

# **Towards a Safer Drug Policy: Challenges and Opportunities arising from 'legal highs'**

**All-Party Parliamentary Group for Drug Policy Reform**

Report of an Inquiry into new psychoactive substances

**This inquiry has been undertaken by the following members of the All-Party Parliamentary Group for Drug Policy Reform (APPGDPR):**

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**(see Appendix two for a full list of witnesses)**

***This report may not reflect the precise views of every APPGDPR member***

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# Executive Summary

1. For forty years the Misuse of Drugs Act 1971 has formed the corner stone of drug policy in Britain. The emergence of new psychoactive substances ('legal highs') during the past fifteen years or so has challenged the drug control system. The arrival in 2012 of a new psychoactive substance on the market, on average, every six days raises questions about how best to protect young people from unknown and unsafe drugs. The Government is considering this challenge and we hope this Inquiry report will make a helpful contribution to their deliberations.
2. Two research officers have worked with a panel of nine members of the All Party Parliamentary Group on Drug Policy Reform to undertake the Inquiry and produce this report. We have examined the literature, considered the initiatives of other Countries to deal with new psychoactive substances (NPS) and have had the benefit of evidence from more than thirty organisations, including ACPO, ACMD and other government bodies, professional associations, and experts.
3. The focus of this Inquiry has been new psychoactive substances. However, the legal framework for traditional drugs and its consequences profoundly affects the use of new substances. Our witnesses repeatedly referred across to the impact of the traditional drug market upon the demand for NPS. For example, because ecstasy is a controlled substance, young people obtain it from illegal drug dealers who often mix it with dangerous substances. During periods when ecstasy is particularly contaminated, young people turn to a new psychoactive drug which mimics ecstasy. If government wants to reduce the use of NPS, any policy must take account of the interaction between the markets for traditional and 'new' drugs.
4. The All-Party Parliamentary Group is mindful that psychoactive substances can be very harmful particularly to young people who are also the age group most likely to be involved with drugs.
5. If we are to minimise the harms, appropriate controls are necessary. A clear conclusion from this work, however, has been that banning drug use does not materially affect the overall level of demand for drugs. Drug policies which criminalise young people generate higher levels of unemployment, homelessness and relationship problems, and cost the taxpayer considerable sums.

### Temporary Class Drug Orders (TCDO) for New Psychoactive Substances

6. We begin our analysis by considering the effectiveness of the current system for regulating new psychoactive substances. The Police and Social Responsibility Act introduced Temporary Class Drug Orders in 2011. The supply of a new psychoactive substance may be banned for up to a year while a risk assessment is undertaken by the Advisory Council on the Misuse of Drugs. At the end of the 12 month period the substance may cease to be banned or will carry the full weight of a permanent ban, covering possession, use and supply.
7. The Inquiry welcomes the fact the Temporary Class Drug Orders do not criminalise users of the banned substance during the one year period. This is the first time since 1971 that any government has banned the supply of a drug while not criminalising possession and use. However, the evidence makes clear that the current legislative framework, while not criminalising users, which is welcome, does not protect them.
8. The greatest risk to young people from new psychoactive substances derives from the absence of reliable information about the contents and strength of each new substance and its effects both short and long term. The name of the substance may tell a user little about its contents, and the contents may change from week to week. The more substances are banned the more are created and the greater the uncertainties for consumers. Over time consumers will be criminalised for using these drugs as the Temporary Class Drug Orders expire and the full provisions of the Misuse of Drugs Act apply. We anticipate that, due to the paucity of information available, rarely if ever will a ban be lifted.
9. A harm-based drug policy demands that the Orders need to stand for sufficient time to enable a comprehensive risk assessment to be undertaken. Also the benefits of avoiding criminalising young people should be extended beyond the 12 month period.

### **Recommendation**

- 10. Temporary Class Drug Orders should be of indefinite duration and should therefore be renamed Drug Supply Control Orders.**

### The consequences of the current system for classifying drugs.

We next consider the overall system for the classifying of drugs.

11. The aim of the 1971 Misuse of Drugs Act, as explained by the Home Secretary at that time, was to divide drugs according to their accepted dangers, in the light of current knowledge, and to provide for classification changes to be made in the light of new scientific knowledge.
12. This aspiration has not been fulfilled. Politicians of any political persuasion are reluctant to downgrade the classification of any drug as new evidence emerges which would support such a decision. The result is that relatively less harmful drugs like ecstasy and cannabis are

inappropriately classified (class A and class B respectively). The now well-known paper by four eminent scientists (Blakemore et al, 2007) illustrates the lack of correlation between the harms of a drug and its classification. Inevitably, the classification system has therefore fallen into disrepute. This situation has implications for NPS drug use.

13. Governments and the public have to accept that there are young people who will use drugs regardless of the risks involved in doing so. A very small minority but nonetheless too many of these young people are addicted to one or more substances. The Government's responsibilities are four-fold: 1. to provide accurate information (the classification system is just one part of this); 2. to provide proportionate controls over the demand and supply of drugs; 3. to provide good preventive programmes; and 4. to provide effective treatment environments.
14. Currently we have a drugs control regime underpinned by an irrational drugs classification system, which is ignored by young people; and a banning process which drives the rising tide of new psychoactive substances into this Country. We need to place the ACMD at the heart of a new evidence based approach. In order to ensure that the judgements of this scientific authority are risk based and not influenced by political considerations, it will be necessary to establish the independence of the ACMD from government. Politicians need to be responsible for overarching policy but we recommend that they are not involved in day to day decisions concerning the risks and therefore the classification of individual drugs.

#### **Recommendation**

15. **That the ACMD become an independent decision making body. The organisation would oversee risk analyses; coordinate the research they need; and make decisions on a scientific basis as to the correct classification for each drug, beginning with new psychoactive substances. Politicians would focus on the political decisions concerning the roles of treatment and criminal penalties, and the levels of penalties to be applied.**

#### *Necessary system changes in order better to protect young people*

16. We next consider how effectively the current legal framework protects young people against the dangers of drugs. Witnesses to this Inquiry including ACPO and the ACMD questioned the suitability of the current system derived from the Misuse of Drugs Act 1971 to respond to recent developments. They were particularly concerned about the number of new substances appearing on the market; the use of the internet to purchase new substances, and the use of social media by young people to inform others about the latest substances available. They argued that the current system would not be able effectively to control NPS or to minimise harm to young people.
17. Banning substances within the current system has not, and in our view will not, reduce their use overall. Evidence presented here indicates that, paradoxically, the banning of one drug can make the situation worse by stimulating the production of yet more new, unknown and potentially dangerous substances.

18. It is therefore necessary to consider drugs policy as a whole. Two routes for reform present themselves.

*A. Regulation*

19. First, could the supply of drugs presenting a low risk to users be controlled under alternative regulatory regimes?

20. The potential of Trading Standards legislation and other consumer protection measures to reduce the risks of NPS is cited by many witnesses to this Inquiry. A number of other countries including Poland and Ireland have extended the scope of consumer protection legislation by introducing a broad definition covering all psychoactive substances, not already covered by existing laws. The supply and distribution of NPS are then declared illegal under misuse of drugs or product safety legislation. Although these initiatives have the advantage that they tend to focus on supply and do not generally criminalise users, they have two of the negative consequences of prohibition. Users committed to using NPS have to engage with illegal suppliers and to accept the risks involved.

21. Trading Standards Services in the UK have a wealth of experience and powers to control dangerous or mis-described products sold in the high street or on line. However, Trading Standards legislation would need to be strengthened to deal with new psychoactive substances. Appropriate testing facilities including a national testing centre would also be essential.

22. In examining the framework of regulation in the UK, our Inquiry has learnt much about the regulatory regimes which could be usefully deployed to meet the challenges of NPS; also to what extent alternative regulatory regimes might minimise the harms of using NPS. We have been impressed by recent developments in New Zealand which has made unique progress in designing a policy for the regulation of NPS. They have examined the best available knowledge about the harms of particular psychoactive substances. They encourage suppliers to focus on product safety, and restriction of supply to protect vulnerable consumers, particularly young people.

23. By making more readily available less harmful and pure substances, labelled to inform the user about the ingredients, risks and strength of the substance, young people would be encouraged to avoid the unknown and therefore more dangerous alternatives.

**Recommendation**

**24. That the government consider adopting the key features of the New Zealand policy:**

**25. that the onus should be on potential suppliers to demonstrate that a psychoactive substance has an agreed 'low risk of harm'**

- 26. that a testing process is designed to establish that a substance has a low risk of harm which balances rigour with the need to encourage suppliers to operate within legal markets**
- 27. that NPS meeting the criteria for 'low risk of harm' are classified within a category 'D' allowing restricted supply with clear sanctions and enforcement procedures for breaches of those restrictions**
- 28. That the supply of the more dangerous substances, whether existing illicit drugs or NPS, should remain banned.**

***B. Decriminalisation***

- 29.** The second reform route considered by the Inquiry and commented upon extensively by witnesses is the legal framework for the possession and use of small quantities of drugs. The Temporary Class Drug Orders introduced the decriminalisation of possession and use of NPS for 12 months. We have argued that for the new substances, the TCDOs should be of indefinite duration.
- 30.** New psychoactive substances are substitutes for similar and possibly less dangerous traditional drugs. The benefits of decriminalisation of possession and use should be extended to traditional drugs.
- 31.** The UK application of the Misuse of Drugs Act 1971 lags behind the drug policies of a number of European Countries (such as the Czech Republic, Spain, Estonia and Portugal). These countries have decriminalised the possession and use of small quantities of drugs. Many other countries have never criminalised possession and use of drugs. The policy has produced positive results in terms of employment, family relationships, housing and savings to the taxpayer. Decriminalisation has not significantly affected the level of drug use (though a smaller proportion of young people in Portugal are problem drug users than in neighbouring Countries).
- 32.** The possession and use of drugs (including NPS) could be decriminalised without abolishing the Misuse of Drugs Act. This is helpful because the pressure on the legislative timetable could create unnecessary delays before primary legislation can introduce this much needed reform. Section 5 of The Act does specify general prohibitions on possession and use but the Regulations are permissive. Rudi Fortson QC pointed to the fact that Section 5 could be dis-applied altogether under Regulations.

**Recommendation:**

- 33. That a cross party review of the Misuse of Drugs Act (1971) is carried out, beginning with Temporary Dug Control Orders and including proposals for the decriminalisation of possession and use of small quantities of any drug.**
- 34. Such a review should include the national governance of drug policy and the respective roles of the key departments.**

## Prevention

35. Evidence from many witnesses emphasized the importance of prevention in any future drugs policy. There is very little research into substance specific prevention programmes directed at NPS. We have therefore explored the extent to which prevention programmes directed at the misuse of a range of substances including alcohol, tobacco and other drugs, might be effectively applied to NPS as well.
36. Most of the trials have been conducted in the USA and have limitations. Nevertheless the studies referred to in this report have much to tell us about the potential of preventive interventions. The main findings from all the studies examined are:
  37. that programmes using interactive methods can significantly reduce the use of drugs (including tobacco, alcohol and illegal drugs);
  38. that programmes which focus on parents and improve the parenting skills of parents of young people at risk can be effective;
  39. that community-based interventions providing activities for young people, with the participation of residents, can be effective; and
  40. that the case for mass media campaigns is less clearly made out, but even if on their own these campaigns cannot reduce use, they may enhance the effectiveness of community interventions.

### **Recommendations:**

41. **Preventive programmes with a strong evidence base should be promoted much more widely within schools and the community.**
42. **That resources should be made available for robust evaluation in the UK of preventive programmes**

### The Inquiry also presents the case for the following recommendations:

43. **All NPS policies should be evidence based and subject to evaluation. Such evaluations should seek to assess systems of regulation in terms of harms particularly harms to young people. A useful benchmark, operating within the New Zealand system, is that the harms of any form of regulation should not be greater than the harms of the substance being regulated**
44. **Generic and analogue approaches to the banning of NPS are not recommended. Instead, more rigorous approaches that account for individual differences between substances are needed.**

- 45. Consideration should be given to an enhanced role for Trading Standards Services. The role would need to be underpinned by capacity building and resourcing of the service; a review of the supporting technology required for test purchasing and prosecutions (see also recommendation on access to technology) and the right legislative framework.**
- 46. A review of the effectiveness of current forms of regulation and their potential for effective regulation of NPS should be undertaken.**
- 47. All NPS should have their properties and prevalence assessed according to the basic data set recommended by the Independent Scientific Committee on Drugs; measures to offset the uncertain, but high costs of this research should be considered including the use of networks of experts, university departments and pooling of European resources.**
- 48. Access to technology and experts with the capacity to identify NPS should be available to all public services managing NPS use, including health services. In the case of technology addressing internet based sales, access to this technology should be limited to enforcement agencies and the most advanced technology may have to be reserved for the most problematic internet vendors. Measures to control costs should include the use of networks of experts.**
- 49. That a minimum of £1.5m be made available for a targeted pilot of Club Drug Clinics in ten major hot spots across the UK with a duty to train front line A&E and GP staff, as well as treat those suffering persistent harms of NPS use.**

# 1. Introduction

*Our range of Legal Highs provides everything you could possibly need for a great night out, a great night in and everything in between, without breaking the law<sup>1</sup>*

This quote is from a typical website selling 'legal highs'. The recent phenomenon of 'legal highs' which has brought an increasing number of new psychoactive substances onto the market, causing widespread concern about potential health risks, has arisen against the backdrop of a long established, prohibitionist framework for drug control at UK and UN level.

