

ACMD

Advisory Council on the Misuse of Drugs

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Rt Hon James Cleverly MP
Home Secretary
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8 May 2024

Dear Home Secretary,

Re: ACMD report – Alkyl nitrites (“poppers”) – updated harms assessment and consideration of exemption from the Psychoactive Substances Act (2016)

In August 2020 the Government commissioned the Advisory Council on the Misuse of Drugs (ACMD) to provide a further update on alkyl nitrites, following earlier ACMD reports published in 2011 and 2016. A Court of Appeal judgment in 2018 deemed that substances that only have an indirect psychoactive effect, such as alkyl nitrites, can still be captured by the Psychoactive Substances Act (PSA) 2016. Advice was therefore sought from the ACMD about the appropriateness of an exemption to the PSA for alkyl nitrites, in order to clarify their legal status.

Alkyl nitrites, also known as “poppers”, have been widely used recreationally since the 1960s and are commonly used for their muscle-relaxing effects by men who have sex with men (MSM) as a sexual aid. Poppers are sold in small containers and are typically marketed by manufacturers and importers as air freshener or nail polish remover among other products. Administered through inhalation they deliver a short, sharp high and relax smooth muscles including those around sphincters.

The ACMD is pleased to enclose the attached report. Following a thorough review of the evidence available and utilising the expertise of the ACMD Novel Psychoactive Substances Committee (NPSC) and co-opted members, this provides an updated assessment of the use and harms of alkyl nitrites and considers the pros and cons of several options in relation to their legal status.

The ACMD considers that the most appropriate of these is the exemption of alkyl nitrites from the PSA by their addition to Schedule 1 of the Act. The ACMD has also provided further recommendations to protect public health, should legislation to introduce an exemption be made.

The ACMD have drawn the following conclusions and recommendations from the evidence presented in this report:

Summary and Conclusions

1. There continues to be significant use of alkyl nitrites in the UK, especially (but not exclusively) by MSM and by those attending dance clubs and festivals. Motivations include to enhance sexual experience by facilitating and reducing pain and trauma associated with receptive anal sex, to obtain a short term high and/or to enhance the effects of controlled drugs used for recreational purposes.
2. The information available on the components of products being sold in the UK is limited, but most of those analysed in the UK since 2018 have contained isopropyl nitrite, with isobutyl nitrite and amyl nitrite less commonly identified.
3. Health harms can occur as a result of use of alkyl nitrites and occasionally these are severe, including methaemoglobinaemia which in extreme cases can be fatal and maculopathy which can cause visual loss, although this is usually temporary. Considering the apparently high numbers of users, severe health harms are uncommon and the previous ACMD advice against control via the MDA remains appropriate. Risks may be further mitigated by provision of advice and information to users, including the importance of avoiding swallowing the liquid (contrary to labelling advising not to inhale) or direct contact with skin as well as the risk of fire and of drug interactions, especially those with PDE5 inhibitors such as sildenafil (Viagra).
4. The psychoactivity of alkyl nitrites has not been in doubt, especially considering their use as secondary dance drugs in clubbers' polydrug repertoires, but little information is available on the precise mechanism of psychoactivity. This could be an indirect effect of vasodilatation and increased blood flow, but the possibility of direct effects, for example via elevated concentrations of nitric oxide in the brain, cannot be excluded.
5. The mechanism of psychoactivity, direct or indirect, now appears unimportant in determining the legal status of alkyl nitrites following the 2018 Court of Appeal ruling concerning nitrous oxide. Therefore currently the PSA would appear to provide legislation enabling the prosecution of those importing, exporting or supplying alkyl nitrites for human consumption for their psychoactive effects. This potentially places those who

supply (e.g. by selling or sharing) alkyl nitrites to reduce trauma and injury associated with anal intercourse at risk of prosecution. To our knowledge, however, this has not been tested in court and we are not aware of any prosecutions made via the PSA in relation to alkyl nitrites.

Recommendations

The ACMD advises that the following recommendations be considered by the Government as a package of interventions. If recommendation 1 is accepted, the Council stresses the importance of recommendations 2-4 also being adopted.

Recommendation 1: Remove the risk of prosecution under the PSA of those importing, selling or supplying alkyl nitrites to those who wish to use them as an aid to atraumatic sexual intercourse.

The ACMD recommends that alkyl nitrites should be exempted from the PSA 2016 by addition to Schedule 1 of the Act.

