NHS England

Action to reduce sales of sugar-sweetened drinks on NHS premises

Consultation document
Publication date: 09 November 2016
Closing date for comments: 18 January 2017

Equality and Health Inequalities statement

Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and

Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities

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Additional Circulation List	
Description	A new set of potential policies that will apply to any vendor of sugar-sweetened beverages on NHS premises. This consultation sets out two different proposals, and seeks alternative proposals, for reducing the sales of sugar-sweetened beverages in NHS Trusts and Foundation Trusts. We are now asking for views on these proposals, and other alternatives, to help determine the design of the policy.
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Contact Details for further information	Strategy Group Skipton House 80 London Road, SE1 6LH england.healthyworkforce@nhs.net

Document Status

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Consultation details

Subject of this consultation:	A new set of potential policies that will apply to any vendor of sugar-sweetened beverages on NHS premises.
Scope of this consultation:	This consultation sets out two different proposals, and seeks alternative proposals, for reducing the sales of sugar-sweetened beverages in NHS Trusts and Foundation Trusts. We are now asking for your views on these proposals, and other alternatives, to help determine the design of the policy.
Who should read this:	Individuals or organisations that may be directly affected by the policies being consulted on or that have a particular interest in the policy scope and health objectives. Specifically, this includes patients (and their representatives), NHS staff, NHS organisations, vendors of sugar-sweetened drinks on NHS premises and organisations with relevant expertise in the improvement of employee/public health and wellbeing.
Duration:	10 weeks, starting on 09 November 2016 and ending on 18 January 2017. The UK Government's Soft Drinks Industry Levy consultation period lasted for 8 weeks. We have based our consultation period on similar timelines but have extended the period by 2 further weeks taking into account that the consultation period falls over the Christmas period.
How to respond or enquire about this consultation:	Please email enquiries and responses to: england.healthyworkforce@nhs.net
After the consultation:	Responses will be taken into account and considered fully before deciding the final policy. Depending upon the outcome we will carry out a further consultation on a National Variation to the NHS Standard Contract. Depending on the outcome of the consultation a final National Variation for implementation by NHS commissioners and providers.
Getting to this stage and previous engagement:	NHS England has worked closely with 4 hospitals and their relevant food outlets to design, implement and evaluate trials. An initial informative consultation also took place via the NHS Standard Contract consultation from 22 September to 21 October 2016 which has helped inform the policies set out in this document.

Contents

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact 0300 311 22 33 or email england.contactus@nhs.net

1 The case for action

Obesity is a significant and growing problem in England and already places a high cost on individuals and society. The prevalence of obesity among adults in England rose from 14.9% to 25.6% between 1993 and 2014[1]. Nearly a third of children aged 2-15 are overweight or obese[2]. The direct cost to the NHS includes £6.1 billion a year on overweight and obesity-related ill health[3]. Type II Diabetes, one of the main consequences of obesity, costs the NHS £8.8 billion annually[4]. If action is not taken to curb rising obesity rates, by 2050 nearly 60% of adult men, 50% of adult women and 25% of children will be obese[5].

Excess calorie consumption, which increases the risk of weight gain and obesity, has been shown to be linked to high sugar intake[6]. According to the World Health Organisation, national dietary surveys suggest that drinks containing high amounts of free sugars can be a major source of unnecessary calories in people's diets, particularly in children and young adults[7].

Soft drinks (excluding fruit juice) are one of the largest sources of sugar in adults, and the largest single source of sugar for children aged 11 to 18 years, providing 29% of their daily sugar intake[8]. Sugar consumption is also one of the main causes of tooth decay in children, with tooth extractions now the leading reason for hospital admissions for children aged 5-9[9]. Consumption of sugar-sweetened beverages (SSBs) has been found to be more strongly associated with weight gain than any other food or beverage.

There is also strong evidence for the independent role of the intake of SSBs in the promotion of weight gain and obesity[10]. People who consume sugary drinks regularly - 1 to 2 cans a day or more - have a 26% greater risk of developing type-2 diabetes than people who rarely have such drinks[11]. The Scientific Advisory Committee on Nutrition recommends that consumption of sugar-sweetened drinks should be minimised by both children and adults[12].The government has accepted these recommendations and has integrated them into the official UK advice on what constitutes the best diet for health.

As Europe's largest employer, with over 1.3 million staff, the NHS committed in its overall strategy, the *Five Year Forward View*, to improve the health of its workforce[13]. A recent report found obesity to be a significant health problem amongst NHS staff, with nearly 700,000 NHS staff estimated to be overweight or obese[14]. Rising rates of obesity amongst NHS staff are not only bad for the personal health of those individuals, but also affects the NHS's ability to give patients credible and effective advice about their health[15].

