



THE GOVERNMENT RESPONSE TO THE TWELFTH REPORT FROM THE
HOME AFFAIRS COMMITTEE SESSION 2013-14 HC 819:

Drugs: new psychoactive substances and prescription drugs

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

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Introduction

This Command Paper is published in response to the Home Affairs Select Committee's report *Drugs: new psychoactive substances and prescription drugs*, published on 20 December 2013.

The Coalition Government welcomes the Committee's further consideration of new psychoactive substances and medicines following its 2012 report, *Drugs: Breaking the Cycle*. The Government's 2010 Drug Strategy - '*Reducing demand, restricting supply, building recovery: supporting people to live a drug-free life*' - highlighted the need to respond to emerging drug threats and tackle all drugs of dependence. We continue to ensure that our policy response is informed by the latest evidence, continues to develop and is effective. To this end, we have established substantive reviews into these two areas of concern.

We take very seriously the global threat posed by new psychoactive substances. They can pose serious risks to public health and safety. The range of new substances, their unknown long term harms and the manner in which they are often sold, whether on the internet or in high street retail outlets, are all matters of concern. This Government has already taken decisive action in responding to this new phenomenon, and we want to go further. As we set out before Parliament on 12 December 2013 in a Written Ministerial Statement by the Minister for Crime Prevention, we are launching a review into new psychoactive substances, led by an expert panel. This will explore options for enhancing our response to new psychoactive substances, including changes to the UK wide legislative framework. This will ensure that law enforcement agencies have the best available powers and send out the clearest possible message that the trade in these substances is reckless and that these substances can be dangerous to health, even fatal. Our review is underway and will report in the spring.

The Government also commissioned in 2013 the Advisory Council on the Misuse of Drugs (ACMD) to investigate the issue of diversion and illicit supply of medicines. The ACMD's first report, due later this year, will advise Government on the nature and scale of the issues, to inform our response on the basis of all available evidence.

We look forward to continuing to work with the Committee once these reviews have been completed.

The Committee made 10 specific recommendations. Set out below are the Committee's recommendations from the report and the Government's response to them.

New Psychoactive Substances

- 1. Chief Constables and other law enforcement agencies are failing to understand the impact of psychoactive substances. We are deeply concerned that there is not enough data collated by each local police area regarding the usage and effect of these types of substances. We recommend that police forces start a process of data collection immediately in order to have established, within 6 months, the challenges they face locally. This will enable them to develop an effective strategy in tackling the problems presented by psychoactive substances, both in pursuing those who are selling substances which may contain illegal drugs and also producing an appropriate education strategy for potential users.**

We agree that data collection is important in better understanding the issues and challenges faced in tackling new psychoactive substances. However, we do not agree that Chief Constables and other law enforcement agencies are failing to understand the impact of new psychoactive substances. As recognised by the Committee, the start of a concerted programme of enforcement action last year demonstrates the importance that the police, National Crime Agency, Border Force and Trading Standards place on both national and local action to tackle the supply of new psychoactive substances, co-ordinated by a national police-led enforcement working group.

Where controlled drugs including mephedrone and other illegal new psychoactive substances are seized and forensically identified, data is collated and reported centrally by the police and other law enforcement agencies. Through their neighbourhood policing teams, police forces have a good understanding of premises which are causing anti-social behaviour and other concerns that are linked to the supply or use of new psychoactive substances. Police forces also record intelligence relating to new psychoactive substances, particularly where associated with criminality.

Information on the usage and effect of new psychoactive substances is recorded through a number of data collection mechanisms, including UK Focal Point, on behalf of the EU drugs early warning system. This includes law enforcement data. In addition the Government's UK-wide Drugs Early Warning System links health and law enforcement agencies, so information on new psychoactive substances can be rapidly shared between them, and with the ACMD and officials. This information constantly updates our understanding of the harms of these substances, and supports communications and enforcement activity.

2. We conclude that there is currently an epidemic of psychoactive substances and it is highly likely that the creation of new psychoactive substances will continue to increase in the future unless immediate action is taken.

