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Chair, Advisory Council on the Misuse of Drugs (ACMD)
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6 December 2022

Dear Owen and Simon,

The Government's response to the ACMD's report: Synthetic Cannabinoid Receptor Agonists - An updated harms assessment and a review of classification and scheduling under the Misuse of Drugs Act 1971 and its Regulations.

I am grateful to the ACMD for their updated harms assessment of SCRA together with their detailed recommendations covering surveillance, enhancement of local drug treatment services, training and education, and research. Please accept my apologies for the delay in responding to the Council.

The Home Office has worked closely with the Department for Health and Social Care (DHSC), the Office for Health Improvement and Disparities (OHID), and the Department for Levelling Up, Housing and Communities to provide a comprehensive response to the recommendations. I have set out each recommendation and the Government's response below.

The Home Office is responding to the ACMD's advice on behalf of the UK Government in respect of reserved matters and has consulted the Devolved Governments in the preparation of this response. Their views on the matters which fall within their competence, including data collection on NPS use, post-mortem toxicology and health-related matters are set out in an annex. In some cases, the Devolved Governments have also provided comments on reserved matters.

Recommendation 1: This is a reserved matter

The ACMD has reviewed the available evidence of harms from SCRA use and recommends that the current classification of all SCRA controlled by the MDA, either under the synthetic cannabinoid generic definition or listed by individually by name remains appropriate. These substances should therefore continue to be controlled under Class B of the Misuse of Drugs Act 1971.

Government response

The Government accepts this recommendation.

Recommendation 2: This is a reserved matter

The ACMD has reviewed potential uses of SCRA and recommends that the current scheduling of all SCRA in the Misuse of Drugs Regulations 2001, either under the synthetic cannabinoid generic definition or listed by individually by name remains appropriate. These substances should therefore, continue to be placed in Schedule 1 of the Misuse of Drugs Regulations 2001 on the grounds that they currently have no recognised medicinal use.

Government response

The Government accepts this recommendation.

Recommendation 3:

National user surveys should explicitly collect or continue to collect data on emerging substances of misuse. These should include the Crime Survey for England and Wales (CSEW), Scottish Crime and Justice Survey (SCJS), the Northern Ireland Health Survey series, and Smoking, Drinking and Drug use among young people in England (SDD) survey.

Government response

The Government accepts this recommendation in principle. Given the low prevalence rates of total NPS use captured by the CSEW (0.3% of 16-59 year olds reported last year NPS use in 2019/20), it would not be appropriate to break this down further by asking about individual NPS types, such as synthetic cannabinoids. However, as part of the CSEW questionnaire development process, ONS review annually the wording of questions on drug use, including NPS. We will continue to work with the ONS to ensure that these questions are appropriate and support our understanding of SCRAs.

Recommendation 4:

Guidance on a UK-wide minimum standard set of post-mortem toxicology tests is developed for apparent drug-related deaths, to include testing for novel psychoactive substances. This would include agreed reporting standards.

Government response

This recommendation is beyond the remit of Government as it falls to Coroners, who as independent judicial office holders are independent in the discharge of their statutory functions. Coroners are funded by individual local authorities and make decisions in each individual case about the nature of the toxicological examination required.

However, the Government recognises that the ACMD's recent report *A review of the evidence on the use and harms of 2- benzyl benzimidazole ('nitazene') and piperidine benzimidazolone ('brorphine-like') opioids* contains recommendations that have a broad relevance to post-mortem toxicology.

Recommendation 5:

a) Toxicology analysis of samples from deaths thought to be drug related, where there is no obvious toxicological cause, should include prevalent SCRA, including 'fourth-generation' SCRA reported in global drug markets.

Where this testing is not possible because of inadequate resources, low sample volume, or another reason, toxicology reports should include a clear statement that a SCRA test has not been carried out.

If SCRA testing has been carried out, a list of the compounds included in the test should be included in the toxicology report. Information on prevalent compounds should be available to coroners and forensic toxicologists, who should take this into account when deciding on the substances to be tested for. Forensic toxicologists should discuss important limitations of their analysis in their reports to the coroner.

b) Local partnerships undertaking learning reviews of drug related deaths within their populations to be clear about the extent to which SCRA have or have not played a role in the death. Furthermore, to identify any local trends and patterns, and respond accordingly to reduce the future incidence of harm and deaths from SCRA.

Government response

As stated in response to recommendation 4, recommendation 5 a) is beyond the remit of Government as it falls to Coroners, who as independent judicial office holders are independent in the discharge of their statutory functions. Coroners are funded by individual local authorities and make decisions in each individual case about the nature of the toxicological examination required.