## 1.1 Background

- 1.1.1. Policy in the UK and across the world has, for the past 50 years, been substantially driven by the UN Drug Conventions of 1961, 1971 and 1988, and here in the UK, the Misuse of Drugs Act 1971 reflects the prohibitionist thrust of the Conventions. Drug policy in the 1960s and '70s was informed by a moral position that drug taking is harmful, with a strong overlay of moral disapproval. Little or no evidence existed at that time to indicate whether or not the policies adopted would achieve the desired aim of reducing drug use and ultimately achieving what former President Bush later described as a 'drug free world'.
- 1.1.2. Far from diminishing over time, the global use of traditional illicit drugs has increased dramatically. Over the last 30 years the global illicit supply of opiates increased by over 4 times from 1000 metric tonnes in 1980 to 4,800 metric tonnes in 2010<sup>2</sup>. In England, the number of dependent heroin users increased from around 5,000 in 1975 to an estimated 281,000 in England by 2007.<sup>3</sup> The Conventions and the UK Misuse of Drugs Act have failed to achieve their objectives.
- 1.1.3. There has been increasing recognition of this failure. The Global Commission on Drug Policy issued their widely publicised report 'War on Drugs' in June 2011 urging the World to recognise that the war on drugs has failed, with devastating consequences for individuals and societies across the globe. A number of Countries have explored and evaluated alternative policies.
- 1.1.4. In March 2012, the all American Heads of State Summit in Colombia, chaired by President Santos and attended by President Obama and other Presidents from the Region, agreed that there should be a technical cost benefit analysis of existing drug policies to report in January 2013; and an evaluation of five different scenarios involving drug policies from the most prohibitionist to the most health oriented. That work, undertaken under the auspices of the Organisation of American States, will report to the Heads of State summit in Guatemala City in early June 2013.

- 1.1.5. The emergence of new psychoactive substances (NPS), produced mainly in China, may provide a catalyst for change. Certainly the rate of increase in the numbers of these new substances produced, and the use of the web and social media to distribute them raise significant questions about whether the current drug policy infrastructure remains fit for purpose. As things stand, NPS represent a substantial risk to young people. The branding and packaging of the drug may tell the user very little about its content or strength.
- 1.1.6. As a result, many organisations, clinical experts, drug policy specialists and academics have begun to examine the challenges and benefits that alternative regulatory regimes could bring to the problem of 'new psychoactive substances'. New Zealand was one of the first countries to face widespread use of legal highs. The New Zealand Law Commission considered a number of legislative possibilities to assist in limiting the harms caused<sup>4</sup>. They recommended licensing some substances to improve information for users and thus to discourage harmful use. Referring to the work in New Zealand, the UK Drug Policy Commission and the think tank Demos raised the possibility of a UK system of regulation for these substances in their 2011 report 'Taking Drugs Seriously'<sup>5</sup>
- 1.1.7. These new approaches are underpinned by a more general interest at the international level to explore a range of regulatory measures. At the UN Commission for Narcotic Drugs held in March 2012, Australia proposed the following resolution.
- 1.1.8. *"to consider a wide variety of evidence-based control measures to tackle the emergence of new psychoactive substances, including the use of consumer protection legislation regarding medicine and legislation regarding hazardous substances."*
- 1.1.9. The UN eventually agreed an amended resolution which sought to retain an emphasis on prohibition and unfortunately lost the key phrase 'evidence-based'. Nonetheless, the resolution acknowledged the need to consider other forms of regulation. Its final wording was:
- 1.1.10. *"to consider a wide variety of responses, such as temporary and emergency drug control measures in response to an imminent threat to public health, the use of consumer protection, medicines legislation and hazardous substances legislation, and, where appropriate, to consider criminal justice measures aimed at preventing the illicit manufacture and trafficking of new psychoactive substances".<sup>6</sup>*
- 1.1.11. The European Parliament has invited the European Commission to table this year a new legislative proposal on new psychoactive substances.
- 1.1.12. In the UK there are significant signs that opinions are shifting on drug policy amongst both decision makers and the public. A recent UKDPC poll of MPs found that 77% of MPs believe UK drug policies are not working.<sup>7</sup> A YouGov poll in 2011 found 53% of people rated existing policy towards illegal drugs ineffective.<sup>8</sup>
- 1.1.13. The ACMD proposed that the government should encourage the use for drug control of European Pharmaceutical Directives, Unfair Trading Regulations, General Product Safety Regulations, Advertising Standards and education for consumers as well as a modification of the Misuse of Drugs Act.<sup>9</sup>

1.1.14. In the UK there are well established regulatory systems applied to the production and supply of alcohol, tobacco, foodstuffs and medicines. Such regulations are designed to protect consumers and maintain product standards. The Inquiry examines the potential of the existing control framework and of alternative regulatory systems to provide effective controls of NPS and thus to protect young people.

## 1.2 Conducting the Inquiry

1.2.1 At its meeting in May 2011 the All-Party Parliamentary Group for Drug Policy Reform discussed the recently published report of the UK Drug Policy Commission and the think tank Demos *Taking Drugs Seriously*. That report argued for new approaches in meeting the challenges presented by new psychoactive substances, and for a consideration of regulatory mechanisms such as consumer protection and trading standards. Following that discussion, the Group agreed to hold an Inquiry to explore the challenges, and if possible to make recommendations.

1.2.2 Terms of Reference for the Inquiry.

To examine:

- The implications of the increasing rate at which new substances are coming onto the market and the use of the internet and social media;
- the effectiveness and long term impacts of the Temporary Class Drug Orders introduced in 2011;
- the potential for policy reform at UK and European level following reports from the UK Advisory Council for the Misuse of Drugs and the European Monitoring Centre for Drugs and Drug Abuse (EMCDDA);
- the implications of evidence that an increasing number of countries as diverse as Sweden, Ireland, The Netherlands and Poland have introduced a range of alternative regulatory measures to control new psychoactive substances, including medicines, trading standards and health and safety legislation.

1.2.3. After carrying out a study of different regulatory systems and processes in the UK and abroad, a targeted call for written evidence was issued in January 2012. Evidence was received from regulatory bodies, other government bodies, professional associations and experts. These responses were summarised and emerging themes identified. Key witnesses were then invited to give oral evidence at the House of Lords. APPG members were invited to participate in a panel to hear the oral evidence. Nine members formed the panel and 31 organisations and experts provided written and/or oral evidence. (Their names are listed on the inside front cover of the report and in appendix two.) A draft report and the key recommendations were discussed at an APPG meeting on 15<sup>th</sup> October 2012.

1.2.4. The APPG has had the benefit of the invaluable research expertise and organisational input of Dr Jonathan Hurlow, specialist registrar in forensic psychiatry with North London Forensic Service, whose services were available to the Inquiry on a voluntary basis. Frank Warburton, research officer to the APPG has also contributed substantially to the Inquiry and to the report.

## **Note on terminology**

- 1.1.5. In this Inquiry we use the name 'new psychoactive substance' rather than the more familiar term of 'legal high', albeit that we use the term 'legal highs' in the title of the report because this remains the widely recognised term for such substances. Some new psychoactive substances are now illegal. (Mephedrone and methoxetamine ('mexxy') for example). Many other NPS contain controlled substances and others are likely to become controlled in the near future. 'Legal high' therefore no longer accurately describes the new synthetic substances which are the subject of this report. We also recognise that some NPS are in fact not new. However, we believe the term NPS satisfactorily describes the chemicals which are the subject of the government's and our own concern.

## 2. The Challenge

### 2.1 The emergence of NPS

The emerging market for NPS has the following characteristics.

- 2.1.1. New substances are emerging onto the market at an increasing rate. According to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), their early warning system logged 24 new substances in 2009, 41 in 2010, 49 in 2011<sup>10</sup> and 57 by November, 2012<sup>11</sup>. This rate of increase has been matched by the increase in the number of internet based 'head shops'. This is understood to have risen from 170 across Europe at the beginning of 2010 to 693 at the beginning of this year.<sup>12</sup>
- 2.1.2. The majority (two thirds) of the NPS detected are synthetic cannabinoids and synthetic cathinones with synthetic cannabinoids representing the largest single group.<sup>13</sup> What is on offer from online head shops are natural substances including salvia divinorum<sup>14</sup>, kratom<sup>15</sup> and hallucinogenic mushrooms<sup>16</sup> but also synthetically derived substances as indicated above.
- 2.1.3. The majority of synthetic substances are produced in China with some being produced in India.<sup>17</sup> They usually come in the form of 1kg packets of white powder.
- 2.1.4. According to the British Crime Survey<sup>18</sup>, in 2011/12, 3.0% of UK adults had used a Class A drug in the previous year – around a million people. Drug use in the UK is described as a common if not normal activity. Cannabis was the most commonly used drug in the previous year, followed by powder cocaine. 'Last year' illicit drug use increased slightly from 8.8% of 16 to 59 year olds to 8.9%. Although there has been a modest decrease in such use from 11.1% in 1996, this has been attributed mainly to the decline in the use of cannabis<sup>19</sup>. It cannot be concluded from this that present policies are working since as cannabis use has declined, use of new legal highs (many of which do not appear in the BCS) has become established.
- 2.1.5. Young people (16 to 19 year olds) are the group that is most likely to have taken drugs within the last year.<sup>20</sup> According to a pan European survey of young people, an average of 5% of young people had tried a 'legal high' However the figure for the UK was just under 10%. Other countries reporting high levels of use included Ireland, Latvia and Poland.<sup>21</sup>

### Information on the level of use of new psychoactive substances

- 2.1.6. Our limited knowledge is based upon a number of sources: periodic analyses of attendances at accident and emergency departments; small local studies and snap shots of NPS use; we have evidence of the prevalence of NPS use in one region of London , for example<sup>22</sup>. However, the information is scanty, and the results of different studies tend not to be consistent. We know nothing about the long term toxic or health consequences of most of the new substances.
- 2.1.7. The research evidence presented to the Inquiry suggested that young people turn to NPS when drugs such as ecstasy and street cocaine become too contaminated. A study by Sheila Bird indicated that ecstasy and cocaine deaths had been rising sharply in the years up to 2007/8 and then decreased by 28% in 2008/9.<sup>23</sup>At the same time mephedrone use was increasing sharply. The author suggests that the two trends are related. Deaths associated with the two former drugs fell as young people switched from illegal and contaminated ecstasy and cocaine to a substitute (mephedrone).
- 2.1.8. The greatest risk posed by NPS is that as one psychoactive substance is banned, another springs up, then another and another. Ivory Wave, for example had in it three different psychoactive substances over an 18 month period.<sup>24</sup> Each new substance may be more harmful than the substance it replaces. But more than anything, young people are taking substances whose content and strength are unknown to them. The risks of harm/overdose must be greater than for well established substances.
- 2.1.9. The risk arises from the fact that the name on a drug provides no information about its content. The content of Bubble, for example, widely used in the North West, varies from one week to the next. Young people assume that Bubble is a single drug. If one week the strength is twice as strong as the previous week, or the ingredients are different, the risks to the user are obvious.<sup>25</sup>
- 2.1.10. A particular concern relates to synthetic cannabinoids which bind to some of the same receptors in the brain more strongly than cultivated cannabis. It is less clear how long the synthetic cannabinoids remain active and even less clear how they may influence the relapse rate of serious mental illnesses.<sup>26</sup>
- 2.1.11. Use and prevalence does not appear to be influenced by the legal status of the drug. However suppliers are keen to supply non-controlled substances. The grey area between controlled substances and 'legal highs' is indicated by the results of a testing programme of products sold over the internet.<sup>27</sup> This revealed that 19% of products contained mixtures including controlled substances.