Over and above the commitments made to our staff and patients, the *Five Year Forward View* also committed the NHS to improve the health of the nation by leading by example. NHS premises receive heavy footfall from the communities of which they are a part, with over 1 million patients every 36 hours, 22 million A&E attendances and 85 million outpatient appointments each year[16]. The food and drink sold in these locations can send a powerful message to the public about healthy consumption.

Although no single policy will provide the solution to reducing sugar consumption, measures to reduce the sale of sugar-sweetened beverages have gained increasing international support. SSBs (as opposed to foods) are the common target for these measures because they represent empty calories and contain little to no other nutritional value[17]. As set out above, SSBs have also been shown to have a particularly strong association with obesity.

A World Health Organization study shows that fiscal policies on sugary drinks can lower consumption of these products as well as contributing towards a reduction in obesity, as well as type-2 diabetes and tooth decay[18]. Specifically, the report states that a levy that increases the retail price of sugary drinks by 20% is likely to result in a proportional reduction in the consumption of sugary drinks.

Governments around the world including Mexico, Hungary and Australia have acted on this advice by implementing fiscal policies on sugar[19]. Some have gone further: hospitals in Nelson & Marlborough in New Zealand have now banned the sale of sugary drinks[20]. Specifically, analysis of Mexico's SSB tax suggests the tax may substantially decrease morbidity and mortality from diabetes while also reducing healthcare costs[21].

We acknowledge the efforts already made by the food and drink industry to reduce the sugar content of some of their product lines. For example, one large multi-national producer has committed to reduce sugar across its portfolio by 20% by 2020. Whilst these efforts have clearly had an effect on consumption patterns (UK soft drink manufacturers have reduced sugar intake from their products by 16% since 2012[22]) we share the Government's view that the reduction must now be accelerated.

We recognise that the UK Government's proposed soft drinks industry levy will, if introduced in April 2018, constitute a financial disincentive on the production of SSBs. However, we believe that the NHS should be at the leading edge of national efforts, setting an example to society at large with an additional measure brought in from April 2017. When the nationwide levy is introduced, it will further strengthen the effect of any proposed NHS-specific measures.

In light of the consultation responses to the draft NHS Standard Contract[23] for 2017/19 we propose two measures, and seek alternative proposals, to reduce sales of sugar-sweetened drinks on NHS premises. Firstly, we are consulting on a fee to be paid by vendors of SSBs on NHS premises. It is proposed that all proceeds will be reinvested in staff health and wellbeing programmes, including on physical activity schemes. Secondly, we are also consulting on a measure that would very directly achieve the policy aim, namely an outright ban of SSBs being sold on NHS premises. This consultation relates firstly to the choice between these two alternative options for the SSB measure and secondly to various aspects of those options. If a better alternative to the two proposed options is raised in consultation, we will also give it serious consideration.

2 Our wider work

NHS England has already taken steps to tackle the consumption and sale of unhealthy food and drink on NHS premises. We are doing this in a number of ways, outlined below.

2.1 Providing a financial incentive for NHS Trusts

In 2016 NHS England linked £450m of incentive payments, via the national CQUIN[24] scheme, to improving staff health and wellbeing across all NHS Trusts. Specifically, £150m was linked to making four changes to food and drink provision.

- Banning price promotions on unhealthy food and drink
- Banning advertisement of unhealthy food and drink
- Removal of unhealthy food and drink from checkouts
- Improving affordable, healthy options for night staff

In addition to these changes, and in order to receive full payment, NHS Trusts are also required to improve their offer of physical activity, weight management, mental health and MSK support for staff. They are also expected to improve flu vaccination rates. These changes must be introduced by March 31st 2017.

In 2017/18 and 2018/19 NHS England is also providing a further set of incentive payments to encourage additional action by hospitals, including[25]:

- Expanding the number of sugar free drinks lines available
- Reducing the portion size of snacks and confectionary
- Reducing the portion size of pre packed meals
- Maintaining the four changes made (see above) in 2016/17

2.2 Other work to tackle unhealthy food and drink consumption

NHS England has been working with 11 pilot sites to test new approaches to improving health and wellbeing for NHS staff. The learning from this work will be shared with all NHS organisations during 2017.

We will build on two trials we have conducted with Public Health England to continue to explore different behavioural approaches to changing food and drink consumption on NHS premises, including making consumers more aware of calorie information and reducing portion sizes.

