

Citizen Participation and Public Petitions Committee

3rd Meeting, 2023 (Session 6), Wednesday
22 February 2023

PE1919: Prohibit the sale of high caffeine products to children for performance enhancement

Lodged on 11 January 2022

Petitioner Ted Gourley

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to ban the sale of fast release caffeine gum to under 18s for performance enhancement due to risk of serious harm.

Webpage <https://petitions.parliament.scot/petitions/PE1919>

Introduction

1. The Committee last considered this petition at its meeting on [28 September 2022](#). At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Scottish Government, and two submissions from the Petitioner, which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1919: Ban the sale of high caffeine products to children for performance enhancement

Petitioner

Ted Gourley

Date lodged

11 January 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to ban the sale of fast release caffeine gum to under 18s for performance enhancement due to risk of serious harm.

Previous action

In my capacity as an athletics coach at Giffnock North AC I raised concerns with UK and Scottish Ministers, Scottish Government officials, MSPs and Senior Executives at Sport Scotland, UK Athletics, Scottish Athletics and Parkrun.

No action was taken as the gum is legal with no age restriction on purchasing it. The Children Commissioner's office has passed on concerns about high strength caffeine gum to Government Officials and suggested I consider the Scottish Parliament's petitions process.

Background information

European Food Standards Agency advise single doses of caffeine >3mg/Kg could compromise the cardiovascular system. There have been sudden cardiac deaths at races where caffeine gum was promoted although there were no investigations of any potential link.

Both Scottish Athletics and sportscotland warned of health risks

particularly for U18s with undiagnosed medical issues.

The charity Cardiac Risk in Young state 1 in 300 young people have undetected life-threatening heart conditions. In the UK every week 12 apparently fit young athletes die of undiagnosed cardiac conditions.

The sale of caffeine gum to U18s may well be a violation of the UN Convention on Rights of the Child, a treaty ratified by the government.

Article 3 - “the best interests of a child should be a primary consideration”.

Article 19 – all measures must be taken “to protect the child from all forms of physical or mental violence, injury or abuse”.

Annexe B

Extract from Official Report of last consideration of PE1919 on 28 September 2022

The Convener: PE1919, which was lodged by Ted Gourley, is on prohibiting the sale of highcaffeine products to children for performance enhancement. The petition calls on the Scottish Parliament to urge the Scottish Government to ban the sale of fast release caffeine gum to under 18s for performance enhancement due to the risk of serious harm. We previously considered the petition on 23 February, when we agreed to write to the Children and Young People's Commissioner Scotland, scottishathletics, sportscotland, Cardiac Risk in the Young, and Food Standards Scotland. I am pleased to say that we have received responses from those stakeholders as well as a submission from the petitioner.

Members will have noted that many of the responses refer to the Scottish Government's consultation on the sale of energy drinks, and to the fact that Food Standards Scotland has committed to providing enhanced guidance on food additives, including caffeine, in the coming months.

The responses from sportscotland and scottishathletics highlight the potential challenges of implementing a ban that is specifically focused on performance enhancement. Cardiac Risk in the Young and the petitioner have also suggested that there is a need for further research to evaluate the impact of such products on young at-risk individuals and athletes.

Do members have any comments or suggestions on action? I think that the issue was raised in the chamber at some point. I recollect it coming up.

Alexander Stewart: There are many more questions to be asked about the topic. I think that there was recently some debate about it in the chamber.

The Scottish Government must provide more clarity and information on the consultation on ending the sale of energy drinks to children and young people. We should seek clarity and ask it about the consultation and when the report on that will be published.

We talk about the influence of foodstuffs. The response has to include caffeine gum, plans to review risk-management decisions based on the European Food Safety Authority's advice as part of the Scottish Government's work, and what further consideration has been given to the plan to introduce a ban on the sale of fast-release caffeine products to those who are under 18. All those things require more clarity before any further decisions or discussions can take place.

The Convener: I am mindful of scottishathletics having highlighted the potential challenges of implementing a ban. Such things are said very often, but bans are sometimes very difficult to apply. However, I am inclined to support Mr Stewart's suggestion. Do colleagues agree with that?