5 b) The Government accepts this recommendation and notes this recommendation for local partnerships undertaking learning reviews of drug related deaths. The Office

for Health Improvement and Disparities have passed on this recommendation to networks of treatment providers and commissioners of services for people who use drugs.

Recommendation 6:

The Forensic Early Warning System (FEWS) should provide support to improve analytical capabilities of toxicology laboratories nationally. Toxicology laboratories should have access to: (a) regularly updated information about SCRA that are currently prevalent in the UK, and reference materials (as provided by FEWS), and/or (b) a centralised screening service that can offer technical assistance when needed for the accurate identification of the SCRA present in relevant samples they process. Adequate resource should be made available to FEWS for these functions.

Government response

The ACMD provides two alternative recommendations to improve analytical capabilities of toxicology laboratories, 6a and 6b. The Government considers that 6a, the provision of reference standards to toxicology laboratories, is more appropriate and accepts it in principle. It will not be possible to provide access to reference standards to identify SCRA in post-mortem toxicology samples to all toxicology laboratories in England and Wales. Officials are exploring options and seeking participants to participate in a pilot project under which we would provide reference standards for post-mortem toxicology via the Forensic Early Warning System (FEWS). Given that this is an active marketplace, we are seeking a solution which is compatible with the Government's commercial process, whether that be funding via a grant or commercial contract funding. Home Office officials will update the ACMD with this progress at the earliest opportunity.

Recommendation 7:

Surveillance should be commissioned to establish improved systematic monitoring of the prevalence of novel psychoactive substances, including SCRA, in relevant samples across the UK. These might include: a) drug seizures; b) waste water (including targeted studies); and c) biological samples from users. This surveillance should encompass those with non-fatal toxicity, including those attending emergency departments, mainstream drug services and special or vulnerable populations, such as people experiencing homelessness and prisoners. Data should be consolidated and made available to those responsible for the investigation of drug-related deaths as well as authorities responsible for advising on clinical management and public health protection.

Government response

The Government accepts in principle that surveillance should be commissioned to better understand the prevalence of SCRA and we are undertaking exploratory work on one of the examples set out in the recommendation. Home Office Officials will update the ACMD in due course.

The Office for Health Improvement and Disparities has had discussions with the ACMD about the information it monitors on new psychoactive substances including SCRAs in seizures and biological samples. OHID will continue to share monitoring data and relevant information with the ACMD.

Additionally, the Forensic Early Warning System run by the Home Office continues to collect information about new psychoactive substances and SCRAs found in prisons.

Recommendation 8

Assertive outreach teams should have the competencies and capacity to allow earlier identification and referral of those with problematic SCRA use. Community, residential and custodial treatment services should be specifically commissioned and appropriately funded to work with SCRA users. Treatment providers should survey existing clients to establish the burden of SCRA use for those already in treatment. Commissioners and treatment providers should work with other relevant organisations to ensure that SCRA-specific care pathways and structured tools are available. This should include assessment for signs of dependence and physical health harms, management of psychosis and withdrawal, and interventions to minimise the social impact of SCRA use. Examples of good practice should be shared between services and availability and use of these tools should be audited.

Government response

The Government welcomes this recommendation. The suggestions made within it are predominantly for local commissioners of substance misuse services, which are best-placed to assess whether their services should be adapted to better meet the needs of their local SCRA-using populations.

The new drugs strategy includes an additional £780m of investment over three years to rebuild treatment and recovery services in England. On top of existing spend from the Public Health Grant, this funding will enable local authorities to provide a full range of world-class treatment and recovery services for anyone experiencing drug and alcohol problems in the community, including those with problematic SCRA use. Planning tools provided by the Office for Health Improvement and Disparities (OHID) (commissioning support packs for drug and alcohol treatment generally, and a ‘menu of interventions’ specifically for the additional funding) have been sent to local authorities to assist local commissioning for 2022/23. This will enable commissioners to develop SCRA-specific care pathways and structured tools should these be needed in their areas.

The strategy also sets out new ambitions for those receiving treatment in prison, focusing on rehabilitation and recovery for all prisoners with a substance misuse problem from the day they arrive in custody. All treatment and recovery services will be delivered by a highly trained and motivated workforce, equipped to deliver the psychosocial and health interventions that drug users in treatment need.

OHID will use its regional networks to encourage commissioners and treatment providers to read the Council's report and to consider this recommendation. OHID will offer to facilitate the sharing of good practice via the same networks.

