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RAPID ETHICS REVIEW

GOVERNMENT HEALTHY WEIGHT STRATEGIES: ETHICAL CONSIDERATIONS

Professor John Coggon
University of Bristol

Obesity creates risks both to physical and mental health,[1] such as type 2 diabetes, coronary heart disease, various cancers, depression, and low self-esteem. Since early into the coronavirus pandemic, furthermore, it has been apparent[2] that people categorised as being obese or overweight are more likely to suffer the worst effects of covid-19; more likely to be hospitalised, to require mechanical ventilation or critical care, and to die from the disease. The differential impacts of covid-19, including in relation to people with higher weight, have reinvigorated longstanding policy debates[3] on public health, social ethics, and equity. This Rapid Ethics Review looks at how ethical arguments help us to understand the values at play in public health framings of an 'obesity epidemic'. It explains key ethical tensions that arise where public policy focuses on (un)healthy weight. And it evaluates core ethical considerations that feature in the framing, development, and implementation of policy strategies in this area.

KEY POINTS

- Rates of obesity are increasing, and in the UK[4] are doing so particularly amongst groups and communities that face other health inequalities and broader forms of socio-economic disadvantage.[5]
- People who are categorised as being obese or overweight are at greater risk of suffering different forms[1] of physical and mental health conditions, and have faced greater harms consequent to covid-19.[2]
- Policy-making in this area raises questions[6] of whether it is ethically appropriate for government to have goals of population health improvement regarding non-communicable diseases, or whether such matters should be treated simply as questions of personal responsibility.
- Ethical analysis[7] of these points is informed by reference to the practical complexity of causal structures, questions of power and influence, and the range of determinants –including commercial ones – that are beyond the control of individuals.
- In developing and scrutinising policy in this area, it is crucial to apply ethical analysis to questions of:
  - what policy goals should be, with what rationales, and measured against what measures of effectiveness;
  - who practical policy measures might target, considering both the direct beneficiaries of policy and institutions and organisations that influence choices and behaviours concerning diet and physical activity; and
  - how practical policy measures are implemented, considering methods that encourage or incentivise different choices or behaviours, as well as coercive measures, with particular attention to achieving effective outcomes that are proportionate, do not use or create stigma, and avoid inadvertent harm.

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SHOULD (UN)HEALTHY WEIGHT BE A QUESTION OF PUBLIC POLICY?

Background and context: before, within, and beyond the coronavirus pandemic

Globally,[8] the past decades have seen enormous increases in rates of people who are categorised as overweight and obese, as well as changing demographics[9] amongst the populations in which obesity is most prevalent across different countries. Within the UK,[10] where health is a devolved matter,[11] the different administrations in Belfast, Cardiff, Edinburgh, and Westminster have responsibility for setting and implementing healthy weight strategies. As explained below, across the four nations there is a shared view at the level of government that this is a complex question that needs to be prioritised and addressed through public policy.

The importance of the issue pre-existed, but has been underscored[12] by, the coronavirus pandemic. This is in part because covid-19 is particularly harmful[2] to people categorised as overweight or obese. And it is also because the pandemic has further highlighted longstanding critical questions about health and society: in particular, about how the burdens of ill health fall disproportionately across members of different groups and communities; and how health inequalities are reflective of broader inequalities whose fairness may be questioned through ethical analysis.[3]

Excess body weight may be caused, or contributed to, by medical conditions or certain genetic conditions or traits. It is important to recognise this, whilst noting that in most cases it results from a combination of relatively higher consumption of calories and relatively lower amounts of physical exercise. As explained by the NHS: "obesity is generally caused by eating too much and moving too little."[13] The conditions to which obesity can lead significantly increase the burden of poor physical and mental health for individuals and communities. For people with covid-19,[2] excess body weight creates a greater likelihood of hospitalisation, of a need for mechanical ventilation, and of dying. And more generally,[1] obesity leads to greater likelihoods of suffering conditions including type 2 diabetes, coronary heart disease, different forms of cancer, stroke, and depression.