Members indicated agreement.

The Convener: We will keep the petition open and proceed on that basis. Specifically, we want, in order to direct consideration to the petitioner's concerns, to know about foods with equivalent quantities of caffeine.

Annexe C

Scottish Government submission of 20 October 2022

PE1919/I Ban the sale of high caffeine products to children for performance enhancement

I write in response to your email of 30 September 2022 on behalf of the Citizen Participation and Public Petitions Committee with regard to Petition PE1919 which states the following:

Calling on the Scottish Parliament to urge the Scottish Government to ban the sale of fast release caffeine gum to under 18s for performance enhancement due to risk of serious harm.

Further to the Scottish Government's response to the petition, sent on 19 January 2022, we note the further points raised by the Committee and offer the following additional information.

Scottish Government consultation on energy drinks

As set out previously, we are considering responses to our consultation on *Ending the sale of energy drinks to children and young people* alongside the evidence. We will publish an independent consultation analysis report and set out our policy response in due course.

Whilst the focus of the consultation was energy drinks, there was an opportunity for respondents to raise concerns in relation to other issues, such as caffeine gum.

We also asked for views on any gaps, issues or unintended consequences in terms of our proposals. As set out in our previous response, we will make the Committee aware of any findings related to caffeinated chewing gum upon the publication of the consultation analysis report.

Current EFSA advice on caffeine

As noted in our previous response, the European Food Safety Authority (EFSA) published its Scientific Opinion on caffeine safety in May 2015.

We are not aware of any current plans to review or update this opinion. We, alongside Food Standards Scotland (FSS), continue to monitor any developments with regard to EFSA advice on caffeine. Current guidance for consumers on caffeine, based on the EFSA 2015 opinion, is available on the FSS [website](#).

More generally, we recognise that the evidence base in relation to caffeine, specifically caffeine gum, continues to develop. We will continue to look to the EFSA and others, such as the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment, as that evidence base evolves and consider carefully any implications in relation to current advice on caffeine, including caffeine gum.

Ban on the sale of fast release caffeine products to under 18s.

The Scottish Government is not currently considering a ban on the sale of fast release caffeine products to under 18s. An evidence based approach is central to the development of any policy and we will continue to consider the evidence base with regards to this issue as it continues to develop.

I hope the Committee finds this information helpful.

Petitioner submission of 14 November 2022

PE1919/J: Ban the sale of high caffeine products to children for performance enhancement

Thank you for giving me the opportunity to respond to the Scottish Government submission of 20 October 2022.

The first point the Scottish Government make in the paragraph headed “Current EFSA advice on caffeine” does not deal with fast-release high-dose caffeine gum which is marketed as a sports performance enhancement supplement. According to the [EFSA Scientific Opinion](#) -

“This analysis comprised studies from 1975 to 2004, representing over 200 subjects (74 % men) who were 20 to 35 years of age, ranging from

physically active individuals to extremely well-trained elite athletes, and included both habitual caffeine users and non-users (half of the studies did not provide information on coffee use)."

Furthermore, it also states caffeine doses

"... were typically given one hour before the start of the exercise test after a period of caffeine withdrawal."

The Scottish Government's response is therefore not an evidence-based response as it would appear the EFSA did not look at the health risks to children taking fast release caffeine gum immediately before or during exercise. I would also highlight the EFSA did not consider the risks to middle aged or elderly athletes taking fast release caffeine gum for performance enhancement.

The Scottish Government's statement that –

"More generally, we recognise that the evidence-base in relation to caffeine, specifically caffeine gum, continues to develop."

This is a misleading statement as I believe there are no clinical trials being carried out on the safety of high strength fast release caffeine gum, particularly in the context of children and adolescents, for performance enhancement. The statement distracts attention from the important evidence about the cardiac risks posed by high dose caffeine gum, and contrary to their conclusion it does form a reliable evidence base upon which to assess risk and develop policy. The Scottish Government will also be aware of a further concern for the cardiac health of a cohort of young people particularly those with undiagnosed heart conditions. The Children's Commissioner highlighted that governments have a duty to protect children from substances harmful to their health. In my opinion it is therefore shocking that the Scottish Government is being so cavalier about its safeguarding responsibilities to children taking part in athletics and sport.