Since 2010, the Coalition Government has made new psychoactive substances a priority for drugs policy within the 2010 Drug Strategy. We do not underestimate the complexity of the challenge to policy makers, law enforcement, scientists, forensic providers and health professionals that new psychoactive substances pose although we reject the term 'epidemic'. This challenge includes understanding the scale of the issue - the availability, use and harms of new psychoactive substances - through emerging data.

The Coalition Government has been extremely active in responding to this challenge. We continue to make strenuous efforts within the current legislative regime. Our drug control legislation, the UK's Misuse of Drugs Act 1971, is and will remain key to our ability to disrupt the activities of those supplying the most harmful substances. This Government has shown considerable ambition already with the introduction of the new power to place a substance of concern under temporary control for up to 12 months. This has enabled us to be highly responsive to substances of particular concern. To date, 11 substances have been placed under a temporary class drug order within a matter of days of receiving expert advice. This new power has complemented the substantial number of new psychoactive substances already banned. Our work is ongoing. We have commissioned the ACMD to put in place a process by which our legislation, covering families of drugs through group - or "generic" - definitions, is regularly reviewed for closely related drugs that fall outside of controls. This will help ensure that our legislation is current, informed by the latest evidence of availability and harms, and also anticipates changes in the drugs market. We expect the first part of this advice, covering three groups of drugs, to be available in Spring. We know that many drugs sold as "legal highs" actually contain banned substances. These continuing actions by Government have enabled law enforcement to undertake disruption activity and, where appropriate, pursue prosecutions.

The international community sees the UK as one of the leading countries in responding to these new drugs, through both our domestic and international actions. As the Committee is aware we have set up a Forensic Early Warning System (FEWS) which gives us 'real time' information on new drugs seen in the UK. Our Drugs Early Warning System enables us to collect data on harms through local, national and international health and law enforcement agencies. We have led a communications campaign to raise awareness of the risks in taking 'legal highs' amongst young people, worked with law enforcement agencies on a concerted programme of action and given global leadership through the United Nations and our G8 Presidency last year, prompting the creation of a global early warning advisory system and structured dialogue with source countries. Public Health England is supporting and contributing

clinical expertise to the first set of clinical guidelines on the acute management and treatment of NPS (project NEPTUNE), currently being developed by the Central and North West London NHS Foundation Trust. This project brings together leading clinicians and academics in order to inform clinicians to detect, assess and manage new psychoactive substances users.

The advent of new psychoactive substances has marked a shift from the long and stable period when years would elapse between entirely new drugs appearing on the market. This market is now highly dynamic but it is not the experience in the UK that new psychoactive substances are emerging at a rate of more than one a week, nor that once identified for the first time, we then see an influx of that new drug into the UK market. It is important to stress that new substances are likely to continue to be created in a dynamic way. However, we do not underestimate the current state and the future potential for this market. This is why we continue to undertake extensive and constant activity in this area, and are prepared to see how our response can be enhanced, including changes to the UK wide legislative framework.

- 3. The use of alternative legislation, however, in order to cover this increasingly blurred legal area is insufficient. The Government's inability to establish an effective legislative response is indicative of its sluggish response to this problem. The issue of new psychoactive substances is unique and needs an immediate and tailored response. We recommend that any new legislation, brought in to address the problem of 'legal highs', is specific and focused. The law must ensure that the police and law enforcement agencies can take action comprehensively against those who sell new psychoactive substances and remove the reliance on existing legislation which is ill-suited to comprehensively tackling this problem. The legislation needs to allow sellers of new psychoactive substances to be prosecuted for an offence which is equivalent in sanction to that of the Misuse of Drugs Act 1971.**

We join the Committee in commending the innovative work of West Yorkshire Police and the Crown Prosecution Service in their successful convictions under the Intoxicating Substances (Supply) Act 1985. We would also like to recognise the work of Norfolk Trading Standards officers, who succeeded in charging two traders of new psychoactive substances under the General Product Safety Regulations 2005. These, and other cases which have yet to be concluded, demonstrate that those selling new psychoactive substances are not beyond the reach of the law. This was further shown by the recent concerted programme of enforcement activity, of which Operation Burdock was a major part. The Committee is right to highlight the coordinated nature of this activity, which involved police forces and trading standards authorities across the country, prisons, the National Crime Agency and Border Force.