An 'obesity epidemic': arguments for a public health framing

Covid-19 is an infectious disease, so measures that restrict our freedom to interact, such as social-distancing, the use of facemasks, and 'lockdowns' are deigned to limit transmission of the virus and the prevalence of covid-19 disease.

Obesity, by contrast, is a cause of non-communicable diseases[14] (NCDs); chronic conditions such as heart disease, which are not transmitted, or 'caught', in the ways that a contagious disease might be. Nevertheless, within and beyond the context of covid-19, unhealthy weight is presented as a public health problem. This is because of its increasing incidence leading to higher levels of the significant health impacts described above. But crucially, a public health framing is also based on the idea that the growing prevalence of unhealthy weight is due to a combination of avoidable and preventable factors, many of which are beyond the control of any individual. These include powerful influences, for example, through commercial practices such as cheap pricing of high-calorie foods, or through the design of our cities, for example in failing to ensure meaningful opportunities to engage in physical exercise.

The influences from political, commercial, and other institutions and bodies form part of the social determinants of health. The World Health Organization (WHO) characterises the social determinants of health (SDH)[15] as:

> *"…the non-medical factors that influence health outcomes. They are the conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life. These forces and systems include economic policies and systems, development agendas, social norms, social policies and political systems.*
>
> *"The SDH have an important influence on health inequities – the unfair and avoidable differences in health status seen within and between countries. In countries at all levels of income, health and illness follow a social gradient: the lower the socioeconomic position, the worse the health."*

Against these points, trends regarding unhealthy weight may be represented as public health problems because of the complexity of systems and causal structures that are implicated: responding to them is beyond the power of individuals acting alone, given the breadth and subtlety of distinct influences. Equally, they are not reducible to factors that fall within the remit of any single government department or sector.

For these reasons, although personal responsibility and choice do not lose their importance, it is argued

that to focus exclusively on personal choice ignores significant matters that must be addressed at societal and political levels. This may be particularly so given that public health scholars and activists have identified factors such as the commercial determinants of health,[16] and the ways in which power and influence[17] play out in reality. Through various methods of influence,[18] commercial practices may be shown to have particularly strong and questionable power to impact society and the choices that people make; and through that people's health. Within public health communities, it has accordingly long been common to make reference to the idea of an 'obesity epidemic'.[19]

Personal choice, responsibility, identity, and inadvertent harm: arguments against a public health framing

A public health framing, or the characterisation of an 'obesity epidemic', is increasingly familiar. However, even where critics accept the evidence that rates of obesity are increasing, some argue that it is wrong to frame the 'spread' of NCDs as an 'epidemic'. According to this position, matters such as diet and exercise should be left with individuals and families rather than fall within the remit of public health policy. Regardless of how matters such as social structures, institutional systems, and commercial practices might shape "the conditions of daily life", this more libertarian[20] view holds that people, without government intervention, are best placed to decide what or how much to eat, whether and how to exercise, and so on.

Covid-19 is particularly harmful to people categorised as overweight or obese

In particular, this form of argument against a public health framing aims to challenge the position that the causes of NCDs are best addressed through coercive laws and regulation: for instance, through the use of taxes to make unhealthy foods more expensive, and so less attractive to consumers. On this view,[21] individual (and parental) responsibility is the appropriate means to limit the incidence of NCDs; not law or policy.

In addition to such arguments, to understand whether and why a public health framing is appropriate or not, it might be suggested that the key questions are not about whether higher weight can cause greater risk of some forms of ill health. Rather, they are first to ask whether that is rightly considered a social or political problem that ought to be addressed through policy: should efforts be made to reduce levels of what is categorised as excess weight? This is a question of social ethics, and it should not be assumed that the answer is yes, or indeed even that the framing of the question, is appropriate. Terms such as "overweight", "excess weight", and "obese" can be considered[22] offensive for the inherent judgment that they may imply, and as a focus of policy concern even create a shift in focus away from health. Furthermore, even if public health framings of obesity and excess weight might be considered acceptable in the abstract, there are dangers that without careful implementation they may inadvertently cause harm:[23] for example by contributing to appearance-based discrimination or by compounding harms that result from eating disorders.

A question for public health policy?

