to rigorous scientific scrutiny, extensive consultation, and review. It is supported by the independent Scientific Advisory Committee on Nutrition (SACN) and a wide range of nutrition experts. The scoring system it uses balances the contribution made by beneficial nutrients important in children's diets with food components that children should eat less of. [OBJ]

Guidance on how to identify whether a product is considered HFSS under the NPM is available [here](#).

Exceptions

In rare situations, an exception will allow a product not thought to make a substantial contribution to childhood obesity although deemed unsuitable by the NPM to be approved for advertising (for example Olive Oil).

Content featuring only non HFSS products:

This is approved, unless existing restrictions on advertising apply, for example:

Current guidance

Advertisements for alcoholic drinks should not feature in promotions directed at people under 18. Advertising for alcoholic beverages should not be sited within 100 meters of any school.

Existing restrictions include adverts for fast food takeaways within 100 metres of a school.

Content featuring only HFSS products:

Where a proposed advertisement features only food and/or non-alcoholic drink, which is rated HFSS, such advert would be rejected.

Content featuring a range of food and/or drink products, some of which is HFSS:

The advertising or promotion of HFSS products is unacceptable under the policy, so a range or meal could not feature them (e.g., individual items could only be advertised if all individual products were non-HFSS). This would also apply to any meal or eating settings being shown, including those for restaurants, aggregator platforms and delivery services.

Content featuring no food or drink directly, but the advertisement is from (or features) a food/drink brand:

This includes:

- Advertisements where the brand's logo is included but no products, such as a brand values campaign (e.g., *X brand which is well known for fast food, or a high energy drink has a prominent advertisement without showing any food or drink*).
- Directional signage to a store, app, or website
- Promotional advertising which is price-led but features no products, e.g., "50% off everything"
- Advertising about a business or its performance
- Slides delivered by a sponsor at an event sponsored by a food or drink brand products) as the basis of the advert.

Food and drink brands (including food and drink service companies or ordering services) will only be able to place such advertisements if it promotes healthier options (i.e., non-HFSS products) as the basis of the copy.

Where advertisers and/or sponsors or advertising space contract holders are uncertain about the classification of proposed copy under these guidelines, they should discuss this with the council through the councils the communications team.

Advertisements or other content where food and drink are shown 'incidentally' i.e., it is not the subject of the advertisement but is included (or implied) by visual or copy

HFSS products should not be promoted by being featured in advertisements for other products. It is the responsibility of advertisers and/or sponsors and their agents to verify the HFSS status of featured products using the [NPM](#)

Advertisements or other content where food and drink are referenced in the text, or through graphical representations or other visual representation contains indirect promotion of HFSS food and/or drink

HFSS products should not be promoted through textual references, graphic images, or other visual representations. Where a food or drink item is featured in this way and does not relate to a specific identifiable product which can be assessed for its HFSS status, copy may be rejected by the council on the basis that it promotes the consumption of HFSS foods.

Indirect promotion of HFSS food and/or drink

Where a product is non-HFSS but falls within a category covered by the Office for Health Improvement and Disparities (OHID - formerly PHE (Public Health England)) [recommendations for sugar and calorie reduction](#), the product should always carry a

prominent product descriptor to help differentiate it from non-compliant products (e.g. an advertisement featuring a non-HFSS burger or ice cream should include prominent text that accompanies the image naming the specific product and retailer). It is the responsibility of the advertiser and/or sponsor to determine whether products fall into a category covered by the OHID recommendations for sugar and calorie reduction.

Children should not usually be shown in advertisements for products which are compliant in a category which is covered by OHID's recommendations for sugar or calorie reduction.

Portion sizes: The NPM model is based on nutrients per 100g of a product, rather than recommended portion size. Advertisers should always ensure that they promote products in portion sizes which encourage healthy eating. For products that are non-HFSS but fall within a category covered by PHE's recommendations for sugar or calorie reduction, the product should be displayed as a single portion.

If advertisers, sponsors, and/or agencies are unsure about how to interpret this, or any other aspect of these guidelines, they are encouraged to contact the council or its agents and work together on a solution to avoid submitted copy requiring changes or being rejected.

Example decision table:

The content and criteria within this document have been adapted from the HFSS Policy Guidance Note published by Barnsley Metropolitan Borough Council

Advertising Content	Examples	Outcome	Notes
Only non HFSS products advertised	Fruit and vegetables, low sugar- wholegrain cereal	Approved	Subject is compliant with HFSS policy
Only HFSS products	Deep fried chicken burger with mayonnaise, large fries, high-sugar drinks, and ice cream	Rejected	Subject is not compliant with HFSS policy – advertiser can promote healthier product such as grilled chicken wrap with fresh vegetables, water and fruit and include the name of the business.
A range of products some of which are HFSS	An advertisement that features a shopping basket with fruit, vegetables, ice cream and high sugar drinks	Rejected	All food and drink items must be HFSS compliant – Instead, the shopping basket could contain e.g., fresh fruit, vegetables, a loaf of bread, lentils, a yoghurt, and water and include the name of the retailer.

<p>No food or drink directly displayed but the advertisement is from (or features) a food/drink brand</p>	<p>A fast-food business promoting non-HFSS products such as fruit, vegetables, water, low sugar drink etc. (APPROVED)</p> <p>A fast-food business promoting a HFSS product such as high sugar ice cream and drink (REJECTED)</p>	<p>Possibly approved – depends on the product featured.</p>	
<p>Food and/or drink is shown ‘incidentally’ as part of an advert</p>	<p>A financial services advertisement, featuring a beach with ice cream (REJECTED)</p> <p>A financial services advertisement, featuring a beach with fruit (APPROVED)</p>	<p>Possibly approved – depends on the product featured.</p>	
<p>Food and drink are referenced in the text, through graphical representations or other visual representation (not a real product being advertised)</p>	<p>A cartoon image of a banana (Approved)</p> <p>A cartoon image of a milk chocolate bar (REJECTED)</p>	<p>Possibly approved – depends on the product featured.</p>	<p>If the advertisement can be reasonably considered to promote HFSS products it will be rejected regardless of whether the food is an actual product.</p>
<p>Indirect promotion of HFSS food and/or drink</p>	<p>A non-HFSS soft drink with a prominent text that accompanies the image naming the specific product/retailer. (APPROVED)</p> <p>A non-HFSS soft drink without a prominent text that accompanies the image naming the specific product/retailer. (REJECTED)</p>	<p>Possibly approved – only if prominent text accompanies the image naming the product and retailer</p>	<p>A prominent product descriptor helps to differentiate it from non-compliant products. This is necessary where the product falls into a category typically associated with HFSS products (such as soft drinks).</p>