In addition to this work at a local level, the NHS Standard Contract now requires that, from April 2017 any new or renegotiated contract between a Trust and food supplier will require the vendor to meet the mandatory element of the Government Buying Standards. These standards will ensure that a minimum acceptable provision of healthier food and drink is provided in all outlets.

3 What is NHS England consulting on?

As set out in Section 1, sugar-sweetened beverages are a leading cause of obesity. We are therefore minded to introduce a measure over and above the initiatives described in section 2 to reduce the sale of sugar-sweetened beverages on NHS premises. In choosing a measure, we will principally be influenced by the likely reduction in the volume of sales of these drinks. However, we will additionally take into account the following criteria:

- How practicable the policy would be to implement.
- Any wider impact on the health and wellbeing of NHS staff, patients and visitors.
- A consistent national approach across NHS providers

An initial exploratory consultation, via the NHS Standard Contract, proposed two options - the introduction of a fee for vendors of sugar-sweetened drinks on NHS premises and the introduction of an 'NHS sugar levy'.

NHS England has taken account of feedback in its initial decision making and is now opening a formal consultation that includes two potential options and invites the proposal of further alternative measures.

Our current thinking is that we should concentrate the policy on NHS Trusts and Foundation Trusts, which account for the great majority of sales of SSBs from premises where NHS services are being provided. This is rather than attempting to affect the much smaller volumes of sales on, say, the premises of general practices or providers of NHS-funded services from the independent or voluntary sectors. This is, at least in part, due to the fact that very few general practices have large outlets for selling sugar-sweetened beverages.

We are also minded that the most appropriate approach to implementing new proposals would be to do so through the NHS Standard Contract. This is the national contract, published by NHS England, which is used when NHS Clinical Commissioning Groups commission healthcare services other than primary care. The NHS Standard Contract is regularly used as a means of ensuring that national policy priorities are translated into local practice on the ground and already contains measures to improve staff health including through the food environment.

However, we recognise that other alternative measures for implementing new proposals exist including through regulatory or licensing routes (such as the CQC Fundamental Standards Regulations) or through voluntary schemes (such as an NHS accreditation).

Having considered both options our initial view is that these approaches would risk unnecessarily delaying the pursuit of the policy aim and/or would be unlikely to achieve the policy objective with the necessary degree of consistency across NHS Providers.

Q01- Do you agree that any new arrangements should apply solely to premises run by NHS organisations (NHS Trusts and Foundation Trusts) rather than to those run by providers from other sectors?

Q02- Do you agree that the inclusion of new requirements in the NHS Standard Contract would be an appropriate and effective approach? If not, what would be a more appropriate vehicle?

4 The policy options

This section of the consultation document explains the policy options under consideration to reduce the sale of sugar-sweetened drinks on NHS premises. Either of the two options proposed would, in our view, have a substantial impact on the policy aims. However, we also invite further proposals that might have an equivalent or greater impact on the aims.

The two proposed options are:

- The introduction of a fee applied to any retailer of sugar-sweetened beverages on NHS premises.

- The banning of sugar-sweetened beverages from sale on NHS premises.

4.1 Option one: The introduction of a fee on vendors of SSBs

This option would introduce a fee for any vendor of sugar-sweetened beverages (SSB) on NHS premises. The fee would be paid directly to the host NHS organisation, which would be required to spend the income on staff health and wellbeing or donate it to a Trust's charity for the benefit of its patients and staff.

We have compiled three potential structures for the fee:

1.) Placing a flat charge per unit of any Sugar-Sweetened Beverage sold by the vendor.

2.) Charging a percentage of revenue generated by sales of Sugar-Sweetened Beverages by the vendor.

3.) A tiered approach

i. Charging a fee equivalent to 10% of revenue generated by sales of Sugar-Sweetened Beverages where sales of SSBs represent less than 10% of total revenue from sales of all drinks. *And*

ii. Charging a fee equivalent to 20% of revenue generated by sales of Sugar-Sweetened Beverages where sales of SSBs represent more than 10% of total revenue from sales of all drinks.

Q03- Which of these approaches would be most suitable if a fee on SSB vendors were to be introduced?

In our view there are five realistic responses from vendors to the introduction of this policy, with the first three being the most likely:

1.) The vendor would use behavioural mechanisms, such as changing product location, to reduce the volume of sales of sugar-sweetened beverages and thereby reduce the scale of the fee.

2.) The vendor would recoup the cost of the fee by raising prices on sugar-sweetened drinks.