The points above relate to evidence-based arguments about the harms related to obesity, and how population-level trends show increasing prevalence that disproportionately impacts groups and communities who face other forms of health inequalities. Evidence also shows that while personal choice is important, individuals are not alone able to avoid or overcome all of the 'obesogenic' influences in their environments. Despite these points, it is also clear that challenges arise against government policy in this area. Such challenges exist even where protagonists accept that rates of obesity are rising, that their prevalence impacts different groups and communities distinctly, and that significant causal factors are found within social determinants.

To engage ethically with these ideas, we need to consider practical questions of power and influence in relation to the factors that cause increasing and unequal levels of obesity amongst different groups and communities in the UK. We also need to consider questions of social ethics and the legitimate scope of government. How do we settle arguments on whether the causes of NCDs are the proper business of policy? In answering that question, we also need to look to how policies might ethically work in practice: how do matters such as the form of an intervention (for example, is it instituted through coercive or advisory measures?) or its effect (for example, does it cause stigma?) bear on its legitimacy?

Summary points:

- Obesity is identified as a significant public health problem because it:
  - *leads to the increased incidence of non-communicable diseases (NCDs);*
  - *worsens health inequalities between different groups and communities; and*
  - *entails important points regarding personal choice and responsibility, but is bound up too in significant causal factors that are beyond individuals' control, encapsulated within the WHO's framing of the social determinants of health.*
- Challenges against body weight being a question of public health policy include:
  - *claims that NCDs are matters, if they are to be addressed, that should be for personal decision-making rather than government policy; and*
  - *arguments that framings of policy have the effect of removing health from their core, or even cause harms (including health harms).*
- Ethical evaluation of these points requires policy-makers to consider:
  - *the practical complexities and tensions given the distinct influences on people's diet and physical exercise.*
  - *how, against these, legitimate policy aims arise; and*
  - *the appropriate methods of realising those aims.*

WHAT ARE THE KEY ETHICAL CHALLENGES FOR DEVISING AND IMPLEMENTING HEALTHY WEIGHT POLICY?

Complexity, power, and influence

The causes of excess weight are a complex practical problem,[24] whose burdens need to be recognised against the multiple contributing factors[25] at play. As with any area of social policy in a liberal democracy, important ethical imperatives arise about respecting personal choices and preferences. But the value of personal decision-making needs to be considered with reference as well to the practical limits of individual choice. There are influences, for instance, on reasonably accessible and appealing choices in relation to diet and exercise, or to the shaping of commercial and built environments, that are beyond an individual's control. To the extent that these might need to be addressed, doing so requires the sorts of methods of collaborative coordination and implementation that are available to governments and other organisations rather than individuals acting alone.

Accordingly, ethical ideas in public health ethics have integrated and expanded ideas from the social determinants of health, linking epidemiological insights and social justice.[26] Debates then focus on the question of whose responsibility it is to address the factors that lead to ill health but which cannot be addressed by individuals alone. As one leading figure in public and global health ethics has written:[27]

> *"If social factors are identified as determining such significant aspects of human well-being as mortality and morbidity, the moral responsibility for ill health and health inequalities expands beyond the individual to include social institutions and processes."*

As suggested in the first section of this review, however, there are objections to government obesity strategies. These give rise to ethical questions both on whether addressing NCDs is a proper aim of policy, and on the methods that might be used to realise policy aims.

Paternalism objections and the 'nanny state' debate

Regardless of the health impacts of obesity, some people argue that even if government intervention is necessary to help 'fix' things, it is simply not appropriate for government to create policy in this area. Bluntly, these positions hold that poor health and health inequalities may be regrettable, but encouraging or enforcing better health and well-being is not the proper job of government.

These arguments tend to be framed in gendered terms. Within technical philosophical debates, they are found in literatures on paternalism.[28] Within (derogatory) public and political debates, they are

found in the idea of nanny statism.[6] Central to such arguments are the ideas that:

- individuals (or adults, at least) are free decision-makers;
- individuals are best placed to determine their own (and, as relevant, their children's) interests and what best serves those interests; and that
- government therefore has no right to 'nanny' individuals into living healthy lives.

