



Home Office

Norman Baker MP
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Professor Les Iversen
Chair, Advisory Council on the Misuse of Drugs
1st floor (NE) Peel Building
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30 October 2014

Dear Les,

NEW PSYCHOACTIVE SUBSTANCES COMMISSION

The Council will be aware that in December 2013, I established a panel to undertake an intensive six month review into our current approach to new psychoactive substances (NPS). I attach a copy of the Panel's report and the Government's response to its recommendations, together with a wider Home Office NPS evidence paper – "*New Psychoactive Substances in England – A Review of the Evidence*", that we have published today. I am writing to the ACMD to consult you on two specific recommendations made by the Panel.

The purpose of the Home Office's review was to ensure that law enforcement agencies have the best available powers to tackle this reckless trade and we are sending out the clearest possible message that these substances can be dangerous to health. I also called on the Panel to consider how our wider response could be strengthened across prevention and education, treatment and information sharing.

The Panel recognised that the Government's balanced response to this emerging problem has real strengths. The Home Secretary and I continue to appreciate the contribution that the Advisory Council has made to this, starting with the Council's 2011 report "*Consideration of the Novel Psychoactive Substances ('Legal Highs')*".

In line with the Panel's recommendations, the Misuse of Drugs Act 1971 will continue to be our main vehicle for controlling harmful NPS drugs, using and updating generic definitions where appropriate. The control process will continue to be informed by your expert advice. I am pleased that you now have in place a system of regular reviews of the generic definitions.

As we have all recognised, the biggest challenge of NPS is having a legal framework that can respond to emerging new substances in a timely, effective and sustainable manner. Notwithstanding the use of the 1971 Act, the Government accepts the Panel's conclusion that there is a case for an enhanced legislative approach.

As our response makes clear, we will explore the feasibility of a UK wide new offence(s) by which the distribution for human consumption of non-controlled NPS is prohibited, based on the approach taken by the Republic of Ireland in 2010. This would give law enforcement greater powers to tackle NPS in general, rather than on a substance by substance basis. The international experience shows that it would have the most impact on the open availability of non-controlled NPS in high street "headshops" and on UK domain websites, placing downward pressure on NPS related harms. We recognise that this would be a significant step for drug policy which should not be taken lightly. Considerable work needs to be completed to explore how new legislation can be framed to ensure it is robust and proportionate. As the Panel recommends, we will explore how to put in place a schedule of exemptions and make provision to add to these where the risks of health and social harms can be adequately assessed. The Government response makes clear that we will consider the Panel's view that this approach should target the NPS supply and trade. We will keep the ACMD updated as we develop this approach.

On a faster track, within the vires of the Misuse of Drugs Act 1971 we will also explore a new basis by which future synthetic cannabinoids might be controlled by reference to their effects on the brain rather than their chemical structure. As the Council is all too aware, this group of compounds continues to test our current legislative response far more than any of the other NPS groups, with the likelihood that our approach to date has driven the rapid evolution of new, more potent variations. The ACMD has already advised on this group for control twice. In previous advice, the Council has presented a significant body of knowledge about these drugs, which demonstrates the clear link between their effects and harms. We need to be satisfied that this approach can work in practice through a robust definition and infrastructure, rooted in the evidence of the harms posed by this group of substances. The Panel's report set out the potential benefits of this approach though it also recognised that there were risks and possible unintended consequences.

I ask the Council to provide advice on this approach within your terms of reference at the earliest opportunity. My officials will be pleased to share our initial considerations and background papers, and engage throughout your considerations.

The Panel also called for us to consider extending the period for which a temporary class drug order (TCDOs) can be made, from 12 to 24 months. As we have found, TCDOs have been a useful tool which enables us to work together and expedite the control of emerging NPS which are causing particular concern.

I invite the Council to set out its experience of working with TCDOs. In particular, I would like to understand how you have gathered additional evidence within the current timeframe to inform further advice for permanent control following the making

of a TCDO and what you consider to be the benefits of having a longer window within which to advise.

The review has had a significant legislative focus. We also believe that it is equally important to remain focused on our wider approach to prevention, treatment and information sharing. Our response sets out a number of new actions that will strengthen our overall response.

I am particularly pleased to see the actions that Public Health England will be taking including the sharing of intelligence on NPS and drug-related adverse reactions and harms and looking at the feasibility of piloting a national system for clinicians and outreach workers to report such intelligence (similar to the Medicines and Healthcare Products Regulatory Agency Yellow Card System for adverse medication reactions). They will also be delivering a NPS toolkit for local authorities, which will draw together all relevant resources which support local areas respond appropriately to local need. We will also support local areas to develop models of information sharing similar to the DrugWatch approach, a local professional information network which could be shared as effective practice.

I have also published the Home Office's international comparators study of drugs policies. The report looks at a range of policy and operational responses to the misuse of drugs in other countries.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Norman Baker', with a stylized, cursive script.

Norman Baker MP
Minister of State for Crime Prevention