

# Citizen Participation and Public Petitions Committee

13th Meeting, 2023 (Session 6), Wednesday  
20 September 2023

## PE1919: Prohibit 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 [22 February 2023](#). At that meeting, the Committee agreed to write to the Scottish Government and UK Athletics.
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, UK Athletics, as well as three 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](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 67 signatures have been received on this petition.
8. The Committee may wish to note, in relation information provided in the Scottish Government response of 25 April 2023, that the Scottish Government has now published the 'Ending the sale of energy drinks to children and young people: consultation analysis', with the Minister for Public Health and Women's Health announcing that the Scottish Government will not seek to pursue mandatory measures restricting the sale of energy drinks at this time. The Official Report of the Minister's statement is available [here](#).

## 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 22 February 2023

**The Deputy Convener:** PE1919, which was lodged by Ted Gourley, 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.

At our previous consideration of the petition on 28 September 2022, where we agreed to seek information from the Scottish Government on when the report on the consultation on ending the sale of energy drinks to children and young people will be published.

We have now received a response from the Government, which states that it will publish an independent consultation analysis report and set out its policy response “in due course.” The response also suggests that the evidence base in relation to caffeine, and caffeine gum specifically, continues to develop. Furthermore, it will look to the European Food Safety Authority and others as the evidence base evolves to consider the implications for the current advice on caffeine products. At this stage, the Government is not considering a ban on the sale of fast-release caffeine products to under-18s.

We have also received two submissions from the petitioner in which he raises concerns about the lack of available evidence to understand the impacts of high-strength, fast-release caffeine products on athletes of various ages. Mr Gourley also offers suggestions for further information gathering by the committee, as well as drawing our attention to advice that the US Anti-Doping Agency provides in relation to caffeine.

Do any members have suggestions?

**Alexander Stewart:** I think that we should write to the Scottish Government requesting an update on when the analysis report and policy response to the consultation into ending the sale of energy drinks to children and young people will be published. In addition, I would suggest that we recommend that it commissions further research into the effects of fast-release caffeine products on children and young people, particularly those participating in physical activity.

It might also be useful to seek some clarity from UK Athletics, to seek its views on where we are in relation to the issues that are raised in the petition. Information on any action that it is undertaking to address the potential risks to athletes under 18 using fast-release caffeine products for performance enhancement would give us an indication as to how that is being managed and processed.

**Fergus Ewing:** In backing that recommendation, I note that the information that we have been provided with states that there have been sudden cardiac deaths at races where caffeine gum was promoted, although there are no investigations of any potential link. Scottish Athletics and sportscotland have warned of health risks. I mention that because, plainly, if cardiovascular risks are involved and death has occurred, that is a very serious matter. We should get that further evidence in some detail.

**Carol Mochan:** I support that. If the athletics associations are already looking into the issue, bringing the evidence to the committee would be very worth while.

**The Deputy Convener:** Thank you for that, colleagues. Do we agree to take that approach?

*Members indicated agreement.*

## Annexe C

### Scottish Government submission of 25 April 2023

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

I write in response to your email of 22 March 2023 on behalf of the Citizen Participation and Public Petitions Committee regarding 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.*

I note the further points raised by the Committee and offer the following response.

The Scottish Government intends to publish the analysis report of the consultation on ending the sale of energy drinks to children and young people and our policy response before the summer. We will write to the Committee when these have been published.

I also note your recommendation that the Scottish Government commission further research into the effects of fast release caffeine products on children and young people, particularly those participating in physical activity. We will consider this as part of our wider considerations for public health research and evidence requirements to support the Scottish Government's priority policy commitments and will also return to the Committee on this.

I hope the Committee finds this information helpful.

**Health Improvement Division**

## UK Athletics submission of 10 May 2023

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

Fundamentally, United Kingdom Athletics (UKA) believe that this is a question that is best considered and addressed by medical experts. However, we have outlined below the considerations that are relevant to the use of caffeine products within athletics.

UKA, the National Governing Body for the sport of athletics, is a member federation of World Athletics and as such, it is bound to the World Anti-Doping Code (The Code). The Code is the core document that harmonises anti-doping policies, rules, and regulations within sport organisations and among public authorities around the world. It works in conjunction with eight International Standards which aim to foster consistency among anti-doping organisations in various areas.

The Prohibited List is one of the eight International Standards, it is updated at least once annually and details substances and methods that are prohibited in sport. Currently Caffeine is not listed on the List and as such, its use is not prohibited. Some athletes will utilise caffeine whilst training and in competition. Whilst not on the 2023 Prohibited List, caffeine is listed on the Monitoring Program. The Monitoring Program includes substances that are not on the Prohibited List, but that the World Anti-Doping Agency (WADA) wishes to monitor to identify potential patterns of misuse in sport.

“Fast release caffeine gum” falls into the supplement category. UKA has a Supplements Position Statement ([UK Athletics' Supplement Position Statement | UK Athletics](#)) which provides athletes with clear advice on how to reduce risk in supplement use.

UKA advocates a “food first” approach to nutrition and cautions athletes that there can be no guarantee that any supplement is free from prohibited substances. We advise that athletes assess their nutritional needs with a qualified and registered Nutritionist. That they then understand that the principal of **Strict Liability** makes the athlete solely responsible for what they ingest, and that having decided to use a supplement, it recommends that only products which are tested as a part of the *Informed Sport* risk reduction programme are used.

This guidance would apply to the use of caffeine supplements. Whilst we do not differentiate within the Position Statement based on the age of the athlete, we would advise that manufacturers guidance on the use of their products is always followed.

We hope this information is of use to the Committee.