I am astonished the Government's consultation on energy drinks did not include fast release caffeine gum. With all the discussions over the past few years, the consultation group should have been aware that caffeine gum was widely marketed to U18s in athletics, so I would question the statement given in a [Freedom of Information response](#) that *"there is no*

evidence that young people overconsume caffeine from other caffeinated foods or drinks”.

As I mentioned in an earlier submission, Mark Munro, then Head of Scottish Athletics, repeatedly voiced concerns about the health risks to children and agreed it was “morally and ethically wrong to introduce young (or any) recreational athletes to performance enhancing stimulants” and encouraged me to work with Scottish Athletics going forward to “raise external pressures where appropriate (UK Anti-Doping, UK Athletics, government, media)”. Two former board members from Scottish Athletics, including Mark Munro, now hold key positions at UK Athletics, with Ian Beattie currently the Chair of UK Athletics. I had hoped therefore the concerns about fast release caffeine gum would be addressed. This appears not to be the case as I understand UK Athletics endorse it and are happy for athletes, who are role models for young Scottish athletes, to publicise using it before races.

I call on the Petitions Committee to ask UK Athletics the following questions:

- Do they condone the use of performance enhancing stimulants by U18s?
- Have UK Athletics risk assessed fast release caffeine gum for U18s?
- Do UK Athletics know or suspect any athletes may have been harmed using high caffeine supplements for performance enhancement?
- Do UK Athletics agree with the assessment of Cardiac Risk in the Young (CRY) that there needs to be further research on the adverse effects of at-risk groups including U18s?

Petitioner submission of 1 February 2023

PE1919/K: Ban the sale of high caffeine products to children for performance enhancement

I would like to make the petitions committee aware of this advice I came across from US Anti-Doping Agency (USADA) on caffeine.

<https://www.usada.org/athletes/substances/supplement-connect/recognize-risk-when-you-see-it/energy-drinks/five-things-know-energy-drinks/>

In particular, where it says energy drinks should not be used before, during or after exercise because they pose additional health risks including the adverse effects from caffeine. It further states *“the reality is that energy drinks, though advertised to help, can severely damage an athlete’s health and are especially risky for young athletes”*.

I have since made USADA aware of the petition. They responded saying they were glad I contacted them and have asked to be kept posted on the outcome of the petition. They have included the director of their True Sport program in the conversation and are considering developing something on caffeine products and caffeine gum for educational purposes.

I also came across another article first warning of the dangers of caffeine gum reported in the Lancet as far back as 2009.

Doctors warn over dangers of high-caffeine gum | Nursing Times
(<https://www.nursingtimes.net/news/primary-care/doctors-warn-over-dangers-of-high-caffeine-gum-29-05-2009/>)

Worryingly, the 320mg taken over a 4 hour period which resulted in the 13 year old being hospitalised is less than the 400mg recommended safe dose quoted on high strength caffeine gum promoted and handed out to athletes, including U18s, at mass participation running events in Scotland and Wales. It would not be unreasonable to say that this caffeine dose is likely to pose an even greater risk to a child or adolescent if taken before or during intense physical exercise. Food Standards Scotland acknowledged they are aware of products containing caffeine which, if consumed in one sitting or over a short period of time, would be above the safe levels for U18s.

It’s important to highlight the EFSA advice on single doses of 200mg only applies to the healthy adult population - there are no studies available on health risks for U18s or middle aged/elderly subjects taking an acute dose of 200mg before intense physical exercise.

“Single doses of caffeine up to 200mg – about 3mg per kilogram of body weight (mg/kg bw) from all sources do not raise safety concerns for the general healthy adult population. The same amount of caffeine does not raise safety concerns even when consumed less than two hours prior to intense physical exercise under normal environmental conditions. No studies are available in pregnant women or middle aged/elderly subjects undertaking intense physical exercise.”

I would call on the Petitions Committee to ask UK Athletics to provide evidence showing it is safe for U18s to use high strength caffeine gum for performance enhancement and make available any data on athletes harmed taking acute doses of caffeine, in particular U18s.