The guidance for local authorities, published in December 2013, was not the first action this Government took to promote the use of alternative legislation. In December 2012, we issued a guidance document to the Trading Standards Institute and the Local Government Association for circulation to their members. This included information on which legislation might be useful in tackling new psychoactive substances, and provided contact details for readers seeking further information. It also offered technical assistance to trading standards officers through the Forensic Early Warning System. This document was accompanied by a detailed report on the potential uses of existing legislation in dealing with new psychoactive substances, written by a senior trading standards officer. The more recent guidance document builds on this by covering a wider range of options for head shop disruption. It also includes details of the cases mentioned above where alternative legislation was used effectively.

Through the review we are now taking the opportunity to further build on this extensive activity, and the good work of law enforcement already being undertaken to tackle this damaging trade. We reject the suggestion that our response has been 'sluggish'.

- 4. It is clear that simply controlling new psychoactive substances under current legislation will not work. We welcome the Government's announcement that they are going to review other countries' systems and the Minister will be recalled to the Committee in 4 months time to give a full account on the potential costs and benefits of introducing these types of regulatory system within the UK. We believe that the burden of proof ought to be removed from enforcement authorities and placed on those who are selling the new psychoactive substance. The Home Office should introduce a new legislative model, taking into account the benefits of other systems in use abroad. The new model should shift the evidential responsibility, of proving the safety and the non-narcotic purpose of a substance, onto the seller for all new psychoactive substances. It should also be specifically related to the new psychoactive substances problem and not impinge on current legislation which controls illicit drugs.**

The Coalition Government in turn welcomes the support of the Committee for its review into this issue. The purpose of the review is to consider the new landscape that the arrival of new psychoactive substances has produced, and how the policy response should be further developed. It will look at the role and effectiveness of the Misuse of Drugs Act 1971 to deal with these new substances but also what other policy levers, for example in health and education policy, might be available to Government.

Our International Comparators Study, led by the Minister for Crime Prevention, has been gathering evidence on approaches that other countries are taking to drugs, including new psychoactive substances. The review into new psychoactive substances will be informed by a range

of evidence and the different international approaches that have been implemented in recent years.

Whilst noting the Committee's view on a new legislative model, we retain an open mind on the most appropriate legislative approaches until the review is completed, when the Minister for Crime Prevention would welcome the opportunity to update the Committee.

- 5. We welcome the news that ACPO and Public Health England are already beginning to plan for the 2014 festival season. We recommend that, as well as raising awareness around the harms that new psychoactive substances can cause, police and trading standards officials also implement a joint operation, testing and monitoring the sale of substances at such events. We recommend that the police introduce quick turnaround mobile laboratory drug testing facilities at these types of event in order to facilitate the removal of potentially harmful or illegal substances from the site immediately.**

Music festivals are an established feature of the British summer and provide a source of pleasure for many people. We are keen that festivals continue to flourish and that people can enjoy them in safety. That is why we annually offer high-level advice to festival organisers and why local police forces work with organisers to promote a safe environment for all.

The Minister for Crime Prevention has recently written to festival organisers to highlight the Government's concerns about the potential presence of illegal drugs and new psychoactive substances at music and dance festivals across the UK. He has also asked that they ensure appropriate measures are in place to protect festival attendees from the harms that these substances can cause.

Since 2011, FEWS has provided on-site analytical laboratory support at a number of festivals across the UK. The aim of this work has been to collect data on emerging substances and to provide the police at the festival with real-time intelligence on the illicit drugs and new psychoactive substances being encountered. The police then used this information during the festivals to issue warnings about particularly harmful substances, including those associated with welfare concerns and deaths. After each festival, the results were promptly shared with other police forces and festival organisers. The work at the festivals has also provided the ACMD with data on over 2,000 samples which have included information on a number of new psychoactive substances. We are currently developing collection plans for 2014/15.

- 6. We congratulate the work done by the Angelus Foundation on raising the profile of the problems associated with psychoactive substances and educating others about the risks. However, we believe that there should be more engagement between the Government and the Foundation and that either the Home Secretary or Norman Baker, the**

new Minister with responsibility for drugs, should meet with the organisation. Education of young people is crucial in order to prevent further deaths from psychoactive substances. We recommend that schools and colleges extend the current educational sessions they run on drugs policy with effective evidence-based sessions.