Ethical analysis of these claims necessarily focus on questions about what governments should (not) do: the appropriate aims and purposes of public policy.

We may take seriously the underpinning challenges in paternalism objections. But in doing so, we need also to consider powerful influences in society beyond government: for example, from commercial organisations. If individual freedom is a – even the – value to be prized, a sophisticated argument is needed to explain the place and legitimacy of the activities, practices, and impacts of influential corporations, organisations, and institutions in society. Simplistic 'nanny state' slurs are inadequate without more to explain why public policy aims to reduce NCDs are unjustifiable. To hold, such arguments rely, in ways that may be questioned both practically and ethically,[29] on the idea that free choice is always and straightforwardly best protected through the absence of government interventions.

In looking into these matters in the context of government healthy weight strategies, questions of what government should do are well addressed by looking at the complex practical situation and the social determinants of health. Ethical considerations of undue paternalism are also informed by considering whether it makes a difference who governments target with policy interventions, or how policy aims might be implemented.

On the 'who' question, ethical discussions ask, for instance, is it distinctly acceptable for governments to target the health of children?[30] This might be because children are considered a special group that the state has a duty to protect against harms such as those caused by excess weight. Relatedly, it might be because children are considered to be particularly susceptible to aggressive marketing techniques and unable fully to deliberate and arrive at their own considered choices in relation to issues such as diet.

Distinct questions might also arise, for example, in relation to the regulation of corporations such as supermarkets. It may be argued that the value of such corporations' freedoms is distinct from the value of the personal freedoms that underpin paternalism objections; that valuing individuals' freedoms is not the same as valuing commercial interests.

On the 'how' question, we find ethical arguments[31] that distinguish 'softer' and 'harder' methods of implementing policies that are described as paternalistic. In this case, it is argued that there is a difference between a coercive policy – say an outright ban on the sale of particular products – and a policy that informs consumers, or one that encourages particular choices – say through pricing incentives in favour of healthier products, or the design of urban environments to include easily accessed and attractive green space for recreation.

In relation to the 'how' question, as well as such points about the form of regulation, it is ethically important to consider the potential for policies themselves to create stigma.[32] Efforts that may formally be said to avoid coercion may nevertheless effectively coerce through stigmatisation; and cause harms[33] by doing so. Even if unintentional, when devising public health policy, it is important to consider whether and how it may have stigmatising effects, recognising this is a significant ethical and legal issue[34] that requires to be addressed.

Finding balance beyond 'nanny state' simplifications

In relation to excess weight, ethical arguments[31] challenge the idea of apparently free choice being as free as it seems, and question the patterns of obesity across society. Such arguments hold that it is wrong – unfair in principle and in practice – to make something a matter just of personal responsibility when: first, it is demonstrably beyond the control of an individual, as it is unfair to make people accountable for matters that they have not chosen and cannot change; and secondly, the status quo demonstrably leaves people subject to avoidable harms, and has disproportionate and differential impacts on different communities and groups within society. With these points in mind, the final section of this review looks to how ethical considerations should feature in debates on government developments in relation to healthy weight strategies.

Summary points:

- From an ethical perspective, the practical complexities of causes of excess weight are well considered with reference to ideas of social justice, which:
  - *allow us to evaluate the (un)fairness of exclusively considering NCDs as a matter of personal responsibility; and*
  - *suggest a need for, and thus an ethical imperative in favour of, collective responsibility and collaborative methods of response.*
- Beyond questions concerning individual versus collective responsibility are challenges based in paternalism critiques, which ask whether health promotion/ improvement is an appropriate function of government, inviting ethical analysis of:
  - *what the proper aims of public policy should be;*
  - *when considering particular measures, whether distinctions arise depending on who they target—for example if distinct considerations arise in relation to policies aimed at children or at commercial organisations; and*
  - *whether differences arise depending on the nature of the intervention; for example, if there are ethical differences to policies that encourage or incentivise particular outcomes rather than coerce/ enforce them, or if a measure creates ethical problems such as stigmatisation.*

HOW SHOULD THESE ETHICAL DEBATES INFORM ONGOING POLICY STRATEGIES IN THE UK?