## 2.2 The Current Response

- 2.2.1 The UK Government recognises that NPS pose a challenge. The key features of the UK government response are contained within the Action Plan for NPS published in May 2012.<sup>28</sup> Although most of the Action Plan is a presentation of existing work on drugs applied to NPS, particular measures include the introduction of Temporary Class Drug Orders, the development of a Forensic Early Warning System (FEWS) to track and assess the emergence of NPS and the inclusion of NPS within a review of Personal, Social and Health Education (PSHE) within schools. The main challenge is seen in terms of the capacity of the Home Office to ban NPS quickly enough.
- 2.2.2. The Forensic Early Warning System (FEWS), run by the Home Office's Centre for Applied Science and Technology has identified a number of new drugs from samples taken from amnesty bins, seizures and test purchases. The Government, co-ordinating the work of multiple agencies, including the UK Border Agency (UKBA) and the Serious and Organised Crime Agency (SOCA)), have been successful in identifying the fact that new drugs are appearing on the market.<sup>29</sup>
- 2.2.3. From November 2011, Temporary Class Drug Orders (TCDO) may be applied to a new psychoactive substance. A TCDO is a fast track prohibition of supply and lasts for one year. Sanctions of up to 14 years imprisonment and an unlimited fine will apply. An Order will take account of a preliminary assessment by the Advisory Council for the Misuse of Drugs (ACMD). During the ban a further assessment will be undertaken to advise on whether the Order should be replaced by permanent control under the Misuse of Drugs Act (MDA). Possession and use of a substance subject to a Temporary Class Drug Order is not criminalised during the 12 month period.
- 2.2.4. Ketamine, a popular night club drug which causes bladder damage was controlled under the misuse of drugs act in 2006. Methoxetamine is a hallucinogenic NPS with a similar chemical make up to Ketamine. Methoxetamine was marketed as a 'legal' and 'bladder friendly' alternative. Having gathered evidence of use and the serious risks associated with it, the ACMD recommended the use of the first Temporary Class Drug Order.<sup>30</sup> As a result, from April 2012 suppliers can be prosecuted, whilst users cannot.<sup>31</sup>
- 2.2.5 The Government now attempts to keep pace with the introduction of new substances by incorporating them into current legislation on the basis of generic categories. The specific chemical compounds of new drugs are listed in the legislation and controlled on the grounds that they belong to a family of substances that are controlled. An example are synthetic cannabinoids<sup>32</sup>. There are hundreds of drugs that meet this description and once identified as a synthetic cannabinoid, these drugs can be recommended to be added to this family of drugs within the Misuse of Drugs Act. This can be done with a large number of drugs at a time.

### Attempts to control the supply of NPS by other means

- 2.2.6. Medicines legislation has been used to a very limited extent to prosecute suppliers of NPS where it has been argued that one of the components has been classed as a medicine and the sale of the substance contravenes medicine legislation. There have, for example, been successful prosecutions for the production of gamma-hydroxy-butyrate (GHB) and 1-benzylpiperazine (GZB) on these grounds.<sup>33</sup>
- 2.2.7. Trading standards legislation has also been applied to some extent to disrupt the supply of NPS using powers with respect to mislabelled products. For example a substance labelled bath salts can be defined as a cosmetic and requires a list of ingredients otherwise it can be confiscated. A substance labelled plant food can be defined as a fertiliser also requiring a list of contents. This is not thought to be a strong enough safeguard by the TSI, however, as sellers can choose another description which avoids even this level of regulation. A successful prosecution has been brought on these grounds, but proved to be extremely expensive and time consuming. The case involved test purchasing, using expert witnesses and a court action. The result was a very modest fine for the offenders.<sup>34</sup>

### Responses from other Countries.

- 2.2.8. A number of countries from within the EU and elsewhere have amended their legislation to disrupt more easily the supply of NPS. These include: Ireland, Sweden, Poland, Hungary and Austria. (See appendix 3 for details). Typically, they have adopted a catch all definition for a psychoactive substance which circumvents the process of identifying any harms associated with individual drugs. They have then applied both drugs legislation and other forms of regulation such as product safety legislation to close down suppliers of NPS such as head shops.
- 2.2.9. New Zealand experimented with the regulation of the party drug Benzylpiperazine (BZP) for a number of years until 2008. In 2005 they created a 'D' classification whereby it was possible that a substance considered to have a low risk of harm could be supplied legally but on a restricted basis -for example it was not available to minors and could not be sold near schools. On the basis of evidence of moderate harms BZP was scheduled as a controlled substance in 2008. Having reviewed this experience the New Zealand Law Commission identified two key learning points: - the first that the onus for evidencing low risk of harm should be on the supplier not the state and the second that a contributing factor to concerns about BZP being legally supplied was a lack of enforcement of those regulations restricting its supply.<sup>35</sup>

## 3. Towards a safer Response

### 3.1 Are Temporary Class Drug Orders the Answer?

- 3.1.1 Temporary Class Drug Orders (TCDOs) are the centrepiece of the Government response to the rapid growth in the numbers of new psychoactive substances arriving on the market, and represent a relatively fast track to eventual control under the Misuse of Drugs Act. Although TCDOs do not criminalise users while in force (and this is very welcome), there are a number of practical difficulties with them especially in the time and resources allocated to a scientific assessment of the potential harms. They drive the supply of new drugs underground. This impedes the task of researching the effects of the substance and increases the likelihood that it will decline in quality and purity. At the end of the 12 month TCDO period, substances have to date been, and in the future are likely always to be, permanently banned, and possession and use become criminalised.
- 3.1.2 According to the Home Office TCDOs are intended to limit the supply of a new substance while more evidence is gathered about the risks it presents<sup>36</sup>. The resources for the ACMD are extremely limited. They only have the capacity to carry out a small number of assessments a year (2 or 3 according to the Chairman, Professor Iverson). The initial assessment behind a TCDO can only be superficial and even after a year conclusive data about an individual substance is very unlikely to be available. It is important for the Home Office to establish harms accurately and to avoid unnecessary bans, so that legitimate research and commercial activities involving the substances are not needlessly impeded<sup>37</sup>. Representatives of The Independent Scientific Committee on Drugs in giving evidence to the Inquiry recommended that a minimum data set<sup>38</sup> is populated as a standard requirement to inform assessments of harm for each NPS.
- 3.1.3 TCDOs are likely themselves to feed the drive for the development of further new substances. The first substance to receive a TCDO was methoxetamine (‘Mexxy’). Methoxetamine was itself developed as a legal alternative to Ketamine which became a controlled substance in 2006. One, or more (probably several) alternatives to methoxetamine will almost inevitably appear on the market. Even less will be known about the harms caused by those substances. A useful feature of New Zealand’s planned policy is to assess both the harms arising from a particular substance and the harms arising from controlling it. This could form part of the remit of an ACMD assessment.
- 3.1.4 One of the Inquiry witnesses hoped that the rapid use of a TCDO may ‘snuff out’ the market for new drugs<sup>39</sup>. But others argued convincingly that this may do little more than encourage the proliferation of yet more NPSs that were neither subject to a Temporary Class Drug Order nor the Misuse of Drugs act.<sup>40</sup><sup>41</sup>

3.1.5 TCDOs are, in essence, an ante-room to full prohibition. No witness could envisage a risk assessment which, after 12 months, would lead to the ACMD recommending that the NPS in question should not become controlled under the Misuse of Drugs Act. After this time there are no legislative options to regulate NPS even though these may present a relatively low risk of harm to the public. In the absence of other control measures available, the ACMD has no alternative but to recommend control under the Misuse of Drugs Act or to release the drug onto the market without any regulatory control at all.

3.1.6 Later we argue that the UK should learn from the developments in New Zealand where a process of licensing relatively low risk substances for restricted and regulated supply is planned. If adopted in this country such a process could be linked to an extended period for Temporary Class Drug Orders. At the very least, more time should be made available to gather credible evidence on the NPS in line with the requirements of a minimum data set. Also there is a need for more flexibility to enable the testing of alternative approaches to regulating new substances which would avoid the criminalisation of young people who use them.

### 3.1.7 Recommendation

**Temporary Class Drug Orders should be of indefinite duration and should therefore be renamed Drug Supply Control Orders.**

## 3.2 Risk Based Drug Policy and the Classification System

3.2.1. The principle that drug policy should be based upon the risks associated with individual substances was established by James Callaghan, the Home Secretary responsible for introducing the Misuse of Drugs Act 1971. On 25<sup>th</sup> March 1970 he explained that:

*“the object here is to make so far as possible, a more sensible differentiation between drugs. It will divide them according to their accepted dangers and harmfulness, in the light of current knowledge and it will provide for changes to be made in classification in the light of new scientific knowledge”.*<sup>42</sup>

In order to fulfil the then Home Secretary’s objective, the classification of drugs must be based strictly upon a rigorous analysis of the risks of each drug to the individual and to the community.

3.2.2. Rudi Fortson QC in evidence to the Inquiry took the view that the main problem with regard to the misclassification of drugs has been the misuse of the 1971 Misuse of Drugs Act. He argues that aspects of the legislation have become ‘political ‘battlegrounds’ rather than being dealt with coherently within the scheme of the Act as a whole’<sup>43</sup> The aspirations of the then Home Secretary have not been met.

### Classification system in disrepute – a case for reform

3.2.3. A paper by four eminent scientists: Professors Colin Blakemore, Leslie King, William Saulsbury and David Nutt, published in 2007, set out to establish a rational classification of a range of illicit drugs and five legal drugs of misuse – alcohol, khat, solvents, alkyl nitrites and tobacco.<sup>44</sup> Their methodology offers a systematic framework and process to assess the harms of current and future drugs of abuse. Following their work the ISCD produced the graph below which illustrates the lack of correlation between the harms of a drug and its classification, or indeed its legality.<sup>45</sup>

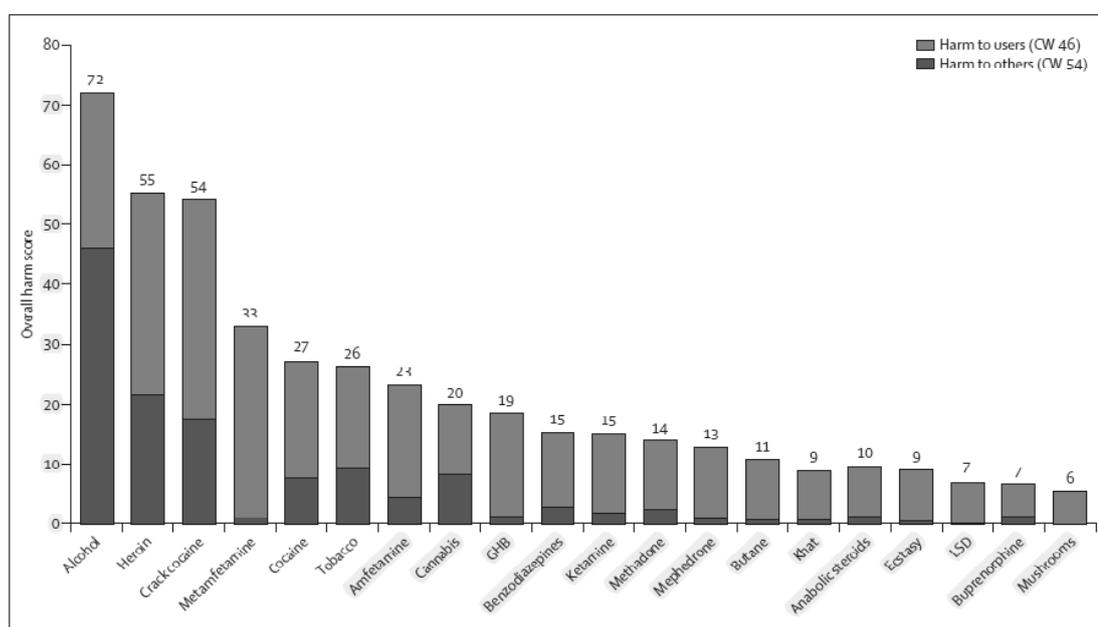


Figure 1. Substances in order of overall harms divided into harms to users and harms to others

3.2.4. Despite this valuable tool for the classification of drugs, political decisions continue to be made to classify drugs without apparent regard for the evidence of harm of the different substances. The most striking example of a wrongly classified drug is that of ecstasy which sits near the bottom of the table of risks/harms, well below alcohol or tobacco, and yet is a Class A drug with criminal penalties for use and supply

- 3.2.5 The failure of the classification system to relate penalties to the level of risk involved in taking a drug has already led to widespread cynicism about the system. At present, young people are making their own decisions about the safety of particular drugs independent of legality or classification. The aim of the Inquiry is to promote a rational system of controls for NPS which would command the respect of young people.
- 3.2.6. Some indication of the irrelevance of the current classification system is the fact that the UK trend in cannabis use has declined steadily throughout the period in question.<sup>46</sup> This seems to have occurred independently of the reclassifications of cannabis from class B to C and back to B again. The most recent EMCDDA report confirms that cannabis use prevalence is far more susceptible to social, cultural and economic factors than drug classification.<sup>47</sup> The limited relevance of drug policy and classification should liberate politicians to take a more relaxed approach to this highly controversial issue.
- 3.2.7 Drug use is firmly embedded in our culture particularly amongst young people. The purpose of the classification system is surely to give a clear indication to those young people who are going to use drugs about the relative harms of those drugs so that they can make informed choices. The sale of more harmful drugs should accordingly attract stiffer penalties. Experts who undertake research and work with experienced club drug users, including Dr Owen Bowden-Jones<sup>48</sup> and Dr Fiona Measham<sup>49</sup> are convinced that the legal status of a drug has little impact on club goers' decisions to take NPS.
- 3.2.8 Government warnings about the harmfulness of all drugs may be having little effect.<sup>50</sup> If so, this is a matter for concern. Young people who take drugs need to be encouraged to minimise the harms to themselves and others by their choice of psychoactive substance and the way in which they take it. If they are going to be able to make full use of the information from resources like 'Talk to Frank' they need to be able to trust the official classification system which is meant to differentiate and group drugs on the basis of harms. A classification system also needs to enjoy wider public confidence too.
- 3.2.9 Dr. Tim Williams and Professor Val Curran suggested that if we can create a rational system, users will start to trust it.<sup>51</sup> Dr. Williams emphasised the importance of the classification system focusing upon the most harmful drugs.
- 3.2.10 Other tools are needed to encourage young people to make informed decisions about drugs, avoid the more serious harms and where possible delay experimentation. (See Section 7 on reducing demand.)
- 3.2.11 We recognise that politicians of any political party are apprehensive about proposing changes to drug laws which may be perceived as irresponsible or soft and therefore shy away from making rational decisions on drug classification in response to evidence. Our current drug policy suggests a preference for a flawed policy rather than appear soft on a contentious issue. However, with the growing acceptance amongst MPs and the public that current drug laws are not working, and most of the main newspapers supporting a review of policy, politicians may want to reconsider their position.