Government departments engage regularly with the Angelus Foundation and other organisations which seek to highlight and address the problems of new psychoactive substances. The Angelus Foundation last met the Minister for Public Health on 10 September 2013 and the Minister for Crime Prevention on 16 January 2014 and communications have also been exchanged at official level. In addition, members of the Angelus Foundation, in their personal capacity, have accepted an invitation to serve on the new review panel set up to consider new psychoactive substances.

We are committed to maintaining the momentum of decreases in recent years of the use of drugs and alcohol by young people. Broad programmes to improve resilience and reduce risky behaviour are developing as early years interventions, and evidence is increasingly demonstrating that these interventions are the most effective way of reducing the likelihood of harmful drug use during the adolescent years and subsequent adult life. Public Health England has a key role in supporting local areas to understand how they can help young people fulfil their full potential.

Education can also play an important role by ensuring that young people are equipped with the information they need to make informed, healthy decisions and to keep themselves safe.

Drug education is part of the national curriculum science at key stage 2 and key stage 3. Schools can reinforce these messages through personal, social, health and economic (PSHE) education. PSHE can equip pupils with key skills and understanding to promote their social functioning and safe behaviours. As PSHE is a non-statutory subject schools can tailor their local PSHE programme to reflect the needs of their pupils. Ofsted published their report, *Not yet good enough: personal, social, health and economic education in schools* in May 2013. This highlights ways in which PSHE needs to improve if schools are to deliver outstanding education, and includes resources that schools can use to improve their PSHE. DfE is funding the Alcohol and Drug Education and Prevention Information Service (ADEPIS) which is being delivered by Mentor UK and further helps schools to deliver effective PSHE. This includes resources on new psychoactive substances.

From July to October 2013, the Home Office ran communications activity targeted at young people to inform them of the harms and consequences of new psychoactive substances. This activity was carefully directed at those searching for these drugs online or looking to go to parties, clubs

and festivals where these drugs are often consumed. The activity included radio sponsorship, PR and partnership channels. Adverts drove young people to the Government's drug awareness service website, FRANK, to find out about the effects, harms and consequences of NPS.

FRANK (www.talktofrank.com) continues to be updated so that young people are aware of the harms of both controlled drugs and the risks associated with uncontrolled new psychoactive substances. These updates reflect the latest available evidence and advice from the Advisory Council on the Misuse of Drugs, the UK's statutory independent drug experts. FRANK's public health message remains clear and consistent: all drug use is potentially harmful and just because a drug is sold as a "legal high" does not mean it is safe or legal.

Prescription drugs

- 7. We recommend that the Royal College of General Practitioners produce guidance for GPs who are treating addiction to prescription drugs stating that all cases ought to be recorded on the National Drug Treatment Monitoring System in order to further clarify the prevalence of prescription drug misuse.**

The National Drug Treatment Monitoring System records people who are receiving specialist treatment for drug dependence. When someone is receiving help through their GP, this is recorded at a practice level. Practice records will also, for example, contain details of where someone is receiving a tapered prescription of benzodiazepines to enable them to reduce their dose without suffering withdrawal symptoms. By looking at diagnostic information alongside prescription records, GP practices are able to see how many people may be addicted to prescribed medicines. They can use this to help plan services within the practice and at a local level through Health and Wellbeing Boards and other coordinating mechanisms. This assessment can only be made at the level of individual patient records and cannot be made by looking at aggregated data.

The Department of Health and its agencies have undertaken a number of initiatives to support local action on improving services to prevent and tackle addiction to medicine.

- The Medicines and Healthcare Products Regulatory Agency published a learning module on benzodiazepines in April 2013. This highlighted the risk of dependence and advised clinicians on how people could be helped to withdraw.
- PHE published a commissioning guide for addiction to medicine services in June 2013.
- The Centre for Pharmacy Postgraduate Education published a learning module for pharmacists and others in August 2013.
- The National Institute for Health and Care Excellence includes among its Clinical Knowledge Summaries advice on benzodiazepine and z-drug withdrawal.