3.) The vendor would halt the sale of sugar-sweetened drinks to avoid paying a fee to the NHS organisation.

4.) The vendor would absorb the cost of the fee and continue to sell sugar-sweetened drinks.

5.) The vendor would recoup the cost of the fee by raising prices across the product range.

The way in which vendors respond would be crucial in determining the effectiveness of the policy. Under responses 1, 2 or 3 above, we would expect to see a reduction in sales of SSBs, in line with our policy aim, whereas this is perhaps less likely to be the case under outcomes 4 and 5. To be effective, the fee would therefore need to be set at the right level, whichever of the above structures, outlined on page 10, were chosen.

Q04: What do you think the likely approach from vendors would be?

Q05: Were an SSB fee introduced, what would be the right level at which to set it in order to achieve the policy aim?

4.1.1 Reporting

Dependent upon the results of the consultation food suppliers and vendors selling these drinks could be subject to a fee from April 2017.

We propose that the period for reporting and subsequent payment of the fee would be one year, commencing on the 1st April and ending on the 31st March.

We propose that the supplier or vendor would be expected to pay the charge in arrears with payment being made by 1st June. The majority of suppliers operating on NHS premises should have ready access to this information, or be able to source this information.

They will need to provide:

1.) By product line – the total number of sales of those products within scope of the SSB definitions

2.) By product line – the total revenue made of those products within scope of the SSB definitions

3.) By product line – the fee payable on those products within scope of the SSB definitions

4.) The total fee payable to the NHS organisation

Q06- Do you agree with the proposed reporting arrangements?

Q07- What will be the one-off and on-going administrative costs associated with each of the proposed policies?

4.1.2 The reinvestment of the vendor fee generated

We propose that any income generated by the possible fee on vendors would be reinvested in one or a combination of the following ways:

1.) to support programmes and activities to promote the health and well-being of staff; or

2.) to support an NHS Provider charity, if the fee has been generated from a charity that has clear constitutional requirements specifying this use.

The definition of a provider charity is:

- a registered charity established by the provider the charitable purposes of which are to support the delivery of healthcare services and/or to promote the health and wellbeing of service users, staff and/or the public

The fee would need to be reinvested during the financial year that it is received by the NHS organisation. For instance, if the fee is received in June 2017 the NHS organisation must reinvest the money before March 31st 2018.

Q08- In your view should NHS organisations be required to reinvest the money generated into the health and wellbeing of their staff?

4.2 Option two: Banning the sale of SSBs on NHS premises

This option would see a ban on the sale of any sugar-sweetened drinks on NHS premises.

This approach is already underway in some hospitals across the United Kingdom, including at The University Hospitals of Morecambe Bay NHS FT[26] and is currently being introduced throughout hospitals in New Zealand and is being trialled at the University of California, San Francisco.[27]

As part of the initial evidence gathering for this policy NHS England conducted a two month trial within The Walton Centre NHS Foundation Trust. This involved the removal of sugar-sweetened drinks from one set of cafes and restaurants in the hospital.

Analysis of the trial shows that the removal of sugar-sweetened drinks did not impact on overall sales of drinks or on the vendors' expected revenue. The staff working in the café and restaurant also reported that the majority of feedback about the product range and trial was positive.

In comparison with the pre-trial period there was an increase in total sales of drinks of 0.1%, despite the fact that SSBSs were banned. In effect, volumes of other drinks rose almost exactly in line with the decline in SSBs, suggesting the intervention was highly effective in bringing about change in consumers' purchasing behaviours.

As a result of the initial success of the trial and positive customer feedback, the supplier has decided to continue the ban on sugar sweetened beverages in the café and store.

Q09- Which of the two policy options proposed (the fee or ban) would best meet our decision-making criteria?

Q10- Are there any alternative policies that NHS England could introduce that would meet the decision-making criteria equally well, or better, than those proposed?

5 The definitions of sugar-sweetened beverages

This section of the consultation outlines some potential approaches to classifying sugar-sweetened drinks and seeks views on the most appropriate approach.

The UK government published a consultation document for the Soft Drinks Industry Levy in August 2016. NHS England is proposing three main differences in the classification of products under the scope of this policy. These include different approaches to the inclusion of fruit juices, milk based drinks and hot drinks with added sugar syrups.