- 3.2.12 In 2006, the House of Commons Science and Technology Committee reviewed the role of the ACMD and called for independent oversight of its work including recommendations on drug classification.<sup>52</sup> In order to ensure that the judgements of this scientific authority are risk based and not influenced by political considerations, it will be necessary to establish the independence of the ACMD from government. Politicians need to be responsible for overarching policy but we recommend that they are not involved in day to day decisions concerning individual drugs.
- 3.2.13 A newly constituted body would need to have the authority to make classification decisions (similar to the independent decisions of the Government's Monetary Policy Committee which determines interest rates, and in the health field, of the National Institute for Health and Clinical Excellence which determines those treatments attracting NHS funding). We believe this is an essential step in working towards a rational drug policy, and is crucial to restoring the credibility of the government approach and state sponsored information campaigns and education programmes.

### **Recommendation**

- 3.2.14. That the ACMD become an independent decision making body. The organisation would oversee risk analyses; coordinate the research they need and make decisions on a scientific basis as to the correct classification for each drug, beginning with new psychoactive substances. Politicians would focus on the political decisions concerning the roles of treatment and criminal penalties, and the levels of penalties to be applied.**

## **3.3 Deciding on Classification – analogue and generic decision making**

- 3.3.1 It has been strongly argued that it is important that the systems of assessment employed by an independent body with respect to NPS have credibility. A generic approach to classification is in use in the UK. This is based on the assumption that substances which are similar in chemical structure will have similar psychoactive effects and pose similar risks of harm. There has also been some interest in the US system of analogue classification<sup>53</sup> which is aimed at groups of substances either similar in chemical make-up or in effect. Analogue controls do not require identification of an overarching family of drugs. Instead a case must be made that an individual drug is significantly similar to another controlled drug. Both generic and analogue approaches can expand the number of drugs managed by the current system. Both are based upon a judgement that a particular drug may be sufficiently harmful to warrant legislative controls.<sup>54</sup>

## Challenges of the generic and analogue approaches

- 3.3.2. Both approaches are attempts to cut short the risk assessment of an NPS to the public by assuming the risks of a known drug will apply to a new psychoactive substance. Subsequently both approaches have a greater chance of damaging credibility and wasting resources by controlling NPS of moderate or low risk to the public. They reduce the motivation to acquire high quality risk assessments on specific drug compounds. This approach could lead to dangerous assumptions because small differences between drugs can be compatible with significantly different effects on those who take them. For example:
- 3.3.3. *The risks associated with the antipsychotic drug clozapine do not apply to the similarly structured drug olanzapine. Clozapine patients must have regular blood tests due to the increased risk that they might develop a potentially fatal side effect, whilst users of olanzapine do not carry the same risks and thus do not need the same frequency of blood tests*<sup>55</sup>.
- 3.3.4. As far as the analogue approach is concerned, the US Drug Enforcement Agency did not recommend it for use in the UK. Their recommendation was a result of court cases arising from prosecutions under analogue legislation. These led to significant legal wrangling with associated delays and costs. Problems occurred when defendants didn't know for certain that they had committed an offence until the eventual legal judgment which was likely to be long after their arrest; also serious disputes occurred amongst expert witnesses over what constituted a 'similar structure' and a 'similar effect'.<sup>56</sup>

### Recommendation:

- 3.3.5. Generic and analogue approaches to the banning of NPS are not recommended. Instead, more rigorous approaches that account for individual differences between substances are needed**

## 4. Misuse of Drugs Act - Fit for purpose?

### 4.1 Struggling to face the challenge of NPS

4.1.1. The Misuse of Drugs Act 1971 has been in operation for forty years. The focus of the Act upon substance misuse as a criminal activity rather than a health problem requiring treatment has always been controversial. However, while young people tended to take a relatively limited number of established drugs, the 1971 Act appeared to be a viable tool, whatever its faults and despite the absence of substantial evidence of effectiveness. Many witnesses, however, expressed serious doubts about the feasibility of trying to control New Psychoactive Substances using existing powers, particularly given the current limited capacity of enforcement agencies.

According to ACPO:

- 4.1.2. *“the Misuse of Drugs Act 1971 is not well positioned to deal with the more complex drugs scene which is now in existence”; the speed with which new substances are being produced and made available; the use of the internet and retail outlets to supply the substances ; and the use of social networking to spread news about such substances and to promote their use (such as party invitations circulating on smart phones including an internet link to a supplier of ‘legal highs’.*
- 4.1.3. Police operations against large scale importers of NPS are hugely resource intensive, and have far from certain outcomes. The financial cost for forensic analysis of all NPS appearing on the market, to discover those which need to be controlled, is prohibitive. The Association of Chief of Police Officers (ACPO) argues that:
- 4.1.4 *“the combination of budget pressure and substantial and ongoing changes to the provision of forensic services means that it is most unlikely that unidentified substances such as legal highs will be sent off for analysis. The information needed to take action will not be routinely available.”<sup>57</sup>*
- 4.1.5. The practical implications for police officers on the street at 3.0 am dealing with a young person in possession of a substance purchased on the internet, the nature of which they themselves are unsure, are self evident. They have no way of knowing the content without the availability of accurate field testing devices. Young people can be arrested and placed in a cell, interviewed and then bailed pending forensic analysis and released if the substance is shown to be legal. This is a waste of Police resources. There is also the problem of young people being criminalised for possessing a substance they believed to be legal.

4.1.6 According to SOCA and the Home Office<sup>58</sup> many websites are closed down in response to a ban but what is unknown is how many others open up using new names. Despite the best efforts of enforcement agencies NPS use is widespread. One in ten young people in the UK report having tried an NPS. The emergence of NPS is exacerbated by an increasing trend toward polysubstance use. The ACMD take the view that:

4.1.7. *“Our present system isn’t really designed to cope with it, it’s designed to cope with alcohol or heroin or cocaine, one at a time”.*<sup>59</sup>

4.1.8 Currently, controlled drugs such as heroin or cocaine are known to be dangerous, but the ACMD points out that the greatest harm may be caused by new substances emerging onto the market before there is any knowledge or understanding of their effects. They are particularly concerned about under 16’s using NPS.<sup>60</sup>

#### Lack of confidence in current methods of control

4.1.9. A succession of witnesses to the Inquiry queried the continued use of drug control legislation as a solution to the challenge

ACPO said: -

4.1.10 *“From an early stage the Chair of ACPO Drugs Committee was of the opinion that the solution to the particular challenges of legal highs did not lie in adding inexorably to the list of illicit substances”.*

Dr John Ramsey added: -

4.1.11. *“paradoxically legislation may make the situation worse as it is the main driver for change and the development of yet more new compounds. As long as large amounts of money can be made selling untreated chemicals, for which there is a market of largely young people willing to risk using them as drugs, and a chemical industry willing to supply the chemicals, the situation is unlikely to improve”.*

Professor Rudi Fortson QC was in agreement: -

4.1.12 *“one cannot be confident that a zero-tolerance approach to psychoactive substances for non-medical purposes would not make matters worse. The experience of the Misuse of Drugs Act 1971 as a social engineering tool is not encouraging”.*

4.1.13 Gus Jaspert from the Home Office acknowledged that it is not known whether when one substance is banned, young people move on to a more dangerous but unbanned substance.

#### Control has no impact on use

4.1.14. An on line survey of readers of music magazine detected a reduction in use of mephedrone from 51% in 2010 to 19.5% in 2011.<sup>61</sup> A face to face survey of South London gay clubbers, on the other hand, detected an increased in use from 24% in 2010 to 41% in 2011.<sup>62</sup>

- 4.1.15. Probably the most reliable estimate is that of Dr Simon Elliot, a member of the Independent Scientific Committee on Drugs, who said:
- “there was no difference in the number of mephedrone cases in 2011 compared with 2010 before the ban.”*<sup>63</sup>
- 4.1.16. The main effect of banning mephedrone has been a decrease in the quality of mephedrone available<sup>64</sup>.
- 4.1.17. A longitudinal study of ketamine which examined use before and after the ketamine ban was introduced in 2006 shows that the ban made no difference over time to the level of use and rather that ketamine use increased significantly in the short term post control<sup>65</sup>.
- 4.1.18. Above are compelling arguments that the current policies are very unlikely to make a significant impact on the use of NPS. However, they have the potential to amplify the risk of harms of NPS. Young people need to be able to make informed choices based on risk (which may entail a choice of less harmful known substances).

## **4.2 Time to extend the decriminalisation of drug use?**

- 4.2.1 We found a broad consensus amongst the majority of witnesses, including regulatory authorities, scientists and clinicians in support of the decriminalising of possession and use of NPS under Temporary Class Drug Orders. The criminalising of users, in this context at least, was regarded as unhelpful for the individual and for society.
- 4.2.2. Looking at the question from a clinical perspective, Dr. Owen Bowden Jones argued that if someone has an addiction this defines their use and they will use the drug whether it is legal or not, regardless of the consequences. This is the nature of addiction. Criminalising such people is morally wrong.
- 4.2.3 The UK has a strong emphasis upon treatment of addiction. However, our application of the Misuse of Drugs Act 1971 lags behind the drug policies of a number of European Countries (such as the Czech Republic, Spain, Estonia and Portugal). These countries have decriminalised or depenalised the possession and use of small quantities of drugs.<sup>66</sup>
- 4.2.4. The Portuguese model of decriminalisation of drug possession and use, with its strong focus on treatment, has been evaluated. The important finding has been that none of the fears of opponents have been realised. The trend in adult use has broadly reflected that in neighbouring countries. However, two important positive results are that the numbers of young people becoming addicted to drugs has fallen in Portugal under decriminalisation; and secondly the number of drug related deaths has fallen.<sup>67</sup> Politicians have nothing to fear from this policy. When the policy was introduced it was challenged by the opposition. Today, its drug policy has widespread support within Portugal.