Ethical considerations in policy aims and approaches in government strategies across the UK: what, who, and how

Across the UK, obesity is considered a matter that needs to be addressed as a government priority. Strategy in this area is primarily set at national levels respectively in England,[35] Northern Ireland,[36] Scotland,[37] and Wales.[38] Although there are distinctions in the respective framings and substance of the different nations' policy approaches, the Westminster government in its recent White Paper[39] for health and care in England has stated that it is engaging with the devolved administrations in relation to its current and future policy proposals.

Despite various differences, common to all four nations' approaches and strategies is a recognition of the sorts of practical complexities characterised in the first part of this review; healthy weight is viewed as a matter to be approached through collective, as well as individual, responsibility, including with reference to unfair health inequalities. Individuals, communities, organisations, corporations, and institutions, as well as government all have parts to play. In line with points made in the second section of this review, the different nations' respective policies also treat distinct targets of policy – for example, children – differently. Concern is addressed both to the impacts of different bodies, organisations, and institutions (public and private), and to paternalism objections.

In each national strategy, we accordingly see a mix of considerations related to the social determinants of health. Equally, we see efforts to guide policy to produce better health outcomes and diminished health inequalities whilst using methods of regulation that are given not to interfere unduly or disproportionately with individual, family, and commercial freedoms. Whether this balance is properly achieved requires scientific evidence bases, but also ethical analysis of the values and value judgments that inevitably arise.

As policy plans further develop following the onset of the coronavirus pandemic, ethical analysis of healthy weight strategies would be well approached by considering the points raised above, which can be summarised as follows:

- What should the policy aims be?
- Who should interventions be designed to influence?
- How should measures be designed?

What aims?

The overall aims that we find in government strategies may be characterised with reference to the two 'ethical

mandates' that are often associated with public health ethics:[41] to improve overall population health outcomes; and to reduce unfair health inequalities. In order for these policy goals to be justified, we require evidence as explored in the social determinants of health literatures, and acceptance of the ethical claim that these are questions of shared responsibility in society. Within the English context, for example, we have seen a worsening situation[3] in relation to NCDs, the social determinants of health, and unequal health impacts on different groups and communities within society. When scrutinising policy and proposed reforms, we need to ask: are the aims justified, and are governments ready to realise them in ways that are at once effective, fair, and rigorous? To make that assessment, we need also to consider the 'who' and 'how' questions.

Targeting who?

In relation to who, particular attention may be given first to the intended beneficiaries of the policy. Given aims both for overall health improvement, and reduction in health inequalities, this suggests both general and focused measures. The more focused measures will target children, as well as groups and communities who may face wider forms of structural disadvantage. In so doing, they must be developed and implemented with sensitivity both to cultural and social factors, and to the broader questions of systematic unfairness, prejudice, and stigma.

obesity is considered a matter that needs to be addressed as a government priority

When considering 'who', it is important also to keep in mind the complex causal structures at play and how measures will be directed at parties other than the intended beneficiaries of policy. Collective ethical responsibilities mean that we need to look to political institutions; for example in relation to town-planning decisions or licensing of bars and restaurants. We also need to look at other organisations, for example commercial groups (such as supermarkets or pub chains), which may have significant influence on population health outcomes through practices such as price-setting or promotional and advertising techniques.

Targeting how?

Considering then the 'how' questions, from an ethical perspective it is important to evaluate measures that are implemented to regulate the activities of organisations whose products or practices may harm health: for example through banning the advertising of unhealthy foods to children. Equally, it is important to evaluate measures that encourage fuller individual engagement with questions concerning diet: for example to consider both the public health effectiveness and wider impacts of requirements to include nutritional information on food and drink. We may also look at measures designed to encourage healthier environments: for example in the ways that planning decisions might be made with a view to assuring people can access affordable, healthy foods and enjoy meaningful opportunities for exercise.

In relation to measures directly targeting the intended beneficiaries of policies, we may consider the ethical premium placed on individual decision-making freedoms. This may be understood distinctly in relation to children, for whom a 'more paternalistic' approach may be acceptable. But overall, as explained above, strategies in this area have tended to be presented with reference to balancing the achievement of better health outcomes whilst not unduly interfering with individual freedoms.