5.1 Classification of drink products included in scope

The commonly understood definition of a beverage is a liquid which is consumed, or diluted for consumption, to slake thirst. A beverage will be within scope of the policy if it meets the following criteria:

- It is pre-packaged (e.g. in a bottle, can or other similar container) or made on NHS premises (e.g. refillable soft drinks and coffee with sugar syrup)

- It contains added sugars, the definition of which will be set out in Section 5.2 of the consultation document

- It has a total sugar content of 5.0 grams or more per 100 millilitres

We are keen to ensure that any drinks covered by the policy have sufficiently high levels of added sugar to warrant inclusion.

Q11- Do you think that 5g/100ml is the right level for the total added sugar content in a sugar-sweetened beverage?

5.2 Defining added sugars

Added sugars are broadly defined as added calorific carbohydrate sugars and syrups containing mono- or di-saccharides.

These would include sugars as defined in the Specified Sugar Products (England) Regulations 2003 (S.I. 2003/1563) (listed in Annex A), honey as defined in the Honey (England) Regulations 2015 (S.I.2015/1348) (listed in Annex B), and any other sugar ingredients added to sweeten including but not limited to ingredients such as maltose, brown sugar or cane molasses, maple syrup or lactose. Glucose syrups would also be covered within this definition.

When any of the above ingredients is added to a product, and the total sugar content is 5g/100ml or more, the product will be within the scope of the policy.

Plant milk drinks, such as soya, almond, rice or coconut milk, are primarily made from water and may have added sugar. We therefore propose that such drinks are within the scope of the policy on the basis that their composition is similar to that of other water-based drinks in scope.

We are aware that some added sugar soft drinks can be used for self-treatment of medical conditions. We propose that where a product/ingredient has been licensed for a specific medicinal use in the UK it will be excluded from the policy. The current list of such products in England can be found at the below web address. http://www.drugtariff.nhsbsa.nhs.uk/#/00315892-DC/DC00315886/Part XV - Borderline Substances

Q12- Do you think we should exclude drinks for treating medical conditions?

5.3 Fruit juices

Any fruit juice drink that contains 5g/100ml of added sugar will be included in the scope of the policy.

However, some water-based soft drinks are sweetened with fruit-derived products, including fruit juices, purees, concentrates, and syrups. We propose to exclude the following fruit-derived additives because they are deemed to have nutritional value and as they are consistent with the approach of the UK government:

1. Fruit juices and purees
2. Fruit juice from concentrate
3. Concentrated fruit juice
4. Water-extracted fruit juice
5. Dehydrated fruit juice and powdered fruit juice

Q13- Do you think we should exclude the five allowable ingredients to ensure pure fruit products are kept outside the scope of the policy?

As a basis for drawing the definitions we propose that where the products outlined in the Fruit Juices and Fruit Nectars (England) Regulations 2013 (S.I. 2013/2775) (Annex 1) are used to sweeten, the additive will not be considered added sugar for the purposes of the policy.

Relevant schedules from the Fruit Juices and Fruit Nectars (England) Regulations 2013 are outlined in Annex 1, and the full text can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192357/fruit-juice-si-20130425.pdf

5.4 Approach to milk based soft drinks

This section deals only with pre-packaged milk-based drinks. Section 5.5 relates to many of the milk-based drinks that are made and served on NHS premises in cafes or restaurants.

Milk and milk-products provide a source of protein, calcium and other beneficial nutrients. However, many milk based drinks can also contain high amounts of added sugar – with some milkshakes containing up to 10g of added sugar per 100ml. Therefore, to ensure we take a comprehensive approach to including drinks with high levels of added sugar we propose to include these drinks within the scope of the policy.

Q14- Do you think we should include pre-packaged milk based drinks in the scope of the policy?

We want to ensure that any milk drink that is exempt from the policy has sufficiently high content of milk to retain many of the nutritional benefits.

There are two proposed approaches for doing this and we would welcome views on both of these approaches.

1.) Where a drink contains less than75% milk and also contains added sugar, with a total sugar content of 5g/100ml or more, then it will be subject to the policy.

However, we understand that it can often be difficult to identify the milk-based products that have above 75% of milk and contain added sugar of 5g/100ml. Therefore, we propose an alternative approach to classifying milk based drinks.

2.) Where a drink contains added sugar, with a total sugar content of 10g/100ml then it will be subject to the policy.

Milk contains naturally occurring sugars that differ depending on the type of milk (e.g. semi-skimmed vs skimmed). However, the naturally occurring sugars in milk, irrespective of type, are equal to, or below, 5g/100ml[28]. By setting the total sugar content at 10g/100ml this would therefore indicate the product has 5g or over/100ml of added sugar.

Q15- Which approach offers the best way of classifying pre-packaged milk based drinks?