- 4.2.5. While not affecting the level of drug use, drug policies which avoid criminalising young people do generate lower levels of unemployment, housing and relationship problems, and save the taxpayer considerable sums. According to the organisation Release, nearly a million people in the UK have been convicted or cautioned for drug possession.<sup>68</sup> Those with a criminal conviction will find it significantly harder to find work. A report commissioned by the Department of Work and Pensions<sup>69</sup> indicated that most employers would reject candidates with criminal convictions for about half of vacancies. As there is a duty to disclose convictions on applications for accommodation and insurance there can be a severe impact from a conviction for drug possession. Simply receiving a caution will stay on someone's police record for life.
- 4.2.6 If we wait for primary legislation, possession and use of drugs could remain criminalised for many years. Pressure on parliamentary time is always a delaying factor in any reform. The possession and use of drugs (including NPS) could however, be decriminalised without abolishing the Misuse of Drugs Act. The Act does specify general prohibitions but the Regulations are permissive. Section 5 of the MDA which makes possession of a controlled drug a criminal offence, could be disapplied altogether under Regulations.<sup>70</sup>

**Recommendation:**

- 4.2.7 That a cross party review of the Misuse of Drugs Act (1971) is carried out, beginning with Temporary Control Drug Orders and including proposals for the decriminalisation of possession and use of small quantities of any drug.**
- 4.2.8 Such a review should include the national governance of drug policy and the respective roles of the key departments.**

## 5. New Solutions

### 5.1 A focus on Regulation

- 5.1.1. We have already documented the widespread interest in various regulatory regimes as possible methods of control of the supply of NPS within the UK and internationally. One of the objectives of our Inquiry has been to explore the potential of regulation of NPS supply and the possibility that one of the existing regulatory regimes may be effective in encouraging the use of less harmful drugs and reducing the many harms arising from illegal drug markets. Trading Standards and Medicines Legislation have already been applied in the UK to disrupt the trade in psychoactive substances which are not controlled by the Misuse of Drugs Act. But, as indicated below, these applications have been possible only in very limited circumstances.
- 5.1.2. A number of other countries including Poland and Ireland have extended the scope of consumer protection legislation by introducing a broad definition covering all psychoactive substances, not already covered by existing laws. The supply and distribution of NPS are then declared illegal under misuse of drugs or product safety legislation. Although these initiatives have the advantage that they tend to focus on supply and do not generally criminalise users, they have two of the negative consequences of prohibition. Users committed to using NPS have to engage with illegal suppliers and to accept the risks involved. (A summary of initiatives abroad is in Appendix 3.)
- 5.1.3. Consumer protection legislation includes a complex array of controls which have developed in a piecemeal fashion to deal with particular challenges. For example, labelling requirements on the contents of many products have been the response to the rise in consumer rights.<sup>71</sup> There are also specific and distinct regulatory instruments to deal with the challenges of currently legal psychoactive substances such as alcohol, tobacco and solvents. None of these regulatory instruments is designed to prevent trading in these substances but rather to ensure that the trading takes place under conditions designed to achieve safety objectives.
- 5.1.4. In examining the frameworks of regulation in the UK, our Inquiry has learnt much about the regulatory regimes which could be usefully deployed to meet the challenges of NPS; also to what extent alternative regulatory regimes might minimise the harms of using NPS. We have been greatly helped in our deliberations by examining recent developments in New Zealand which has made unique progress in designing a policy for the regulation of NPS. They have examined the best available knowledge about the harms of particular psychoactive substances. They encourage suppliers to focus on product safety, and restriction of supply to protect vulnerable consumers, particularly young people.

5.1.5. Our recommendations call upon the UK government to adopt key features of the New Zealand approach.

#### Existing Regulation in the UK

5.1.6 Current forms of regulation apply to a wide variety of products, including food stuffs, alcohol, tobacco and solvents. The aim of these regulations is to protect customers and to ensure that suppliers and sellers behave responsibly. Other regulations ensure that any taxable revenues generated by the above markets accrue to the state. A full list of regulatory authorities and mechanisms can be found in Appendix one, but the principal ones that may be of relevance to the regulation of new psychoactive substances include:

- Trading Standards Services (TSS) who enforce many laws and regulations including:
- Consumer Protection from Unfair Trading Regulations 2008;
- Children and Young Persons (Protection from Tobacco) Act 1991;
- Criminal Justice and Police Act (2001). This covers the sale of alcohol to under 18s;
- Intoxicating Substances (Supply) Act 1985 for solvents (when authorised so to do).
- The Medicines and Health Care Products Regulatory agency (MHRA) which regulates medicines in accordance with EU Directive 2001/83/EC and controls the sale of medicinal products for human use.
- HM Revenue and Customs which is responsible for overall taxation and in particular, the collection of alcohol and tobacco duties.

5.1.7. The possible application of advertising standards and premises licensing as currently used with respect to the sale of alcohol was also addressed.

#### Trading Standards in the UK

5.1.8 Currently UK Trading Standards are managed and delivered by local government, but work to priorities set by National Government or the European Union (EU). The regulations include controlling the description and labelling of products and product safety. The former is governed by the 'Consumer Protection from Unfair Trading' regulations (2008) framed by the EU directive – 'Unfair Commercial Practices' (adopted in 2005). The latter is governed by the General Product Safety Regulations 2005 which follows EU product safety directive 2001/95/EC. Both directives are harmonised across the EU and any significant changes to the way they are implemented would need agreement at EU level.

- 5.1.10 Local authorities are required by law to have trading standards functions under the Weights and Measures Act. The areas of responsibility include: fair trading, animal welfare, food safety and underage sales. Their activities include: routine inspection, complaint investigation, thematic investigation in priority areas, and education. Sanctions include: fixed penalty notices, prosecutions, seizures, injunctions, warnings and advice.
- 5.1.11. They have experience, powers and skills in the regulatory control of dangerous, unsafe or mis-described products, including alcohol, tobacco, solvents, fireworks and poisons among others, whether they are sold in high street shops or on-line.
- 5.1.12. The role of Trading Standards Services with respect to NPS thus far has focussed on head shops and the internet. For head shops there have been a small number of prosecutions and also the police and trading standards have reported some local successes in simply advising head shops that 'legal highs' on sale may contain controlled substances or may contain legal but harmful substances.<sup>72</sup> However there were doubts within Trading Standards as to whether this approach would be replicable across the UK based on a view that head shops are mis-describing products to such an extent that they are probably deliberately operating on the fringes of the law and would not be amenable to advice from local Trading Standards officers.<sup>73</sup>
- 5.1.14. There are specific consumer protection laws that apply to internet trading; for example cooling off periods. For the sale of goods at a distance, e-commerce regulations require certain information to be included in every transaction. One of the big difficulties with internet trading is the uncertainty about where the site is hosted. Many are breaking the law but are not hosted in the UK and are beyond the remit of local Trading Standards (TS) services.<sup>74</sup>
- 5.1.15 Much of the evidence considered by the Inquiry including written and oral evidence from witnesses suggested that Trading Standards have an important role in disrupting the supply of NPS.<sup>75</sup> However a number of conditions would need to be met before TS services could have an effective role. The main issues are: - the current capacity of TS services; the resources necessary to underpin their work; and the need for reform of the legislative framework.

#### Capacity

- 5.1.16 Trading Standards Services have an important part to play in the regulation of NPS but it would not be feasible for the 197 separate TS Services to take on the cost of individual investigations into product safety. At present, services are funded by local government and they must respond to local priorities.<sup>76</sup>
- 5.1.17 The need to resource and build the capacity of TS services is supported by evidence from the Local Government Association (LGA).<sup>77</sup> Further analysis of the potential role of TS Services will be needed.

### Resourcing of support services

- 5.1.18 Action on safety with respect to NPS requires testing facilities to establish the potential harms and risks. These are generally not available. Also testing takes time and such facilities as exist are not equipped to test for new substances. Several witnesses called for the establishment of a national testing centre (See section 6 on essential research).

### The legislation

- 5.1.19 Several witnesses referred to the need to adjust the legislative framework for control of the supply of NPS.<sup>78</sup> The two main areas that could be addressed are legislation with respect to consumer protection and to product safety.
- 5.1.20 As far as consumer protection is concerned its main purpose currently is to protect the economic interest of the consumer<sup>79</sup> principally in terms of being misled by the seller. However those users of NPS who buy products labelled as 'bath salts' from a head shop know they are not buying the product as described. So a prosecution would fail because it would not be able to establish that the 'transactional' decision to buy was based on false information.<sup>80</sup> This anomaly would need to be addressed if there were to be a wider application of consumer protection legislation.
- 5.1.21 As far as product safety is concerned, public health concerns such as with alcohol or high fat foods sold to minors can be dealt with by national legislation. So another possible avenue would be to identify a class of psychoactive products which, on safety grounds, could not be sold regardless of how they were marketed or labelled. According to the Trading Standards Institute product safety legislation had been used to good effect in improving the labelling of tobacco products.
- 5.1.22 Consumer protection and product safety are governed by EU directives. Strengthening of consumer protection would need to be undertaken at EU level. If this were to take place there may be scope to address the requirement for businesses to exercise 'professional diligence' or to add to the current list of 'sharp practices'.<sup>81</sup>

### **Recommendation**

- 5.1.23 Consideration should be given to an enhanced role for Trading Standards Services. The role would need to be underpinned by capacity building and resourcing of the service; a review of the supporting technology required for test purchasing and prosecutions (see also recommendation on access to technology); and the right legislative framework.**

## Medicines legislation

- 5.1.24 The Medicines and Health Care Products Regulatory Agency (MHRA) is the government agency responsible for ensuring that medicines and medical devices work, and are acceptably safe. The onus is on pharmaceutical companies to demonstrate that a new medicine is safe and effective but this process can take 10 to 12 years to bring a new medicine onto the market at a cost of £1.1 billion and only one in 5,000 research products receives a license.<sup>82</sup>
- 5.1.25. Some witnesses<sup>83</sup> argued that the MHRA or medicines legislation could have a wider role with respect to NPS but the MHRA have argued that medicines legislation can only be applied to products classified as medicines and other witnesses<sup>84</sup> have argued against broadening its remit. The majority of UK medicines legislation now follows the requirements of European legislation, in particular Directive 2001/83/EC, as amended. Other countries in the EU have attempted to regulate NPS by classing them as medicines.<sup>85</sup>

## The right legislative framework

- 5.1.26 If existing forms of regulation are strengthened as suggested above, within the current framework of prohibition, there would still be a number of potential negative consequences:
- banning supply drives NPS to illegal markets with more likely involvement of organised crime;
  - the quality and purity of NPS is less assured and the risk of harms to users are increased significantly; and
  - differentiation between less harmful NPS and more harmful controlled substances may be more difficult develop.
- 5.1.27. Two examples of regulatory instruments that would be unlikely to work under existing circumstances but would need to be re-examined within a regulatory framework are taxation and the licensing of premises as currently applied to the sale of alcohol.

## Taxation

- 5.1.28 Although the profits and sales of NPS as for any business would be liable to tax, witnesses did not think that taxation was a viable way to regulate within the current legal framework and that the suppliers of NPS were unlikely to pay tax.<sup>86</sup> However figures supplied by the Wine and Spirits Trade Association highlighted strongly the revenue lost to the state because drugs are restricted to illegal markets. Alcohol duty and VAT contributes £16 billion a year to the public finances.<sup>87</sup> If a way could be found to ensure that taxes on NPS were paid, this could also be a way of influencing their pricing.

## Licensing of Premises

- 5.1.29 Under current legislation, local authorities license individuals and premises to supply alcohol with conditions aimed at preventing crime and disorder, protecting public safety, preventing public nuisance and protecting children from harm. The licensing of premises where NPS are taken can also be considered as a legitimate way of restricting use to minimise harms. Witnesses speculated that under current circumstances we could anticipate that premises licensed for NPS could increase the population with access to those substances, and hence the level and spread of use<sup>88</sup>. However venue licensing still remains an option to be considered although this approach would need to be tested and evaluated. If premises were licensed to sell specified NPS with conditions, two consequences are likely. Dr Fiona Measham referred to the displacement effect of licensed premises for alcohol consumption. Young people drink in unlicensed premises including their own homes. We could anticipate a similar outcome with NPS.
- 5.1.30 The most fully developed example of a drug policy which is trying to address the challenge of NPS with regulation is about to become law in New Zealand.

## **5.2 New Zealand a case study:**

- 5.2.1 Several witnesses made reference to the New Zealand policies.<sup>89</sup> New Zealand has twice attempted to develop systems of regulation for particular NPS. It first tried by introducing a 'restricted substances' category within national drugs legislation in 2005. Here a new substance could be legally supplied if it was understood to represent a 'less than moderate risk of harm'.<sup>90</sup> The restrictions included: - restricted outlets for sale, no sale to minors and no advertising."<sup>91</sup> Benzylpiperazine (BZP), was the only substance placed in the restricted substance category known as category 'D'. It was subsequently assessed as having a moderate risk of harm and was prohibited in 2008.

- 5.2.2. This first attempt at regulation was not successful but in the face of continued widespread use and availability of NPS, New Zealand decided to reconsider regulatory mechanisms.
- 5.2.3. In 2010 the New Zealand Law Commission published a comprehensive report on current drug policy which recommended consumer protection legislation for all NPS which places the onus on producers and suppliers to demonstrate that the substance poses 'a low risk of harm'. The guiding principles behind the recommendation are that drugs should only be regulated:- to prevent harm to the young and otherwise vulnerable who may use the drug and to prevent harm to others caused by a person's drug use; and only if the benefits of regulation outweigh the costs arising from regulation itself.
- 5.2.4. They suggested four criteria that could be used to decide whether a substance could be legally sold.
- The nature of the harm caused by the substance (including its prevalence of use) and any benefits from its use;
  - whether the harm of the substance can be effectively mitigated by the imposition of regulatory controls;
  - likely consequences of any proposed regulation or prohibition of the substance (i.e. assessing alternative regulatory approaches) ; and
  - any possible displacement effects that might occur because of the way substances are regulated (i.e. the risk that prohibition might encourage the use of a more harmful substance)<sup>92</sup>.
- 5.2.5. In response to the report of the Law Commission, The Cabinet of the New Zealand Government is proposing a new system of regulation and has undertaken an impact assessment of what will be involved. The primary aim of the new system of regulation is to 'reduce risks to the public by removing untested and potentially harmful products from being sold and introducing a pre-market approval scheme with testing requirements and retail restrictions for low-risk psychoactive substances'.<sup>93</sup> They anticipate that the number of applications will be very small (less than ten) in the first year.
- 5.2.6. They propose a process of testing which can establish the potential level of harm with the costs met by the supplier. However, the hurdles that the supplier has to go through cannot be so high that they simply drive the production of NPS into the black market. This point was raised in evidence from HMRC who warned that to tax suppliers of NPS at a higher rate than current VAT and Income Tax, as is the case with alcohol and tobacco, runs the risk of driving the trade into the black market.<sup>94</sup>
- 5.2.7. Currently estimated costs of determining potential risks and harms of NPS are approximately half a million pounds and the estimated charge for registration for each substance would be nine thousand pounds. In consulting with the potential suppliers the New Zealand Government has established that they would generally be prepared to submit compounds to be tested and are prepared to pay the costs.<sup>95</sup>

5.2.8 The New Zealand government are clear that regulation is not a soft option and that the restrictions applied to the sale of any NPS assessed as low risk will need to be rigorously applied.