In addition the Royal College of General Practitioners and Substance Misuse Management in General Practice continues to run training for GPs on addiction to medicine and how to support patients to withdraw from long-term use.

- 8. We recommend that medical practices start an anonymous data collection of those patients who have been proven to be, or a medical professional has reasonable suspicion of being, addicted to prescription drugs and how they are being supplied. This is a first step in the collation of this type of data and we will be writing to medical professionals, such as the BMA, to understand how this best can be implemented and further used.**
- 9. We conclude that this practice must be formalised in order for it to continue with the structural changes in healthcare in UK. We recommend NHS England should issue guidance to local Clinical Commissioning Groups (CCGs), which will lead to them taking central responsibility for the collation of data on patients visiting multiple practices to request specific drugs. The administrative part of the CCG should be strengthened in order for them to facilitate sharing this information with all practices and thus informing all healthcare professionals in the area.**
- 10. We recommend that the medical Royal Colleges establish a joint working group to assess the effectiveness of their consensus statement and examine whether local area health teams are effectively communicating concerns around individuals visiting multiple practices to request specific drugs following the introduction of the new health service structure. This working group should also be responsible for starting the collection and collation of data by local healthcare practices. Due to the urgency of this issue we will revisit this topic in 6 months time.**

Centrally-collected prescriptions data do not record the number of people receiving particular drugs. We therefore welcome the initiative by the Board of Science of the British Medical Association which recently launched a call for evidence to inform a project which it is undertaking on involuntary dependence to prescription medications. The Board notes that little is known about prescribing patterns for such drugs, and specifically asks for evidence on this point in its call for evidence. We will draw the attention of the Board to the prescription data that is available to the Department of Health as a contribution to this important project. In addition, long-term use does not necessarily equate with dependence and not everyone will experience withdrawal symptoms if use ceases. This is why GPs need to taper prescriptions in ways which are tailored to individual patients as appropriate. It is also important to stress that long-term prescribing of benzodiazepines can be appropriate for certain conditions such as epilepsy.

Unlike the UK, the US does not have a national system of medical records for individual patients. This means that it is much easier in the US, and in some other countries, for an individual to visit different prescribers to obtain multiple prescriptions of the same medicine. Because of the way that the NHS is organised and run, the experience of other countries is not necessarily applicable to the UK.

The NHS has a comprehensive system in place to ensure good clinical governance in the treatment of patients and the prescribing of controlled drugs. *Safeguarding Patients* was the Government's response to the recommendations of the Shipman Inquiry's fifth report and to the recommendations of the Ayling, Neale and Kerr/Haslam Inquiries and was published in 2007 as a Command Paper. Since 2007, a system of local Accountable Officers for controlled drugs (CDAOs) ensures adherence to the regulatory requirements in designated facilities, such as NHS and private hospitals, at a local level. In addition, CDAOs formerly in Primary Care Trusts and, since April 2013, based in Area Teams at NHS England are responsible for convening local intelligence networks. These bring a range of local interests (including regulators, health providers, local authorities and the police) together to share information and intelligence on problems concerning controlled drugs and to take appropriate action. These regulatory assurances, coupled with the high standard of practice by NHS professionals, mean that people can have a high degree of confidence in the safe prescribing practice in the UK.

When there are doubts of a doctor's fitness to practice, for whatever reason, the General Medical Council exists to rule on whether they can continue in practice and with what additional constraints, if any. An anonymous data collection system would not help this process. The US does not have anything like the comprehensive record keeping that the NHS has, so evidence from the US may not necessarily extrapolate to the UK. And in the UK patients can be permanently registered with only one GP practice at a time, so the scope for seeking simultaneous prescriptions from different practices is extremely limited.

The consensus statement published by the Royal College of General Practitioners and the Royal College of Psychiatrists on behalf of a wide range of professional bodies was concerned with addiction to prescribed and over-the-counter medicine. It did not touch on the diversion and illicit supply of medicines. These activities have no place in the proper provision of healthcare. We understand from the ACMD that, in conducting its investigation into the diversion and illicit supply of medicines, it will seek to draw on the expertise of a range of healthcare professionals and organisations to inform its advice to Government.

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