5.5 Approach to hot drinks with added sugar syrup

This section relates to hot drinks with added sugar syrups that are often made and served on NHS premises.

Liquid drinks flavourings are pre-packaged sugar syrups and flavourings which are often added to hot beverages. These syrups may not be integral to the drink (e.g. a coffee such as a latte made in a cafe or restaurant), but are dissolved with the drink to alter flavour (e.g. to add hazelnut flavour gingerbread flavour etc.) and can represent a significant addition of sugar to the drink. The definitions of sugar syrups are provided in Annex 1.

Q16- Do the definitions of sugar syrups outlined above cover all likely sugar syrups used with hot drinks?

Currently these drinks are not currently included in the classification provided in the Soft Drinks Industry Levy. There are two main justifications for why NHS England deems it necessary to include these products in the classification of sugar-sweetened drinks.

Firstly, these drinks often have higher levels of sugar than soft drinks and can contain up to 11 grams of sugar per 100 ml. Secondly, the consumption trends for these drinks are on the rise.

Q17- Do you think that any hot drink with added sugar syrup should be included in the policy?

6 Implementation

It is critical that either policy is implemented in a way that minimises the risk of avoidance or evasion and provides a level playing field for compliant operators.

For either policy to be enforced and to ensure compliance from all vendors it is expected that NHS organisations will be required to undertake a series of contract re-negotiations for any external provision.

Q18- Do you think that NHS England should set out a timescale over which NHS organisations must achieve full implementation of the policy?

We recognise that existing leases and concessions are in place between hospitals and retailers – and whilst Trusts can seek to re-negotiate these during their term, they may be unable to impose changes against the wishes of retailers. Realistically, therefore, it may sometimes be the case that the opportunity to introduce new arrangements only arises at the expiry of existing leases and concessions. Against that, it is important that any new arrangements are implemented as swiftly and consistently as possible across all NHS Trust / Foundation Trust premises.

Q19- What should be the contractual consequences for trusts if they fail to achieve full compliance within the agreed timescale?

The policies outlined in this consultation document are expected to impact both internal NHS caterers and vendors selling sugar-sweetened beverages and external vendors. Any internal NHS caterer or vendor will be expected to implement the final policy. In the case of the option for introducing a fee it is expected that the agreed revenue generated will be set aside for investment into staff health and wellbeing schemes.

7 Consultation approach

The consultation approach that is being followed for the introduction of this policy is:

Stage 1	Identifying options and an initial consultation as part of the consultation on the draft NHS Standard contract for 2017-19
Stage 2	Determining the best option and method of implementation via a formal consultation
Stage 3	Reviewing consultation feedback and making decisions about the best way to proceed
Stage 4	Depending on the outcome of stage 2 and 3, carrying out a further consultation on a National Variation to the NHS Standard Contract (to give effect to any new contractual requirements on providers of clinical services)
Stage 5	Depending on the outcome of stage 4, publishing a final National Variation for implementation by NHS commissioners and providers at local level

The consultation is taking place at stage 2 of the process.

How to respond

A summary of questions in this consultation is included in Section 8.

Responses should be sent by 18 January 2017, by email to england.healthyworkforce@nhs.net.

When responding please say if you are a business, NHS organisation, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

NHS England will also convene a number of listening and engaging events during the consultation period prior to the 18 January 2017 to ensure that all stakeholders are given a chance to provide their views.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

8 Summary of questions

Q01- Do you agree that any new arrangements should apply solely to premises run by NHS organisations (NHS Trusts and Foundation Trusts) rather than to those run by providers from other sectors?

Q02- Do you agree that the inclusion of new requirements in the NHS Standard Contract would be an appropriate and effective approach? If not, what would be a more appropriate vehicle?

Q03- Which of these approaches would be most suitable if a fee on SSB vendors were to be introduced?

Q04: What do you think the likely approach from vendors would be?

Q05: Were an SSB fee introduced, what would be the right level at which to set it in order to achieve the policy aim?

Q06- Do you agree with the proposed reporting arrangements?

Q07- What will be the one-off and on-going administrative costs associated with each of the proposed policies?

Q08- In your view should NHS organisations be required to reinvest the money generated into the health and wellbeing of their staff?

Q09- Which of the two policy options proposed would best meet our decision-making criteria?

Q10- Are there any alternative policies that NHS England could introduce that would meet the decision-making criteria equally well, or better, than those proposed?

Q11- Do you think that 5g/100ml is the right level for the total added sugar content in a sugar-sweetened beverage?