**Recommendation:**

- 5.2.9 That the government consider adopting the key features of the New Zealand policy:
- that the onus should be on potential suppliers to demonstrate that a psychoactive substance has an agreed low risk of harm;
  - that a testing process is designed to establish that a substance has a low risk of harm which balances rigour with the need to encourage suppliers to operate within legal markets;
  - that NPS meeting the criteria for low risk of harm are classified within a category 'D' allowing restricted supply with clear sanctions and enforcement procedures for breaches of those restrictions; and
  - that the supply of the more dangerous substances, whether existing illicit drugs or NPS, should remain banned.

5.2.10 In considering regulation the Inquiry was reminded that there was little evidence of the effectiveness of regulation thus far.

According to Dr Les King,

5.2.11. *"We don't have a lot of evidence of the effectiveness of these other forms of legislation because the problem is new, and there's not a great deal of experience but all I can say is that they're worth looking at as examples, because clearly the Misuse of Drugs Act isn't working now."*

5.2.12 Accordingly we need to know what works in the current regulatory framework and we need to evaluate the impact of any system of regulation for NPS

**Recommendation:**

- 5.2.13 A review of the effectiveness of current forms of regulation and their potential for effective regulation of NPS should be undertaken.

## 6. Essential Research

### 6.1 Building the evidence base on NPS

- 6.1.1. The speed of development and the proliferation of NPS represent a serious challenge in terms of the capacity of current systems of research and the technology available to government agencies. The rate of growth in the number of new substances arriving in Britain; the absence of a sound research infrastructure and resulting piecemeal organisation of research; and limited access to technology are all impeding rational decision making.<sup>96 97 98 99</sup>
- 6.1.2 When the ACMD can only make 2-3 recommendations to government per year concerning the risks associated with specific new psychoactive substances, it is important for them to know a) the preliminary evidence of the most harmful substances to work on; and b) those substances taken by significant numbers of young people. They don't have this information.
- 6.1.3. The Forensic Early Warning System (FEWS) with costs of at least £300,000 per annum only attempts to answer the basic, but challenging question of the composition of new drugs. The Advisory Council on the Misuse of Drugs includes leading international experts in the NPS field. However, these scientists are working in a voluntary capacity.<sup>100</sup> The research into the harmfulness of NPS and the prevalence of their use is largely undertaken by institutions where ACMD members are employed, funded by grants, some of short duration. There is little guaranteed funding for research into NPS.
- 6.1.4. According to ACMD and ICSD members, £3m per annum is required in order to provide a reasonable level of information for decision makers. By contrast, the Home Secretary on 17 May 2012 announced to the ACMD that £200,000 will be available for this work from the Department of Health<sup>101</sup>. Potential ways to offset the costs associated with this research include the potential use of a University as a centre of excellence; the development of existing networks; and European pooling of resources. The basic identification of an unknown NPS can require a £600,000 high resolution gas or liquid chromatography mass spectrometer and a £1million nuclear magnetic resonance spectrometer. For the Home Office's FEWS these services are provided by a network of private forensic laboratories which can reduce costs by sharing expertise rather than all being involved in the most expensive stages of research. Sharing the information regarding the NPS identified across Europe has reduced costs in the UK. Dr John Ramsey believes that use of University departments could reduce costs further as he believes they could carry out such work on a non-profit basis.

- 6.1.5 The National Programme on Substance Abuse Deaths (np-SAD) provided information about the contribution of drugs to deaths throughout the United Kingdom since 1997. One project provided for the ACMD important data relating to the deaths of twenty six people, seeking to clarify whether mephedrone or other drugs had contributed to those deaths. In August 2010 funding from the Department of Health for this research was ended. Such data may not be available to the government or to ACMD in the future.
- 6.1.6 The result of the inadequacies in the research infrastructure for NPS mean that decision makers have to rely upon studies of traditional drugs. However, such an approach takes no account of the differences in the effect of drugs with apparently similar compositions.
- 6.1.7 The weaknesses of the research infrastructure leave policy makers vulnerable. We do not know how many of the hundreds of substances identified since 1997 may be sufficiently harmful to justify the control of supply. The ACMD will make 2 to 3 recommendations per year. The rest remain uncontrolled.<sup>102</sup>
- 6.1.8. What research is needed to inform the decision makers on new psychoactive substances? The Independent Scientific Commission on Drugs recommend a minimum data set composed of the following components:
- *Analyse products from test purchases, seizures and amnesty bins to find new compounds*
  - *Synthesise reference standards and possibly metabolites*
  - *Pharmacologically characterise the compound, in vitro and/or using isolated animal tissue models. This is required to establish whether and how a compound works as a drug and access the potency (dose).*
  - *Monitor any hospital Accident & Emergency presentations, and clinical assessments, and confirm by urine analysis.*
  - *Access extent of use in the general population initially by pooled urine analysis (city centre urinals) and perhaps later by wastewater (sewage) analysis.*
  - *Repeat test purchases post legislation to monitor effectiveness<sup>103</sup>*
- 6.1.9 The identification of a single unknown NPS can cost between £300 and £10,000, but this is only the first stage of the minimum data set. The costs of this research are likely to be greater than the £300,000 per annum agreed for the identification process carried out by FEWS. The full minimum data would involve researchers from a broad range of departments. This minimum data set does not account for the measurement of more long term toxicity and health effects. The longitudinal population research required to measure these harms would carry even greater costs and take longer. Dr John Ramsey advised that centralising this process in a centre of excellence in a university could reduce costs and avoid duplication. However, this model has not been fully developed or costed.

## Recommendations

- 6.1.10 All NPS should have their properties and prevalence assessed according to the basic data set recommended by the ISCD. Options for this research should include the use of experts in university departments and pooling of European resources.**
- 6.1.11 All NPS policies should be evidence based and subject to evaluation. Such evaluations should seek to assess systems of regulation in terms of harms particularly harms to young people. A useful benchmark, operating within the New Zealand system, is that the harms of any form of regulation should not be greater than the harms of the substance being regulated**

## 6.2 Access to Technology & Expertise

- 6.2.1. In addition to the need to identify previously unknown NPS for research, Public Services, including the police and border enforcement (UKBA), probation (NOMS) and health services need access to sophisticated laboratory technology to identify packages and substances in human tissues. Clearly the needs of these services to identify drugs for the purposes of enforcement or treatment are different from the need to measure a minimum data set for all previously unknown NPS. However, FEWS has demonstrated that these public services are the best sources for the samples of NPS needed for research.
- 6.2.2 It might be hoped that these public services might be able to identify NPS themselves. However, current field technology is not fit for that purpose. According to Sheila Hardwick from the Home Office's Centre for Applied Science & Technology the two forms of field technology used by SOCA and the UKBA cannot identify complex compounds and plant based drugs. Similarly immunoassay urine drug tests used to identify drugs in hospital, probation and prison settings only test for a limited range of substances.
- 6.2.3. Only forensic science and toxicology laboratories have access to sufficiently powerful technology and the skilled operators required to identify the drugs<sup>104</sup>. These bring with them greater costs. Sheila Hardwick, who organised a network of forensic laboratories to identify previously unknown NPS through FEWS doubts that it would be realistic to expect the present NPS to be accurately identified by all the public services of the United Kingdom. The major limitation is the insufficient number of forensic scientists in the UK. Dr Ramsey was more optimistic and believed that the use of universities and students could increase the workforce for this task. Commercial quotes for identification of a known NPS can be around £40-104 per sample. It is also possible that a sample from a public service contains an unknown NPS and these can naturally be fed into FEWS. Dr Ramsey argues that these costs can be dramatically reduced through the involvement of universities and a non-profit model of NPS identification. Identification of all NPS from these services would also be a rich source of information for researchers measuring patterns and quantity of both supply and use.

## Keeping up with the Internet Vendors

- 6.2.4. The widespread internet based sales of NPS and online social media forums discussing them highlight the importance of internet based technology. SOCA has used specialist techniques to block unsafe vendors' websites from the internet<sup>105</sup>. Availability of these resources to other public services who take on any greater role in NPS management could enhance the possibility of controlling online sales to the UK. However, blocking of websites is complex and costly. Details about this are not in the public domain; however an attempt to extend this technology to all enforcement agencies involved may be prohibitively expensive. There is the possibility of limiting such resources for the most irresponsible of vendors whilst cheaper and more basic interventions can address other internet suppliers. For example SOCA highlighted the value of simply asking internet providers to withhold access to the internet for vendors who break their terms and conditions of use.

## Recommendation

- 6.2.5. Access to technology and experts with the capacity to identify NPS should be available to all public services managing NPS use. In the case of technology addressing internet based sales, access to this technology should be limited to enforcement agencies and the most advanced technology may have to be reserved for the most problematic internet vendors. Measures to control costs should include the use of networks of experts.**

# 7. Preventing and treating the Misuse of NPS

## 7.1 Prevention

- 7.1.1 The Inquiry heard very little about drug education and prevention carried out specifically to address NPS. There is developing work by the Angelus Foundation and the Home Office managed 'Talk to Frank' website contains basic information about the more established NPS. In terms of drug use in general, drug education can potentially limit the amount of use and the dangerousness of use. Evidence to this Inquiry emphasized the importance of prevention in any future drugs policy<sup>106</sup>
- 7.1.2 The limited knowledge about the contents of, and risks associated with, new psychoactive substances has inhibited the development of substance specific educational programmes. We have therefore explored the extent to which preventative programmes directed at the misuse of a range of substances including alcohol, tobacco and other drugs might be effectively applied to NPS. Most of the trials have been conducted in the USA and have very little long-term follow up or investigation into the significance of the social context upon outcomes.
- 7.1.3 Despite the caveats, the meta analysis of Pim Cuijpers, and other studies cited below have much to tell us about the potential of preventive interventions.<sup>107</sup> Cuijpers refers to the several hundreds of studies and meta-analyses which have been conducted and the impossibility of undertaking a systematic review or meta-analysis covering the entire field. However, he does review the most important sections of the complete field
- 7.1.4. According to Cuijpers, the aims of the programmes have varied; they have included increasing knowledge about drugs; reducing the use; delaying the onset of first use; reducing abuse; and minimizing harm caused by use.
- 7.1.5 Many of the programmes are interactive programmes. They focus on discussions, role-playing and interaction between students, while non-interactive programmes are structured; they focus on oral presentations by the teacher and do not stimulate interaction between students.

- 7.1.6. The main findings from all these studies have been a) that programmes using interactive methods can significantly reduce the use of drugs (including tobacco, alcohol and illegal drugs); whereas non-interactive programmes do not; b) programmes which focus upon parents and improve parenting skills of young people at risk can be effective; c) that community-based interventions providing activities for young people with the participation of residents can be effective; and d) that the case for mass media campaigns is less clearly made out, but even if on their own these campaigns cannot reduce use, they may enhance the effectiveness of community interventions;
- 7.1.7 The effects of interactive programmes upon drug use are small (0.20) but nevertheless significant if applied to large populations of young people. Effective programmes are all based on the social-influence approach to drug prevention. This is based upon the idea “that ‘inoculation’ in the classroom against active or indirect social pressure to use drugs will help to prevent drug use.”<sup>108</sup>
- 7.1.8 Common sense suggests that selective or indicated interventions may be more effective than programmes directed at an entire cohort of children. ‘**Selective**’ interventions are aimed at individuals or groups of people who have an increased risk of drug use problems (e.g. children of alcoholics or high risk inner-city youngsters). ‘**Indicated**’ prevention is aimed at subjects who do not have addiction problems but who have some early characteristics of problematic use. (young people already experimenting with drugs).
- 7.1.9. Perhaps surprising is the conclusion from Cuijpers’ meta-analysis that “there is no convincing evidence that selective and indicated school-based prevention programmes can reduce drug use or abuse”.

