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**Tower Hamlets Council Healthier Advertising Policy**

## **Context**

* 1. The purpose of this policy is to give guidance on the principles and procedures relating to any advertising carried by Tower Hamlets Council.
  2. Tower Hamlets Council does not support advertising that is contrary to the [Council Strategic Plan](https://www.towerhamlets.gov.uk/Documents/Strategy-and-performance/Tower-Hamlets-Council-Strategic-Plan-2022-2026.pdf) aims and commitments, including our priority to promote children’s healthy weight and healthy life expectancy. We are committed to work hard so every child and young person has the best start in life and are given the opportunity to fulfil their potential.
  3. The advertising policy reflects both the UK’s Code of Broadcast Advertising Section on Prohibited Categories [1] as well as Transport for London’s (TfL) guidelines on advertising food and non-alcoholic drink products that are high in fat, salt, and/or sugar (HFSS). [2]
  4. The regulation of advertising in the UK is the responsibility of the Advertising Standards Authority (ASA). The ASA applies the Advertising Codes. [3] Any requirements listed herein are to be regarded as in addition to those required by the ASA UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code).

## **Advertising policy**

* 1. This policy clarifies the standards for approval of advertisements.
  2. This policy is applicable to all advertising opportunities through the council, including through any third party letting or leasing arrangements.
  3. Advertisements carried by Tower Hamlets Council will not conflict with:
* Relevant ASA Advertising Codes
* Consumer Protection from Unfair Trading Regulations 2008 [4]
* Equality Act 2010 [5]
* The Code of Recommended Practice on Local Authority Publicity [6]
* The Council’s policies, core values, or the stated aims and priorities as set out in the council Strategic Plan
* Additional required standards as outlined below
  1. Advertisements for food and non-alcoholic drinks that are high in fat, salt, and/or sugar (HFSS) will not be permitted by Tower Hamlets Council.
  2. With regards to HFSS, the policy does not restrict whole brands or organisations from advertising, as they are able to promote healthier alternatives. Further information is provided in Appendices 1 and 2.
  3. All advertisements also need to comply with the council’s broader guidelines and published policies on advertising in public spaces.
  4. The Council retains the right to decline advertisements from any organisation, individual, event or campaign that it considers inappropriate.

## **Policy implementation**

* 1. This policy will come into effect for all new leases and for all current leases as they come up for renewal.
  2. All current advertisers within the borough will be contacted and encouraged to adopt this policy, in advance of their contract renewal date.
  3. By advertising in Tower Hamlets, the advertiser is agreeing to comply with the Tower Hamlets Healthier Advertising Policy.
  4. To facilitate monitoring by the council, anyone who advertises in Tower Hamlets is required to maintain accurate and detailed records of all advertisements of food and drink disseminated through the council’s advertising spaces. These records must be submitted to the council upon request, in a format specified by the council, and should include, but not be limited to, copies of the advertisements, dissemination dates, and platforms used.
  5. In the event of advertisement of any product high in fat, salt, and sugar (HFSS), (the classification of which is based on its score under the Nutrient Profiling Model) the council reserves the right to require the immediate cessation of such advertisement. The determination of whether a product is classified as HFSS shall be at the sole discretion of the council, whose decision shall be final and binding.
  6. In the event of non-compliance with this policy the council shall issue a formal written notice to the relevant advertiser requiring the immediate cessation of the non-compliant advertisement.
  7. An advertiser acknowledges that damages would not be a sufficient remedy in any legal action brought by the council. Accordingly, the council will be entitled to apply for (and the advertiser won’t contest) an application for a court order to enforce compliance with this policy.
  8. The Council Public Health team will offer support​ to Small and Medium Sized Enterprises (SMEs), defined by the Foreign, Commonwealth & Development Office as organisations with fewer than 250 employees and an annual turnover under €50million [7], in how to use​ the nutrient profiling model.
  9. The advertising policy will be reviewed annually.
  10. Contracts for corporate advertising are managed by different service teams across the council. These teams will manage contracts to ensure the best terms are negotiated, that standing orders are not breached, and to ensure continuity should the person originally party to the agreement change jobs or leave.
  11. The Public Health team will work in partnership with council teams to ensure advertising content adheres to the healthier advertising policy.
  12. In all circumstances Tower Hamlets Council retains the right to reject any advertisement or editorial related to advertisements in line with the standards set out in this advertising policy.
  13. The appearance of advertisement on any council publication is not an endorsement by Tower Hamlets Council of that company, product or service. In order to make this clear all publications with advertising should carry the ‘Disclaimer Notice’ (Appendix 3).