The ACMD does not recommend that the exemption should be limited to specific alkyl nitrites as there is currently inadequate information about the efficacy and safety of individual products and such a limitation could also cause supply issues in the short to medium term.

The ACMD acknowledges that the exemption would also remove the risk of prosecution under the PSA for those importing, selling or supplying alkyl nitrites for their psychoactive effects.

This recommendation should not be seen as an endorsement of the use of alkyl nitrites for their psychoactive effects, or of their efficacy and safety when used to aid intercourse. Further recommendations are therefore also made with respect to other salient legislation, monitoring of unintended consequences (including health and social harms) and research.

Suggested text for the exemption, after the current paragraph 7 is shown below:

Alkyl nitrites ('poppers')

8. Alkyl nitrite compounds.

In this paragraph 'alkyl nitrite compound' means any product which

(a) Contains any alkyl nitrite compound

(b) does not contain any other psychoactive substance

(c) is not prohibited by other legislation

Note that (c) would prevent the exemption of isobutyl nitrite.

Leads: Home Office

Measure of outcome: The inclusion of appropriate text in Schedule 1 of the PSA 2016.

Recommendation 2: Ensuring appropriate regulation, safeguards and guidance.

If Government is minded to exempt alkyl nitrites from the Psychoactive Substances Act 2016, as with all existing exemptions under the Act, Government should ensure that:

- a) appropriate safeguards are in place for use of alkyl nitrites,
- b) appropriate regulation is in place to govern the quality of alkyl nitrites products sold (purity, dose, use of childproof containers etc),
- c) appropriate regulation is in place to govern the import and sale of alkyl nitrites, including the amounts that can be sold. In particular, sales of alkyl nitrites to children and young people should not be permitted, focussing on those under the legal age of consent for sexual activity (16 years). The opinion of the ACMD is that alkyl nitrites would be unsafe in the hands of children and young people under this age. Government should consider what alternative legislation to the PSA or MDA should be used to prevent widespread sales of alkyl nitrites to those over 16 years of age for their psychoactive effects.
- d) appropriate guidance is in place for safe use by consumers (e.g. provision of appropriate information on methods and routes of use, interactions with medicines, potential adverse effects, risks of fire etc).

Leads: Home Office, Health and Safety Executive, Department for Business, Energy and Industrial Strategy, Office for Product Safety and Standards, Department for Business and Trade)

Measure of outcome: Cross-government review of current regulations, guidance and safeguards, updating these where necessary.

Recommendation 3: Monitoring and evaluation

The impact of legislative changes in the UK should be monitored to ensure that these do not result in unexpected increases in use for psychoactive effects or in other unintended adverse consequences, including health or social harms. Effects on use of other substances should also be monitored. Use of alkyl nitrites should be included in the Crime Survey for England and Wales (CSEW). Health harms can be monitored by quantifying and publishing annual episodes of severe toxicity recorded by the National Poisons Information Service (NPIS) and registered deaths before and after legislative changes involving alkyl nitrites recorded by the Office for National Statistics (ONS), National Records of Scotland (NRS) and the Northern Ireland Statistics and Research Agency (NISRA). The Royal College of Ophthalmologists (RCO) should also be consulted on the feasibility of tracking episodes of poppers-related maculopathy.

Leads: CSEW, NPIS, ONS, NRS, NISRA, RCO

Measure of outcome: Annual reporting of data for 5 years before and after legislative changes

Recommendation 4: Further research

In the event of an exemption being enacted, research should be commissioned to better establish the safety of short and long-term exposure to specific individual alkyl nitrites, including carcinogenicity and effects on vision.

This should include systematic reviews of currently available evidence, with further primary research commissioned to address those evidence gaps identified.

Although unlikely to be identified as a research priority by funding bodies, it would be irresponsible for government not to ensure that the NIHR or other funding bodies commission appropriate research to ensure that legislative changes do not result in health harms that are currently unrecognised.

Leads: Department of Health and Social Care, National Institute for Health and Care Research

Measure of outcome: Published systematic review(s) within 3 years including recommendations for further primary research and a commitment to appropriate research funding.

We welcome the opportunity to discuss this report in due course.

Yours sincerely,



Professor Owen Bowden-Jones
Chair of ACMD



Professor Simon Thomas
Chair of NPS Committee