#### Family-based interventions

- 7.1.10 It would be surprising if parents did not have an important part to play in reducing their children’s use and misuse of drugs. But what does the research tell us about the influence of parents?
- 7.1.11 Important protective characteristics of parents are a close relationship with their children and involvement of the parents in adolescent activities outside the family.<sup>109</sup> Parents can also act as role models for their children.
- 7.1.12. Can interventions in high risk families affect the drug use of adolescents? An interesting study of the effects upon 667 families of the “Preparing for the Drug-free Years” programme provides encouraging results. Adolescents whose parents participated in the programme of just five training sessions, used fewer drugs than adolescents whose parents received a minimal intervention only.<sup>110</sup> Other studies of interventions with families in which the parents are addicted, or other high risk families, produced positive and significant effects on the drug use of the adolescents involved.

- 7.1.13. The only significant and relevant parenting programme in this country appears to have been the National Academy of Parenting Practitioners £30 million Department of Education project. However, the impact of this work remains unknown.
- 7.1.14. This field of study remains relatively new and further research is needed before the best interventions can be identified with full confidence.

#### Mass Media Interventions

- 7.1.15. Existing interventions include the website 'Talk to Frank' which provides a degree of information about new psychoactive substances. The Angelus Foundation has recently mounted a billboard campaign against new psychoactive substances (September 2012).
- 7.1.16. However, there are no recent well-designed studies providing reliable assessments of the effectiveness of mass media campaigns on drug use. The only conclusion drawn by Cuijpers is that mass media campaigns may strengthen the positive effects of community interventions.
- 7.1.17. In the UK there have been a number of compelling campaigns about the dangers associated with the use of particular drugs such as ecstasy. But trends in the use of ecstasy do not appear to have been affected by such campaigns.<sup>111</sup> Mass campaigns can increase awareness about the availability of drugs without dissuading use.

#### Community Interventions

- 7.1.18. There are few studies of community projects – the organisation of activities aimed at adolescents, as well as parents and others – on drug use. However there is a growing evidence base to suggest that community prevention interventions can reduce drug use in the community. More work needs to be done to strengthen the evidence in this area.

#### Recommendations:

- 7.1.19 Preventive programmes with a strong evidence base should be promoted much more widely within schools and the community.**
- 7.1.20 That resources are made available for robust evaluation in the UK of preventive programmes to assess their effectiveness in reducing the harms of NPS, delaying first use and to minimizing problematic use.**

## 7.2 Treatment

- 7.2.1. Evidence from the Department of Health and National Drug Treatment Agency suggests that General Practitioners and Accident and Emergency Departments treat a substantial proportion of acute harms arising from the taking of new psychoactive substances.<sup>112</sup> We received little indication that the front line staff of health services have adapted their practice to meet the particular needs of young people suffering the harms resulting from NPS use, or that they are able to advise young people seeking help to reduce their use of these substances.<sup>113</sup> We also have no information about the level of demand for NHS services from these groups.
- 7.2.2. The Department of Health provided the Inquiry Panel with information about the general guidance issued to young people seeking health care but wishing to continue using NPS. This gave no specific information about the risks associated with any individual psychoactive substance. We have no information about the level of understanding of front line NHS staff of these substances. The appearance of one new substance every six days or so into the UK and the minimal information available about each substance renders the position of health staff very difficult.
- 7.2.3. Generic drug services, without specialist training and additional specialties (a bladder surgical specialist for example) are unlikely to be able to meet the needs of NPS users.<sup>114</sup> We know that ketamine and related NPS cause bladder damage. These conditions will not be familiar to generic drug services.
- 7.2.4. Because different NPS are popular in different parts of the Country, generating diverse health symptoms, the problems cannot be resolved on a national basis.

### *Case study of health presentation of NPS user*

- 7.2.5 *A Club Drug Clinic attender had taken ketamine and GHB and attended with both bladder damage and physiological dependency. Swift co-working with a bladder surgical specialist and an expert in the novel pharmacological detoxification involved was necessary. The psychosocial treatments were adapted from those recommended by the National Institute for Health and Clinical Excellence, in guidance for all drug dependents.*

7.2.6. Specialist Club Drug Clinics have begun to be established in several boroughs of London, in Bristol and in Leeds. With less high medication costs these services are often less expensive than other drug services. The Chelsea & Westminster clinic costs £150,000 per annum. Dr Owen Bowden-Jones acknowledged that there may not be the demand for such clinics in every drug service across the United Kingdom, but predicted that a network of 5-10 clinics in major city hot spots across the country may help to meet this growing challenge. These hot spots may include Brighton, Bristol, several regions of London, Birmingham, Manchester, Leeds, Newcastle, Edinburgh and Glasgow. The estimated cost of 5-10 such services would be between £750,000 to £1.5 million per year. He also advised that such clinics could provide training for front line GP and A&E staff dealing with the acute effects of these drugs. These services might be more effectively commissioned at regional level or across several boroughs.

#### **Recommendation**

**7.2.7 That a minimum of £1.5m be made available for a targeted pilot of Club Drug Clinics in ten major hot spots across the UK with a duty to train front line A&E and GP staff, as well as treat those suffering persistent harms of NPS use.**

## 8. The Lead for Drug Policy

- 8.1 The Home Office has been the lead department for drug policy since 1973. This followed logically from the passing of the 1971 Misuse of Drugs Act with its focus upon substance misuse as a problem of criminality rather than a health issue applying to users as well as suppliers. However, prevention and treatment of drug addiction are now central to drug policy in the UK and will be equally important in the NPS field. With the establishment of Public Health England and also if there is an enhanced role for regulation via Trading Standards Services then the Departments of Health and also of Communities and Local Government will have an important role in the governance of drug policy.
- 8.2. The UK is unusual in the European context in having the co-ordination of drug policy located within the Home Office rather than in the Health Department or divided between the two.<sup>115</sup> However within Europe a health lead encompasses a considerable range of quality in drug policy and services. Having a particular government department in charge does not, in itself, guarantee an evidence based drugs policy.
- 8.3. We have considered an analysis of the French system of governance in drugs policy involving a multi-departmental body under the leadership of the Prime Minister<sup>116</sup>. A number of witnesses argued that the Health Department should be the coordinating Department. This gives us options to consider.

Recommendation:

- 8.4 That the national governance of drug policy and the respective roles of the key departments be incorporated into a review of the Misuse of Drugs Act (1971) already recommended**

# 9. Appendix One: Current Regulation in the UK

## 9.1 All products

- 9.1.1 Revenue & Customs (HMRC) employ VAT, customs & excise, civil & civil evasion penalties or criminal proceedings including detention or seizing of goods and the containers or vehicles carrying them.<sup>117</sup>
- 9.1.2 UK Border Agency customs checks carried out by the border force at ports and airports enable enforcement of the HMRC's control of import of commodities.<sup>118</sup>
- 9.1.3 Local Authority Trading Standards Officers enforce a wide range of legislation. They can utilise laws directly addressing the safety of goods, counterfeit goods and false claims on goods.<sup>119</sup>

## 9.2 Hemp

- 9.2.1 The Home Office Drugs Licensing Unit licenses cultivation and possession of Low or high THC industrial cannabis. CRB clearance of growers, field size & locations, seed type, THC content and a statement confirming EU approved seed status are all monitored.<sup>120</sup>
- 9.2.2 Cultivators inform local police of their locations.<sup>121</sup>

## 9.3 Alcohol

- 9.3.1 The HMRC specifically tax the manufacturers, importers, distributors, retailers and consumers of certain alcohol products.<sup>122</sup>
- 9.3.2 Local authorities license individuals and premises to supply alcohol with conditions addressing prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm. This now includes a minimum price that matches the VAT due for the drink. Failure to comply with any conditions attached to a licence or certificate is a criminal offence which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both.<sup>123</sup>
- 9.3.3 Local authorities, police and courts use drink banning orders to prevent alcohol use by antisocial and disorderly consumers. Offenders who breach a DBO will be liable to a fine of up to £2,500.<sup>124</sup>
- 9.3.4. The police, CPS & courts can provide driving licence penalties, fines up to £5000 and up to 6 months in prison for alcohol consumers who drink excessively and drive.<sup>125</sup>

## 9.4 Tobacco

- 9.4.1. The HMRC only collects tobacco product duty from goods manufactured in registered factories, kept in registered stores and bearing a fiscal mark. Other tobacco is seized, alongside any associated vehicles and the offenders' assets are confiscated. Fines of up to £5,000 are given to owners of premises caught selling non-fiscally marked tobacco and the courts can ban their sale of tobacco for up to 6 months. Enforcement can require input from the trading standards officers, police, UKBA, CPS and Customs & Revenue Prosecutors, and the courts.<sup>126127</sup>
- 9.4.2 Trading standards officers conduct test purchasing operations to detect deviation from retail regulations leading to criminal convictions, bans (restricted sales orders for individuals, restricted premises orders for establishments) and financial punishment (£1000-20,000). Retailers can only sell cigarettes in packets with mandatory health warnings, there must be a visible statutory notice of age requirements and consumers must be 18 or over.<sup>128</sup>
- 9.4.3. Anyone detected by Trading Standards Officers to be involved in the commissioning, design, printing, publishing, sale or distribution of tobacco advertisement outside of retail outlets could face fines (starting at £3000) or imprisonment (starting at 6months).<sup>129</sup>
- 9.4.4. Local authorities employ fixed penalty notices and fines from £50-2500 for individuals or managers of premises not displaying no smoking signs in work or public enclosed spaces.<sup>130</sup>
- 9.4.5. The NHS, schools & colleges educate people about the harms of smoking.<sup>131</sup>

## 9.5 Gambling

- 9.5.1 The HMRC have 6 specific taxes for gambling.<sup>132</sup>
- 9.5.2 Licensing authorities are based in local authorities. They provide several licenses and registers for several aspects of gambling such as premises for gaming.<sup>133</sup>
- 9.5.3. The Gambling Commission is a non-departmental public body sponsored by the department of culture, media and sport. It directly provides a number of licenses for gambling businesses who demonstrate efforts to reduce criminal involvement, protect the vulnerable and ensure fairness. The Commission, sometimes in conjunction with the police and CPS provide warnings, extra conditions, suspensions, revocation and fines.<sup>134</sup>
- 9.5.4. The national lottery is regulated by the National Lottery Commission and spread betting is regulated by the Financial Services Authority.<sup>135</sup>

## 9.6 Food

- 9.6.1 The HMRC gather duty on some, but not all imported foods.<sup>136</sup>

- 9.6.2 Importers of animal derived food must acquire: a licence from DEFRA, a harmonised health certificate from a vet and details required to trace the product.<sup>137</sup>
- 9.6.3 Non-EU animal based products are: inspected by EU Border Inspection Posts including Official Veterinary Surgeons, Environmental Health Officers and specialist technical staff and a Common Veterinary Entry Document (CVED), provided by a vet, is required.<sup>138</sup>
- 9.6.4 EU Importers of other food stuffs require a licence from the Rural Payments Agency for import for food stuffs subject to the common agricultural policy. Safety checks are carried out by environmental health officers.<sup>139</sup>
- 9.6.5 UK Food businesses undergo registration with local authorities, food hygiene & safety inspections. Investigations of specific complaints are carried out by the Food Standards Agency, the local authority (including port health authorities, food law enforcement Environmental Health Officers (EHOs) and Trading Standards Officers (TSOs). Breaking food laws can lead to fines and imprisonment from 6 months to 2 years.<sup>140</sup>
- 9.6.6 DEFRA's Pesticides Safety Directorate (PSD), the Veterinary Medicines Directorate (VMD), and the Egg Marketing & Dairy Hygiene enforce specific monitoring and regulation of animal based food stuffs in the UK.<sup>141</sup>
- 9.6.7 The Department of Health works in partnership with the food industry, charities, and other Government and non-governmental organisations to help the public choose healthier diets as part of a healthier lifestyle.<sup>142</sup>
- 9.6.8 For TV advertising, OFCOM uses the nutrient profiling (NP) model as a tool to differentiate foods on the basis of their nutritional composition and restricts TV advertising of food and drink to children where products are high in fat, salt and sugar.<sup>143</sup>
- 9.6.9 NHS services provide interventions for people who are overweight.<sup>144</sup>

## 9.7 Solvents

- 9.7.1. Trading standards officers and the criminal justice system fine (up to £5000) or sentence (up to 6 months) retailers for selling solvents (eg; solvent based glue, dry cleaning fluid, correction fluid and thinner, marker pens, deodorant, air fresheners, hair spray, pain relief spray, anti-freeze & nail varnish and varnish remover) to people under 18 who are reasonably suspected of intending to use it for intoxication.<sup>145</sup>
- 9.7.2. Any sale of butane to people under 18 leads to the same penalties without suspicion of intended intoxication.<sup>146</sup>

## 9.8 Medicines

- 9.8.1 The Medicines Health Regulatory Authority licenses new medicines on behalf of government ministers with guidance from the medical advisory committee at several stages.<sup>147</sup>

- 9.8.2. The MHRA's Inspection Action Group review compliance at all points of the supply chain including clinical trials and testing of a medicine. They can remove licenses and refer people to the enforcement group. The Enforcement and Intelligence Group pursue convictions where people have deviated from the medicines act 1968. They work with UK Police Forces, HM Revenue & Customs, Prescription Pricing Authority, Association of Port Health Officers, Trading standards and Environmental Health Units, Royal Pharmaceutical Society of Great Britain, General Medical Council and international authorities.<sup>148</sup>
- 9.8.3. Medicines which require prescription (POM prescription only medicine) from a doctor require the involvement of both doctor and pharmacist. The General Medical Council and General Pharmaceutical Council can remove the individuals from their registers to prevent them supplying medicines unsafely. The GPhC also carries out inspections of registered pharmacy premises and can remove their licenses as well. Drugs also controlled under the MDA 1971 require further special prescription and dispensing measures.<sup>149150151</sup>
- 9.8.4 Pharmacy only medicines do not require a prescription, but can only be dispensed by a registered pharmacy.<sup>152</sup>
- 9.8.5 General sale medicines can be sold by general retailers.<sup>153</sup>
- 9.8.6. Possession of prescription only medicines without a prescription is not an offence, if they are not also controlled by the MDA 1971.
- 9.8.7. The Home Office Drugs Licensing and Compliance Unit (DLCU) annually license production, possession and supply of medicines and their precursors otherwise restricted by the Misuse of Drugs Act. Licensees can be companies and other organisations that intend to work with controlled drugs and precursor chemicals, doctors prescribing certain drugs to addicts and people taking their prescribed controlled drugs abroad. These licenses require:<sup>154</sup> Criminal Records Bureau screening of licensees, demonstration of fulfilment of specific procedures addressing General Security Guidance for Controlled Drug Suppliers, production, distribution, storage, & provision to consumers, payment of substantial fees up to £4700, and occasional visits to check compliance.