**Appendices**

Below are three appendices providing further policy guidance, as follows:

* Appendix 1: Healthier advertising policy guidance
* Appendix 2: Example decision table as guidance for decisions regarding advertising including high fat, salt, and/or sugar food and non-alcoholic drinks
* Appendix 3: Disclaimer

**Appendix 1**

**Healthier advertising policy guidance**

## **Background**

* 1. Tower Hamlets has high rates of childhood obesity. Over 1 in 5 children in Reception have excess weight (meaning they are overweight or very overweight).[8] This more than doubles by Year 6, where over 2 in 5 children have excess weight. [8] There are also significant inequalities in child excess weight levels, with higher rates reported in children from low socio-economic groups and from minority ethnic backgrounds. [8] These health issues continue into adulthood with 54% of adults (aged 18+) in Tower Hamlets classified as overweight or obese. [9]
  2. Advertisements for unhealthy food and drink products directly and indirectly impact what we eat.[10] Young people who recall seeing junk food adverts every day are more likely to be obese.[11] Both children and adults from lower socio-economic groups are more likely to be exposed to advertisements for HFSS foods. [12] [13] Research also suggests that ethnic minority groups have a higher likelihood of exposure to food marketing outdoors. [14] Alongside barriers to affording and accessing healthy food, HFSS advertising magnifies the problem.
  3. In February 2019, Transport for London (TfL) introduced an advertising restriction on all food and non-alcoholic drink products that are high in fat, salt and/or sugar (HFSS). This restriction is across all advertising opportunities on the TfL estate (including bus stops, taxi wraps and stations). Councils are now beginning to implement similar advertising policies, with policies implemented by Bristol City Council, Barnsley Council, as well as the London Boroughs of Greenwich, Southwark, Haringey, and Merton.

## **General principles**

* 1. All Councils who have introduced an advertising policy use the UK Nutrient Profiling Model (NPM) to identify HFSS products and Tower Hamlets Council will also adopt the NPM to identify HFSS products.
  2. The UK Nutrient Profiling Model (NPM) is widely used and has been subject to rigorous scientific scrutiny, extensive stakeholder consultation, and review. Furthermore, the scoring system it uses balances the contribution made by beneficial nutrients that are particularly important in children’s [15] diets with components in the food that children should eat less of. It has therefore been concluded that the NPM model is the best way of identifying food that contributes to child obesity. Such food and drink is not only purchased directly by children but is bought for them by others.
  3. Guidance on how to identify whether a product is considered HFSS under the NPM is available [here](https://www.gov.uk/government/publications/the-nutrient-profiling-model). All potential advertisers should familiarise themselves with the NPM’s technical guidance on how to identify whether a product is considered HFSS under the NPM. In any case of doubt, it is for the advertiser to show that their product is not HFSS.
  4. Any revisions to the NPM will be reflected in the advertisement decisions made by the council.
  5. It is the responsibility of advertisers and their agents to verify the status of the products featured using the NPM. See appendix 2 for guidance. Tower Hamlets Council Public Health service will be able to support with this if guidance is required.
  6. Tower Hamlets Council or its representatives may request evidence of nutrition information of food and drink products advertised, and in line with the Food Standards Agency recommendations, Tower Hamlets Council expects any laboratory used for nutrition analysis to have ISO 17025 accreditation and this should be by the United Kingdom Accreditation Service (UKAS).

## **Content featuring only non-HFSS products**

* 1. These would normally be approved but would still need to comply with existing principles and procedures relating to any advertising carried by Tower Hamlets Council.

## **Content featuring only HFSS products**

* 1. Where proposed content features only food and/or non-alcoholic drin k which is rated HFSS, such copy would be rejected.
  2. It is therefore recommended that, before committing to advertising production agreements, advertisers should discuss their eligibility with the council or its agents.

## **Content where there is a range of food/drink featured, some of which is HFSS**

* 1. The advertising or promotion of HFSS products is unacceptable under the policy, so a range or meal could not feature them (e.g., fish, chips and peas could only be advertised if all products were non-HFSS). This would also apply to any meal settings being shown, including those for restaurants, aggregator platforms and delivery services.
  2. It is the responsibility of advertisers and their agents to verify the status of the products featured using the NPM.

## **Content where no food or drink is featured directly but the advertisement is from or features a food and/or drink brand**

* 1. This may include:
* advertisements where the brand’s logo is included but no products, such as a brand values campaign,
* directional signage to a store, app, or website,
* promotional advertising which is price-led but features no products such as ‘50% off everything’ or similar,
* advertising about a business or its performance, and/or
* content such as slides delivered by a sponsor at an event sponsored by a food or drink brand.
  1. Food and drink brands (including food and drink service companies or ordering services) will only be able to place such advertisements if the advertisement promotes healthier options (i.e., non-HFSS products) as the basis of the copy.
  2. Where advertisers and/or sponsors are uncertain about the classification of proposed copy under these guidelines, they should discuss this with the council or its agents.

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

* 1. HFSS products should not be promoted by being featured in advertisements for other products. It is the responsibility of advertisers and their agents to verify the HFSS status of the products featured using the NPM.
  2. Where a food or drink item is featured incidentally and does not relate to a specific identifiable product which can be assessed for its HFSS status, advertising copy may be rejected by the council or its agents on the basis that the advertisement promotes the consumption of HFSS foods.

## **Advertisements or other content where food and drink is referenced in text, through graphical representations or other visual representation**

* 1. HFSS products should not be promoted through references in text, graphical images or other visual representations of food and drink. 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 or its agents on the basis that it promotes the consumption of HFSS products.