Recommendation 9

Recommendation 9: Training should be provided to all professional staff who may encounter SCRA users and delivery of this training should be subject to audit. Educational material should also be available that is tailored for SCRA users.

Government response

The Government accepts this recommendation and agrees that professional staff who encounter SCRA users should have an appropriate level of knowledge about these substances.

As set out in the new drugs strategy, the Department of Health and Social Care (DHSC) is working with Health Education England (HEE) to develop a comprehensive 10-year workforce transformation strategy for the drug and alcohol treatment workforce, which includes training requirements and a refreshed cross-sector competency framework. Appropriate training on and competencies related to SCRA use will be considered as part of this.

Educational materials covering SCRAs are already available for the substance misuse workforce and staff working in other relevant sectors. These include the new psychoactive substances (NPS) toolkit for prison staff, published by Public Health England in 2017 which sits alongside Project NEPTUNE's range of learning resources and guidance on NPS.

Recommendation 10

Recommendation 10: Research involving SCRA should be commissioned, including (but not limited to) the following areas: - pharmacology and toxicology of prevalent and emerging SCRA; - optimum management of acute SCRA intoxication, including evaluation of potential therapies; - development of accurate field tests for SCRA that can adapt to changes in the drug market; - longer-term health effects of SCRA use, including effects on memory and cognition and on reproductive and foetal health;

and - development and validation of structured tools for rating intoxication and withdrawal states.

Government response

The Government accepts this recommendation in principle, provided that an adequate case to undertake the research can be made. The Office for Health Improvement and Disparities will assess the current state of the evidence on SCRAs and the areas highlighted by the ACMD to determine where knowledge gaps could be filled through further research, and where doing so would have actionable policy implications. Any research requirements deemed a priority are likely to be commissioned through the National Institute for Health Research (NIHR), following usual NIHR procedures to ensure high quality, robust and ethical research is carried out. Officials in OHID will update the ACMD on progress with this recommendation by the end of this year.

Once again, I thank the ACMD for their report and trust that they find the Government's consideration of their recommendations helpful.

Rt Hon Chris Philp MP

Minister of State for Crime, Policing and Fire

ANNEX

Summary of responses of the Devolved Governments to the ACMD's recommendations.

Recommendation 1:

The ACMD has reviewed the available evidence of harms from SCRA use and recommends that the current classification of all SCRA controlled by the MDA, either under the synthetic cannabinoid generic definition or listed by individually by name remains appropriate. These substances should therefore continue to be controlled under Class B of the Misuse of Drugs Act 1971.

Department of Health, Northern Ireland

This a reserved matter for the Home Office to take forward. There is no evidence related to NI in the report.

The Northern Ireland Prison Service (NIPS) currently carries out drug testing on those in custody under the Misuse of Drugs Act 1971 (MDA 1971). NIPS is unable to test for any substances not listed in the Act.

Whilst some SCRA are controlled under the MDA 1971, NIPS is unable to test for them as the testing laboratory is not certified to do so. However, as this contract is due to be retendered, NIPS is looking for the testing of these substances to be included in any new contract.

Given the change in which substances are abused within the prison environment, NIPS would welcome these substances and any additional SCRAs to remain under the MDA 1971.

The Department of Health Northern Ireland (DoH NI) would be supportive of this recommendation.

Recommendation 2:

The ACMD has reviewed potential uses of SCRA and recommends that the current scheduling of all SCRA in the Misuse of Drugs Regulations 2001, either under the synthetic cannabinoid generic definition or listed by individually by name remains appropriate. These substances should therefore, continue to be placed in Schedule 1 of the Misuse of Drugs Regulations 2001 on the grounds that they currently have no recognised medicinal use.

Department of Health, Northern Ireland

Again, this is a reserved matter for the Home Office to take forward. DoH NI is supportive of these proposals.

Recommendation 3:

National user surveys should explicitly collect or continue to collect data on emerging substances of misuse. These should include the Crime Survey for England and Wales (CSEW), Scottish Crime and Justice Survey (SCJS), the Northern Ireland Health Survey series, and Smoking, Drinking and Drug use among young people in England (SDD) survey.

Department of Health, Northern Ireland

DoH NI is supportive of the recommendation and would be happy to collaborate on the collection and reporting of data on a UK basis where practicable.

Scottish Government

The Scottish Government recognises the importance of collecting data on emerging substances of misuse and continues to review the questions asked, and the drugs asked about, in the Scottish Crime and Justice Survey (SCJS). The SCFS team are also in discussion with the Scottish Health Survey to potentially move the drugs module to the health survey in future

Recommendation 4:

Guidance on a UK-wide minimum standard set of post-mortem toxicology tests is developed for apparent drug-related deaths, to include testing for novel psychoactive substances. This would include agreed reporting standards.