Q12- Do you think we should exclude drinks for treating medical conditions?

Q13- Do you think we should exclude the five allowable ingredients to ensure pure fruit products are kept outside the scope of the policy?

Q14- Do you think we should include pre-packaged milk based drinks in the scope of the policy?

Q15- Which approach offers the best way of classifying pre-packaged milk based drinks?

Q16- Do the definitions of sugar syrups outlined above cover all likely sugar syrups used with hot drinks?

Q17- Do you think that any hot drink with added sugar syrup should be included in the policy?

Q18- Do you think that NHS England should set out a timescale over which NHS organisations must achieve full implementation of the policy?

Q19- What should be the contractual consequences for trusts if they fail to achieve full compliance within the agreed timescale?

9 Annex 1: Technical Guidance

9.1 Definition of added sugar[29]

	Product Name	Definition
1	Semi- white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: A. polarisation not less than 99.5 °Z B. invert sugar content not more than 0.1 % by weight C. loss on drying not more than 0.1 % by weight.
2	Sugar or white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: A. polarisation not less than 99.7 °Z B. invert sugar content not more than 0.04 % by weight C. loss on drying not more than 0.06 % by weight D. type of colour not more than nine points determined in accordance with point (a) of Part B.
3	Extra-white sugar	The product having the characteristics referred to in point 2(a),(b) and (c) and in respect of which the total number of points determined according to the provisions of Part B does not exceed eight, and not more than: — four for the colour type, — six for the ash content, — three for the colour in solution.
4	Sugar solution	The aqueous solution of sucrose with the following characteristics: A. dry matter not less than 62 % by weight B. invert sugar content (ratio of fructose to dextrose: (1.0 ±0.2) not more than 3 % by weight of dry matter C. conductivity ash not more than 0.1 % by weight of dry matter, determined in accordance with point (b) of Part B D. colour in solution not more than 45 ICUMSA units.

5	Invert sugar solution	The aqueous solution of sucrose partially inverted by hydrolysis, in which the proportion of invert sugar does not predominate, with the following characteristics: A. dry matter not less than 62 % by weight B. invert sugar content ratio of fructose to dextrose (1.0 ±0.1) C. more than 3 % but not more than 50 % by weight of dry matter D. conductivity ash not more than 0.4 % by weight of dry matter, determined in accordance with point (b) of Part B.
6	Invert sugar syrup	The aqueous solution, which has possibly been crystallised, of sucrose that has been partly inverted via hydrolysis, in which the invert sugar content (fructose/dextrose quotient 1.0 ± 0.1),must exceed 50 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 5(a) and (c).
7	Glucose syrup	The purified and concentrated aqueous solution of nutritive saccharides obtained from starch and/or inulin, with the following characteristics: A. dry matter not less than 70 % by weight B. dextrose equivalent not less than 20 % by weight of dry matter and C. expressed as D-glucose D. sulphated ash not more than 1 % by weight of dry matter.
8	Dried glucose syrup	Partially dried glucose syrup with at least 93 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 7(b) and (c).
9	Dextrose or dextrose monohydrate	Purified and crystallised D-glucose containing one molecule of water of crystallisation, with the following characteristics: A. dextrose (D-glucose) not less than 99.5 % by weight of dry matter B. dry matter not less than 90 % by weight C. sulphated ash not more than 0.25 % by weight of dry matter.
10	Dextrose or dextrose anhydrous	Purified and crystallised D-glucose not containing water of crystallisation, with at least 98 % by weight of dry matter, but which must otherwise meet the requirements laid down in point 9(a) and (c).

11	Fructose	Purified crystallised D-fructose with the following characteristics: • fructose content 98 % minimum • glucose content 0.5 % maximum • loss on drying not more than 0.5 % by weight • conductivity ash not more than 0.1 % by weight determined in accordance with point (b) of Part B