## **Indirect promotion of HFSS food and/or drink**

* 1. Where a product is non-HFSS but falls within a category covered by PHE’s recommendations for sugar or calorie reduction, the product should always carry a prominent product descriptor to help differentiate it from noncompliant products (e.g., where an advertisement features a non-HFSS pizza or burger, the image should be accompanied by prominent text that names the specific product and retailer).
  2. Children should not usually be shown in advertisements for products which are compliant in a category which is covered by PHE’s recommendations for sugar or calorie reduction.

## **Portion sizes**

* 1. 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, unless agreed otherwise by the council or its agents.
  2. If advertisers, sponsors and/or agencies are unsure about how to interpret this, or any other aspect of these guidelines, they are encouraged to get in touch with the council or its agents and work together on a solution to avoid submitted copy requiring changes or being rejected.

## **Exceptions**

* 1. There are no standard exceptions to the policy offered on council-owned advertising sites. Tower Hamlets Council understands there may be some limited unintended consequences of applying this policy but has concluded that these consequences do not justify the public expenditure required to establish, run, and monitor a general exceptions process.

## **Alignment Council-wide**

* 1. Tower Hamlets Council Public Health team will be consulted on any planning application which includes advertising.
  2. Tower Hamlets Council Planning team will consider the potential impact of HFSS advertising when looking at planning applications which include advertising sites. Unhealthy food and drink marketing is an important consideration upon healthy town centres and is therefore considered in planning applications.
  3. Sites which are likely to be used for HFSS advertising, for example, telephone boxes, will be refused.

**Appendix 2**

**Example decision table as guidance for decision regarding advertising including high fat, salt, and sugar food and non-alcoholic drinks**

## **Example decision table**

The table below, adapted from Barnsley Council’s Advertising policy, outlines examples of a range of advertisements and what the policy outcome would likely be.

|  |  |  |  |
| --- | --- | --- | --- |
| **Advertisement Content** | **Outcome** | **Example(s)** | **Notes** |
| Only non-HFFS products featured | Approved | An advertisement for fresh fruit and vegetables | Subject to compliance with our overall Advertising Policy. |
| Only HFSS products features | Rejected | An advertisement for sweet pastries |  |
| A range of products, some of which are HFSS and some of which are non-HFSS | Rejected | An advertisement for a meal deal that includes a chocolate bar (HFSS) as well as fruit (non-HFSS) | All food/drink items being advertised must be non-HFSS. |
| No food or drink directly displayed but the advertisement is from (or features) a food/drink brand | Possibly approved – only if healthier options (non-HFSS) are being promoted | A fast-food business advertising only non-HFSS products (approved) | Many brands and their logos have strong HFSS product association. Some HFSS products also share the same name as the actual brand name, making it difficult to separate the brand name from the associated product. |
|  | A fast-food business advertising a competition or an affiliation to an event (rejected). |  |
| Food and drink is shown ‘incidentally’ i.e., it is not the subject of the advertisement but is included (or implied) by visual or copy | Possibly approved – only if healthy products (non-HFSS) are being displayed | A travel firm advertising holiday offers which happens to contain images of oranges (approved) | If the advertisement can be reasonably considered to promote HFSS products it will be rejected regardless of whether the food is intended focus of the advertisement. |
|  | A travel firm advertising holiday offers which happens to contain images of ice creams (rejected) |  |
| Food and drink is referenced in the text, through graphical representations or other visual representation (not a real product being advertised) | Possibly approved – only if healthy products (non-HFSS) are being promoted | An advertisement that contains a cartoon image of carrots (accepted) | If the advertisement can be reasonably considered to promote HFSS products it will be rejected regardless of whether the food is an actual product. |
|  | An advertisement that contains a cartoon image of chocolate (rejected) |  |
| Indirect promotion of HFSS food and/or drink | Possibly approved – only if prominent text accompanies the image naming the product and retailer | An advertisement featuring a non-HFSS ice cream that includes prominent text that accompanies the image naming the specific product and retailer (accepted) | 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 ice cream). |
|  |  | An advertisement featuring a non-HFSS ice cream but with no accompanying explanatory text (rejected) |  |
| Portion sizes | Possibly approved – see Notes column | An advertisement for a non-HFSS 16-inch pizza that displays a portion (e.g., 3 slices) and that also displays clear text naming the product and retailer as per the row above (accepted) | 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 OHID’s recommendations for sugar or calorie reduction, the product should be displayed as a single portion. |
| Portion sizes |  | An advertisement for a non-HFSS 16-inch pizza that displays an image of the full pizza (rejected) |  |

**Appendix 3**

**Disclaimer notice for advertisement**

The appearance of advertisement on any council publication is not an endorsement by Tower Hamlets Council of that company, product, or service. In order to make this clear all publications with advertising should carry the following disclaimer notice:

‘Whilst every effort has been made to ensure the accuracy of advertisements contained in the publication, Tower Hamlets Council cannot accept any liability for errors and omissions. Tower Hamlets Council cannot accept any responsibility for claims made by advertisers and their inclusion in [name of publication] should not be taken as an endorsement by Tower Hamlets Council.’

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