Welsh Government

As part of the Welsh Government's National Board for the Prevention of Drug Related Poisonings, officials will be working with Coroners in Wales about toxicology testing.

Department of Health, Northern Ireland

DoH NI, the Coroners Service for Northern Ireland and the Forensic Service for Northern Ireland are supportive of this recommendation.

Scottish Government

The development of a UK wide set of standards for toxicology would be welcomed by Scottish Government, particularly in relation to drug related deaths. It would be important that the Crown Office and Procurator Fiscal Service (COPFS) and relevant toxicology services in Scotland were part of this work moving forward.

With regards to 'agreed reporting standards', toxicology services currently adhere to the ISO 17025 standard, and to the UKIAFT laboratory guidelines, and as such standard information is included in reports.

Recommendation 5:

a) Toxicology analysis of samples from deaths thought to be drug related, where there is no obvious toxicological cause, should include prevalent SCRA, including 'fourth-generation' SCRA reported in global drug markets.

Where this testing is not possible because of inadequate resources, low sample volume, or another reason, toxicology reports should include a clear statement that a SCRA test has not been carried out.

If SCRA testing has been carried out, a list of the compounds included in the test should be included in the toxicology report. Information on prevalent compounds should be available to coroners and forensic toxicologists, who should take this into account when deciding on the substances to be tested for. Forensic toxicologists should discuss important limitations of their analysis in their reports to the coroner.

b) Local partnerships undertaking learning reviews of drug related deaths within their populations to be clear about the extent to which SCRA have or have not played a role in the death. Furthermore, to identify any local trends and patterns, and respond accordingly to reduce the future incidence of harm and deaths from SCRA.

Welsh Government

5 a) Current work is being carried out via the national Implementation Board for the Prevention of Drug Poisonings to include a wide range of drugs. This is to ensure our reviews of fatal overdoses are robust and can provide succinct harm reduction advice following toxicology reports.

5 b) The Welsh Government has set up a robust process to review both fatal and non-fatal overdoses in real time. This includes areas working closely with a wide range of partners. Following reviews, lessons are learnt and harm reduction messages are disseminated. Areas also report back to the national board. In addition, we have a module within our harm reduction database which covers fatal and non- fatal overdoses which is reported on annually with recommendations for future practice.

Department for Health, Northern Ireland

(a) FSNI is supportive of the recommendation. Where possible toxicology analysis on deaths thought to be drug related where there is no obvious toxicological cause of death includes prevalent SCRA. Toxicology reports include a clear statement on the scope of analysis. Limitations of analysis are currently highlighted in toxicology reports.

(b) DoH NI is supportive of the recommendation and this will be considered as part of work to refresh strategic and local learning from drug related deaths, and as part of the new substance misuse strategy for Northern Ireland.

Scottish Government

5 a) Scottish Government and relevant partners will seek to engage with any UK wide process that considers this matter, and other toxicology related issues. Aspects of these recommendations are already undertaken by toxicology services in Scotland.

5 b) All local Alcohol and Drug Partnerships (ADPs) in Scotland have processes in place to review drug related deaths. These often consist of multi-disciplinary review groups that focus on identifying missed opportunities for early intervention, harm reduction and treatment. As part of this process there will be consideration of the drugs referenced in the toxicology report, a process that will facilitate the identification of arising trends or issues of concern in relation to specific drugs.

Concerns around SCRA use in Scotland, and associated harms, are lower than those compared to a range of other drugs. SCRA use is unlikely to be the primary drug used by most individuals, and may not be disclosed during assessments, and as such identifying local trends and patterns of use can prove difficult.

Recommendation 6:

The Forensic Early Warning System (FEWS) should provide support to improve analytical capabilities of toxicology laboratories nationally. Toxicology laboratories should have access to: (a) regularly updated information about SCRA that are currently prevalent in the UK, and reference materials (as provided by FEWS), and/or (b) a centralised screening service that can offer technical assistance when needed for the accurate identification of the SCRA present in relevant samples they process. Adequate resource should be made available to FEWS for these functions.

Department for Health, Northern Ireland

While FEWS is lead at the UK level, DoH NI is supportive of the recommendation.