In addressing these concerns, it is important to recognise ethical questions in relation to the effectiveness of policy, and policies' unintended effects, such as creation of (health) harms or stigma. From a policy and social ethics perspective, questions have been raised about how effective measures are when environmental and commercial influences may strongly promote unhealthy choices. If policy seeks to protect individual freedom, might it be problematic if the realities are that choices are manipulated, or simply that choices are not effectively being made? This invites critiques of 'high agency' requirements in healthy weight strategies: that is, strategies that place a significant burden of deliberation on the individual. High-agency strategies may be argued to overplay their commitment to freedom. Research has explained[41] how this leads to poorer health outcomes than might, from a public health perspective, be desirable, and how it leads to less fair outcomes, measured by reference to health inequalities.

An analysis[6] written after the Westminster government's release of its new obesity strategy in 2020[35] explains that if policy is to rely exclusively or predominantly on individuals' decision-making, and is to be effective and equitable, ethical attention has to be given to four conditions:

- "Condition 1: A social and commercial environment that meaningfully provides healthy choices. People must be able to enjoy an environment within which healthy choices are actually and reasonably available (albeit within a context, by analysis, that also provides for or permits unhealthy choices).
- "Condition 2: Autonomy. People must have decision-making capacity (as is assumed to be the case for all adults but potentially raising distinct assumptions regarding children).
- "Condition 3: Motivated engagement. Individuals must be motivated to engage with advice, guidance, and encouragement. If health outcomes and disparities are to be changed, this also requires that sufficient (however that is measured) numbers of people across all of society are motivated to act on that engagement in favour of health.
- "Condition 4: Actual deliberation. Individuals must not just formally be free to choose, but must reasonably be expected to deliberate: in real terms, is choice being exercised (as opposed, for instance, to the exercise of a non-deliberative response to the environment within which an apparent choice is being made)?"

Conclusions

Ethical values are inevitable in decisions to devise – or not to devise – healthy weight strategies. If policy is developed in this area, ethical attention must, therefore, be applied to:

- the detail of what the policy aims are, and the methods of assessing whether they are being effectively realised;
- consideration of who is targeted by policy; and
- evaluation of how the policy aims are realised.

The social determinants of health, and scientific data on how people make choices and with what effects, help inform our understanding. However, government strategy is not just built on science; there are significant questions of social ethics too. These play out against contexts of different power dynamics – including influence from government, industry, and other organisations – and personal values, wishes, feelings, and beliefs. As policy develops, it is crucial that due understanding and attention be given to the ethical dimensions of the decisions that are made and implemented. If not, hidden assumptions will guide policy where transparent debate is needed.

Summary points:

- Across the UK, there is governmental agreement that policy is required to address increasing rates of excess weight, including with reference to childhood obesity and inequalities across different social groups and communities.
- In order to realise these aims, policy may be targeted both directly at its intended beneficiaries (individuals and communities) and at those who create, shape, or significantly influence the environments and social structures in which we all live (public institutions and agencies, industry bodies, and others).
- Where a premium is placed on individual decision-making, attention needs to be focused on:
  - *the realities of people's environments (including their having reasonable and meaningfully healthy choices available);*
  - *people's autonomy (and in relation to children, its limits);*
  - *how motivated people might be to engage with policy measures; and*
  - *the realities of how individuals' practical deliberation works, if and where individual choice is advanced as the means of realising policy aims.*

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All cited materials were freely available online through the URLs provided on 12 April, 2021.

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This Rapid Ethics Review was written by John Coggon, Professor of Law in the Centre for Health, Law, and Society, University of Bristol Law School, UK, and Honorary Member of the UK Faculty of Public Health. Email: John.Coggon@bristol.ac.uk

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The UK Ethics Accelerator is a UKRI/AHRC-funded initiative that aims to bring UK ethics research expertise to bear on the multiple, ongoing ethical challenges arising during a pandemic emergency. We provide rapid evidence, guidance, and critical analysis to decision-makers across science, medicine, government, and public health. We also facilitate public stakeholder deliberation around key ethical challenges.