## Petitioner submission of 17 May 2023

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

I am pleased the Scottish Government are considering the Committee's recommendation that there should be further research into the effects of fast release caffeine gum on children and young people, particularly those participating in physical activity. I would like to make the Committee aware of recent findings on the effects of caffeine gum which stated that:

*In conclusion, caffeinated chewing gum acutely increases central arterial stiffness and aortic blood pressure in young healthy men. Future investigations should confirm these findings in women and examine whether the response is exaggerated in individuals who are hypertensive or have other risk factors for cardiovascular disease.*

[\(Acute Effects of Caffeinated Chewing Gum on Central Arterial Stiffness and Hemodynamics - Lapierre - 2020 - The FASEB Journal - Wiley Online Library\)](#)

If these findings are clinically significant it supports the case for banning the sale of fast release caffeine products to U18s, and issuing a health warning when sold to adults. I feel it's important that UK Athletics, Scottish Athletics, and parkrun are made aware of the findings as caffeine gum is widely promoted by influential Scottish and GB athletes.

I call on the Committee to ask UK Athletics, Scottish Athletics, and parkrun if they condone the use of caffeine gum at mass participation events, and ask what measures have been taken to mitigate the risks of participants being harmed, particularly U18s.

## Petitioner submission of 31 July 2023

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

I would ask the Committee to seek clarification from UK Athletics on the point about **Strict Liability** in their submission on 10 May 2023.

I understand **Strict Liability** only applies to prohibited substances where athletes commit an anti-doping violation and “***are solely responsible for any banned substance they use, attempt to use, or is found in their system, regardless of how it got there or whether there was any intention to cheat***”.

In the case of someone encouraging a child or young athlete to take legal substances for performance enhancement which could result in them being hospitalised the principle of **Strict Liability** is a red herring. UKA and affiliated clubs will be fully aware they have a legal and moral duty of care to safeguard athletes, particularly minors. I would remind UKA of the advice by **sportscotland** when I raised concerns about fast release caffeine gum promoted in athletics for performance enhancement.

*‘the process of assessing the risk and the steps required to address the concern, regardless of the stimulant, will be covered in a good child wellbeing and protection procedure which most clubs and SGBs (Sports Governing Bodies) will have.’*

It is concerning if UK Athletics, Scottish Athletics and athletics clubs have ignored this advice and do not have a consistent approach to child safeguarding and protection on the use of stimulants.

With regards UK Athletics advising athletes including minors, to follow manufacturer’s guidance on the use of products, I would ask UK Athletics to consider the safety concerns highlighted by Food Standards Scotland (FSS) in [their submission on 4 April 2022](#).

*‘FSS are aware there may be some products on the market that do contain caffeine which, if consumed in one sitting by children and*

*adolescents, would be above the safety levels deemed to not raise safety concerns by EFSA 2015 advice.'*

I understand fast release caffeine gum is one of the products referred to by the FSS which causes safety concerns if consumed in one sitting. It's therefore important the Committee question UK Athletics over their involvement in the use of this substance by young club athletes. If it is unsafe then according to the NSPCC's Child Protection in Sport Unit (CPSU) encouraging a minor to take it for performance enhancement could be a form of physical abuse.

*'in a sport or activity setting, physical abuse may occur where coaches encourage the use of drugs or harmful substances to enhance performance or delay puberty.'*

UK Athletics position on **Strict Liability** where the child is solely responsible appears to contradict NSPCC's guidelines on safeguarding children in athletics.

I understand UK Athletics endorsed fast release caffeine gum and approved of it being handed out to minors at licensed events.

Following concerns about fast release caffeine gum being handed out and promoted at races in Scotland I was advised in an email by Mark Munro, then Head of Scottish Athletics, that they would be notifying all 600 licensed Race Organisers in Scotland of the risks of caffeine in athletics and asking them to:

*'Consider liabilities/ consequences if there is an incident involving an athlete overdosing on caffeine.'*

This would indicate Scottish Athletics have concerns their licensed Race Organisers could be liable if they don't take all reasonable steps to minimise the risks of an athlete being harmed taking legal stimulants, and suggests Scottish Athletics don't accept that young athletes/ runners are solely responsible if they are harmed as claimed by UK Athletics.

Finally, it's disturbing UK Athletics are seemingly unaware of the concerns raised by a sports medicine specialist at World Athletics, the global governing body, who stated:

*“Caffeine is a prime example of a natural substance that is considered safe. While caffeine improves performance, particularly aerobic capacity in endurance athletes, its abuse may lead to fast heart rate (tachycardia), heart rhythm disorders (arrhythmias), high blood pressure, and in some cases sudden cardiac death.”<sup>1</sup>*

## Petitioner submission of 11 September 2023

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

I was recently made aware of an incident at an athletics club involving the use of high strength caffeine gum for performance enhancement. According to the club’s statement it was a one-off use by a child due to ignorance of the dangers associated with its consumption. For reasons already outlined in previous submissions I don’t believe it’s an isolated case and am concerned it’s a matter of time before a child is harmed.

In my opinion these types of incidents should be officially reported and actioned. I understand RIDDOR - ‘Reporting of Injuries, Diseases and Dangerous Occurrences Regulations’ focuses mainly on workplace and therefore does not cover incidents at athletics or other sports clubs.

I would therefore call on the Committee to:

- a) ask UK Athletics and Scottish Athletics what their policies are on reporting ‘near miss’, dangerous incidents involving high strength caffeine gum.
- b) consider whether it should be a legal requirement to report these occurrences.
- c) consider high strength caffeine gum in the linked petition [PE2024](#) which calls for a national, public information programme to raise awareness on the impacts of performance enhancing drugs.

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<sup>1</sup> <https://www.escardio.org/The-ESC/Press-Office/Press-releases/Athletes-warned-against-potential-dangers-of-natural-supplements>