Recommendation 7:

Surveillance should be commissioned to establish improved systematic monitoring of the prevalence of novel psychoactive substances, including SCRA, in relevant samples across the UK. These might include: a) drug seizures; b) waste water (including targeted studies); and c) biological samples from users. This surveillance should encompass those with non-fatal toxicity, including those attending emergency departments, mainstream drug services and special or vulnerable populations, such as the homeless and prisoners. Data should be consolidated and made available to those responsible for the investigation of drug-related deaths as well as authorities responsible for advising on clinical management and public health protection.

Welsh Government

We have procedures in place within Wales whereby both fatal and non-fatal overdoses are reviewed in real time. Each area in Wales has a case review co-ordinator who is responsible for collating data, updating the database, arranging reviews and disseminating lessons learnt. A mortality report is then produced annually.

Department for Health, Northern Ireland

While DoH NI is supportive of the recommendation, it is likely to require additional resources and capacity to put such arrangements in place in Northern Ireland.

Scottish Government

Public Health Scotland are leading our work to optimise Public Health Surveillance. Improved surveillance is crucial for enabling us to identify and monitor trends and issues of concern, as well as making a better assessment of whether the interventions that we are making are working. Scottish Government are committed to ensuring that we use, and further develop, our public health surveillance data to better understand drug trends. We are actively looking at introducing drug checking facilities in Scotland. These facilities allow for the content of drugs to be checked, thus providing a harm reduction service, but also help with surveillance.

The Scottish Government is supportive of this recommendation, but recognises that the current levels of concern around novel psychoactive substances and SCRA in Scotland are lower compared to other drugs.

Recommendation 8

Assertive outreach teams should have the competencies and capacity to allow earlier identification and referral of those with problematic SCRA use. Community, residential and custodial treatment services should be specifically commissioned and appropriately funded to work with SCRA users. Treatment providers should survey existing clients to establish the burden of SCRA use for those already in treatment. Commissioners and treatment providers should work with other relevant organisations to ensure that SCRA-specific care pathways and structured tools are available. This should include assessment for signs of dependence and physical health harms, management of psychosis and withdrawal, and interventions to minimise the social impact of SCRA use. Examples of good practice should be shared between services and availability and use of these tools should be audited.

Welsh Government

In Wales, this would form part of the work carried out and overseen by Area Planning boards (APBs).

Department for Health, Northern Ireland

DoH NI will continue to liaise with other administrations as new materials/pathways are developed and will consider implementation in Northern Ireland based on an assessment of need and availability of resources.

Scottish Government

ADPs in Scotland have the ability to provide high quality treatment and support regardless of the drug(s) being used. If there is evidence of specific risks in an area, or that the population have specific needs, appropriate services should be commissioned and provided by the ADP using the funding provided by Scottish Government. At present, the limited evidence of SCRA use, and associated harms, in Scotland means that commissioning bespoke services may not be appropriate, particularly when there are far greater concerns about other drug use, specifically street benzodiazepines.

Recommendation 9

Recommendation 9: Training should be provided to all professional staff who may encounter SCRA users and delivery of this training should be subject to audit. Educational material should also be available that is tailored for SCRA users.

Welsh Government

This forms part of the work carried out by APBs. The workforce development plan is now finalised. This plan will be published for consultation in autumn 2022.

Department for Health, Northern Ireland

DoH NI is supportive of this recommendation.

We will continue to liaise with other administrations to identify best practice on improving education and training in this area.

Scottish Government

The Scottish Government agrees that relevant staff should have appropriate training, and that a range of factual, educational material should be available for people who use drugs, as well as their family and friends, that provide details on specific types of drugs, the risks associated with them, as well as relevant harm reduction information.

At present, the limited evidence of SCRA use, and associated harms, in Scotland means that commissioning bespoke training on SCRA may not be appropriate, particularly when there are far greater concerns about other drug use, specifically street benzodiazepines.

Recommendation 10

Recommendation 10: Research involving SCRA should be commissioned, including (but not limited to) the following areas: - pharmacology and toxicology of prevalent and emerging SCRA; - optimum management of acute SCRA intoxication, including evaluation of potential therapies; - development of accurate field tests for SCRA that can adapt to changes in the drug market; - longer-term health effects of SCRA use, including effects on memory and cognition and on reproductive and foetal health; and - development and validation of structured tools for rating intoxication and withdrawal states.

Welsh Government

The Welsh Government welcomes this research and are supportive of it being done on a UK wide basis.

Department for Health, Northern Ireland

DoH NI is supportive of the recommendation for UK-wide research to be commissioned and has offered its support and input to this research as required.

Scottish Government

The Scottish Government welcomes any research undertaken on this matter and will consider the findings and their relevance for Scotland.