9.2 Definition of fruit juices- The Fruit Juices and Fruit Nectars Regulations 2013 (Schedules 2-7)[30]

Schedule	Product Name	Specification
2	Fruit Juice	1. Fruit juice is the fermentable but unfermented product obtained from the edible part of fruit which is sound, ripe and fresh or preserved by chilling or freezing of one or more kinds mixed together having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes. 2. As well as the product mentioned in paragraph 1, and without prejudice to entries numbers 4 and 7 of Schedule 11, the fruit juice may contain any of the following— (a) an authorised additional ingredient; (b) an authorised additional substance; (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; (d) in the case of grape juice, restored salts of tartaric acids; and (e) in the case of tomato juice, salt, spices and aromatic herbs. 3. In the case of citrus fruits, except for lime, the fruit juice must come from the endocarp. 4. In the case of lime juice, the fruit juice must come from the endocarp or the whole fruit. 5. Where a juice is processed from a fruit with pips, seeds and peel, parts or components of pips, seeds and peel must not be incorporated in the juice. 6. Paragraph 5 does not apply in a case where parts or components of pips, seeds and peel cannot be removed by good manufacturing practices. 7. Fruit juice may be mixed with fruit purée in the production of the fruit juice. 8. No treatment, except for an authorised treatment, may be used in the manufacture of a fruit juice. 9. The Brix level of the product must be the Brix level of the juice as extracted from the fruit and must not be modified, except by

		blending with the juice of the same species of fruit.
3	Fruit juice from concentrate	1. Fruit juice from concentrate is the product obtained by reconstituting concentrated fruit juice with potable water that meets the criteria set out in Council Directive 98/83/EC. 2. In a case where a fruit juice from concentrate is manufactured from a fruit specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of at least the level specified in the corresponding entry in column 3 of that Schedule, as read together with the Notes to that Schedule. 3. In a case where a fruit juice from concentrate is manufactured from a fruit that is not specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of the juice as extracted from the fruit used to make the concentrate. 4. The product must be prepared by suitable processes that maintain the essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes. 5. In the production of the product, concentrated fruit juice, or both fruit juice and concentrated fruit juice, may be mixed with— (a) fruit purée; (b) concentrated fruit purée; or (c) both fruit purée and concentrated fruit purée. 6. As well as the ingredients mentioned in paragraphs 1 and 5, the product may contain any of the following— (d) an authorised additional ingredient; (e) an authorised additional substance; (f) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and (d) in the case of tomato juice from concentrate, salt, spices and aromatic

		herbs. 7. No treatment, except for an authorised treatment, may be used in the manufacture of a product. 8. Any reference to a Brix level in this Schedule is a reference to the Brix level of a juice exclusive of the soluble solids of any added optional ingredients and additives.
4	Concentrated fruit juice	1. Concentrated fruit juice is the product obtained from fruit juice of one or more fruit species by the physical removal of a specific proportion of its water content. 2. Where the product is intended for direct consumption, the proportion of water content removed must be at least 50%. 3. As well as the ingredients mentioned in paragraph 1, the product may contain any of the following— a. an authorised additional ingredient; b. an authorised additional substance; and c. restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit. 4. 4. No treatment, except for an authorised treatment, may be used in the manufacture of a product.
5	Water extracted fruit juice	1. Water extracted fruit juice is the product obtained by diffusion with water of— (a) pulpy whole fruit whose juice cannot be extracted by any physical means; or (b) dehydrated whole fruit. 2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following— (a) an authorised additional ingredient; and (b) an authorised additional substance. 3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

6	Dehydrated fruit juice and powdered fruit juice	1. Dehydrated fruit juice or powdered fruit juice is the product obtained from fruit juice of one or more fruit species by the physical removal of virtually all of its water content. 2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following— (a) an authorised additional ingredient; and (b) an authorised additional substance. 3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.
7	Fruit nectars	1. Fruit nectar is the fermentable but unfermented product that is obtained by adding water to a juice listed in paragraph 2 either with or without one or both of the substances listed in paragraph 3. 2. The juices are— (a) fruit juice; (b) fruit juice from concentrate; (c) concentrated fruit juice; (d) water extracted fruit juice; (e) dehydrated fruit juice; (f) powdered fruit juice; (g) fruit purée; (h) concentrated fruit purée; or (i) any mixture of the products mentioned in subparagraphs (a) to (h). 3. The substances are— (a) sugars, and (b) honey. 4. The amount of sugars or honey, or sugars and honey, added to the product in accordance with paragraph 1 must not exceed 20% of the total weight of the finished product. 5. The product must contain the minimum content of fruit juice, fruit purée, or a mixture of such juice and purée, specified in Part 2. 6. Where the product is manufactured without added sugar or with reduced energy value, sugars may be replaced wholly or partially by sweeteners in accordance with the requirements of Regulation 1333/2008. 7. As well as the ingredients mentioned in paragraphs 1, 2, 3, 5 and 6, the product may contain any of the following— (a) an authorised additional ingredient;

		(b) an authorised additional substance; (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and (d) sweeteners (which may be added in addition to any sugar or honey added in accordance with paragraph 1 as read with paragraph 3). 8. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

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