# 10. Appendix Two: List of Expert Witnesses

## 10.1 (Written Submissions only)

Her Majesty's Revenue & Customs, Sam Mitha, Deputy Director, Tax Policy  
Customs and National Operations, Border Force, Home Office, Tom Dowdall, Director  
Local Government Association, Councillor Mehboob Khan,  
Association of British Pharmaceutical Industry  
The Wine & Spirit Trade Association  
Department of Health

## 10.2 (Oral Hearings & Written Submissions)

Doctor Les King, Former member of the ACMD and advisor to the EMCDDA  
Rudi Fortson QC, Queen Mary University  
Advisory Council on the Misuse of Drugs, Professor Les Iversen  
Home Office, Gus Jaspert, Head of Drugs & Alcohol  
Trading Standards Institute, Craig McClue, South Ayrshire Trading Standards  
Medicines & Healthcare Products Regulatory Agency, Gerald W Heddell, Director, Inspection, Enforcement & Standards Division  
ACPO Drugs Committee, CC Tim Hollis, Chair  
Club Drug Clinic & Drug Treatment Centre, Dr Owen Bowden-Jones  
The Angelus Foundatio, Maryon Stewart, Founder  
Professor Val Curran, University College London (ISCD)  
Dr Simon Elliot, Consultant Forensic Toxicologist and Managing Director of ROAR Forensics Ltd in Malvern, Worcestershire (ISCD)  
Dr Tim Williams, consultant addiction psychiatrist within the NHS and honorary clinical lecturer with the University of Bristol (ISCD)  
John Ramsey, Director TICTAC Communications LTD  
Dr Fiona Measham, Lancaster University

### **10.3 (Oral Hearings Only)**

Kevin Costello, HMRC

Mark Fuchter, UKBA

Angelus Foundation, Jeremy Sare

The Mentor Foundation Andrew Brown, Director of Programmes

Department of Education, Christine Flower, Senior Policy Advisor on PSHE

Department of Education, Jenny Loosley, Deputy Director for Curriculum and Disadvantaged Division

Department for Education, Paul Kissack, Director of Support and Delivery

Department of Education, Neil Dube, Young People Division

Department of Education, Alison Hadley, Young People Division

Serious Organised Crime Agency, Martin Malloy, Head of the Prevention Department

Serious Organised Crime Agency, Lawrence Gibbons, Prevention Department,

# 11. Appendix three: Other Countries

## Responses to NPS

Apart from New Zealand which is covered in detail in the main body of the report, a number of countries have introduced legislation primarily to disrupt the supply of NPS. A selection of national initiatives is listed below.

### 11.1 Ireland

- 11.1.1. Under Ireland's 'Criminal Justice (Psychoactive Substances) Act 2010', it is now a criminal offence to advertise, sell or supply, for human consumption, psychoactive substances not specifically controlled under existing legislation. These are legally defined as substances which have the capacity to stimulate or depress the central nervous system, resulting in hallucinations, dependence or significant changes to motor function, thinking or behaviour.
- 11.1.2. Those attempting to sell or supply such substances can be served a 'prohibition notice'. If they do not comply with this notice, the courts can issue a 'prohibition order'.
- 11.1.3. Selling, advertising and non-compliance with a 'prohibition order' are punishable by up to five years in prison. However, no offence or punishment is set out for the users of these substances.
- 11.1.4. By adapting criminal justice legislation there is no requirement to harmonise specifically with EU directives.

#### Impact of enforcement following the introduction of the legislation

- 11.1.5. According to the national documentation centre for drug use in Ireland 'A Garda inventory of head shops in Ireland indicated that, at their peak in early 2010 there were 113 head shops in the country, with at least one in every county. On 11 May 2010 (the date of the government ban on a range of head shop products) there were 102 shops, 11 having closed for a variety of reasons. On 12 May, the gardaí visited all head shops and warehouses and seized all banned products. By 13 May there were 34 head shops selling psychoactive substances, and in early August the number increased to 39 shops. Following the introduction of the Criminal Justice (Psychoactive Substances) Act 2010, the gardaí visited head shops in early September. Only 19 were open and none were selling psychoactive substances (Garda Síochána, personal communication, 2010).'<sup>155</sup>

## Summary

11.1.6. The response of Ireland to NPS is to adapt their drugs legislation to capture any new substance that is judged to have a psychoactive effect and to put in place measures which prohibit the supply and sale of such substances. Whilst effective in curtailing head shops the impact on internet sales is unclear and there are likely to have been a number of displacement effects:

- Head shop sales to internet sales
- Sales in Ireland to sales in neighbouring countries
- Sales of NPS to sales of established illegal drugs

## **11.2 Poland**

11.2.1. In November 2010 a new law was passed to limit the availability of 'legal highs'. The new law amends two existing laws:

11.2.2. The 'Act on Counteracting Drug Addiction', introducing a prohibition on the manufacture, advertising and introduction of 'substitute drugs'. Substitute drugs are defined as a substance or plant used instead of, or for the same purposes as, a controlled drug, and whose manufacture or placing on the market is not regulated by separate provisions.

11.2.3. The 'Act on State Sanitary Inspection'. This adds to the powers of state sanitary inspectors to act against any 'failure to meet hygiene and health requirements' a power to withdraw from trade a 'substitute drug' for up to 18 months in order to assess its safety, if there is a justified suspicion that it might pose a threat to life or health. The costs of the assessment are met by the distributor in the event that the drug is harmful. If the drug is found to be harmless, the cost will be reimbursed by the state. The inspectors also have the right to close premises for up to three months.<sup>156</sup>

## **11.3 Sweden**

11.3.1. On April 1<sup>st</sup> 2011 Sweden introduced the 'Destruction Act'. The Act is linked to existing legislation – the Narcotic Drugs Control Act (1992) and the Act on the Prohibition of certain Goods Dangerous to Health (1999). Substances can be seized and destroyed under the following conditions:

- a substance has been declared as psychoactive or hazardous to health but has not yet been made subject to drug control legislation;
- a substance has been internationally declared as being subject to UN Drug Conventions but the decision has not yet come into force;
- it is presumed that the substance will become regulated as a narcotic substance of abuse or hazardous to health by the Swedish Government<sup>157</sup>

- 11.3.2. According to the Swedish National Institute of Public Health, the Swedish Police and Customs Service made almost 1100 seizures of incoming mail concerning new psychoactive substances in 2011 using these powers.

## 11.4 Austria

- 11.4.1. Austria introduced the 'Act on new psychoactive substances' on 1 January 2012. According to the EMCDDA 'This act controls substances listed in a regulation by the Minister for Health, which are not subject to the 1961 or 1971 UN drug conventions. Substances are only listed in the regulation if they have the potential for 'psychoactive effects' (on the human central nervous system, such as hallucinations or disturbances in motor functions, perception, behaviour). Listed substances are also likely to be abused by certain sections of society and pose a potential threat to consumer health.
- 11.4.2. Unauthorised supply is considered a crime if the supplier aims to benefit and intends that the product be used for its psychoactive effects ..... (and) ... seizure of any amount of substance is possible even when there is no suspicion of supply.<sup>158</sup>

## 11.5 Hungary

- 11.5.1. According to the EMCDDA Hungary introduced Government Decree 66/2012 on the 3<sup>rd</sup> April which added a Schedule C to existing legislation listing drugs appearing on the market. To be included on the schedule, the substance will have undergone a rapid assessment and meet two criteria:
- 11.5.2 the substance can affect the central nervous system, and is understood to pose as serious a threat to public health as the substances listed in the drug conventions and;the substance has no therapeutic use.
- 11.5.3 Within one year of being placed on Schedule C, the drug must be risk-assessed, resulting in full drug control or removal from the schedule. However, generic groups of substances will remain on the schedule as long as any substance in the group fulfils the above requirements. 'A new section of the Criminal Code (s.283/B) states that offering or Distribution, but not possession, of such substances is punishable by up to three years in prison.'<sup>159</sup>

## 12. Appendix four: Glossary

ACMD	Advisory Committee on the Misuse of Drugs
ACPO	Association of Chief Police Officers
BCS	British Crime Survey
BZP	Benzylpiperazine
CAST	Centre for Applied Science & Technology
CRB	Criminal Records Bureau
DBO	Drink Banning Order
DLCU	Home Office Drugs Licensing and Compliance Unit
DEFRA	Department for Environment, Food and Rural Affairs
EMCDDA	European Monitoring Centre for Drugs and Drug Abuse
FEWS	Forensic Early Warning System
GHB	gamma-hydroxy-butyrate
ISCD	Independent Scientific Committee on Drugs
LGA	Local Government Agency
MDMA	Methylenedioxymethamphetamine
NICE	National Institute for Health and Clinical Excellence
NOMS	National Offender Management Service
NPS	Novel Psychoactive Substances
np-SAD	National Programme on Substance Abuse Deaths
PSHE	Personal, Social and Health Education
SOCA	Serious Organised Crime Agency
TCDO	Temporary Class Drug Order
THC	Tetrahydrocannabinol
TSS	Trading Standards Services
TSI	Trading Standards Institute
UKBA	United Kingdom Border Agency / Force

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- <sup>1</sup> Home page of the CoffeeShop.com website <http://www.coffeeshop.com/> (11.12)
- <sup>2</sup> Global Commission report 'War on Drugs' (2011)
- <sup>3</sup> Reuter P, Stevens A (2007): An analysis of UK drug policy: UKDPC, London 2007: [http://kar.kent.ac.uk/13332/1/analysis\\_of\\_UK\\_drug\\_policy.pdf](http://kar.kent.ac.uk/13332/1/analysis_of_UK_drug_policy.pdf) (10.12)
- <sup>4</sup> New Zealand Law Commission. Controlling and Regulating Drugs. Wellington, NZ. 2010
- <sup>5</sup> Birdwell J, Chapman J, Singleton N (2011): Taking Drugs Seriously: Demos, London 2011 <http://www.demos.co.uk/publications/taking-drugs-seriously> (10.12)
- <sup>6</sup> Commission on Narcotic Drugs, Fifty Fifth Session Draft Resolution E/CN.7/2012/L.2/Rev.1, UNODC, 12-16 March 2012)
- <sup>7</sup> UKDPC (2012): Politicians' views on drug policy: UKDPC, London 09/09/2012 <http://www.ukdpc.org.uk/wp-content/uploads/politicians-views-on-drug-policy1.pdf> (11.12)
- <sup>8</sup> Alice Moran (2011): The drugs policies don't work: June 2011 Yougov website <http://yougov.co.uk/news/2011/06/16/drugs-policies-dont-work/> (11.12)
- <sup>9</sup> P Reuter. Options for regulating new psychoactive drugs: a review of recent experiences. UKDPC UK Drug Policy Commission, May 2011
- <sup>10</sup> EMCDDA (2012): 2012 Annual report on the state of the drugs problem in Europe: EMCDDA, Lisbon, November 2012 [http://www.emcdda.europa.eu/attachements.cfm/att\\_190854\\_EN\\_TDAC12001ENC\\_.pdf](http://www.emcdda.europa.eu/attachements.cfm/att_190854_EN_TDAC12001ENC_.pdf) (11.12)
- <sup>11</sup> EMCDDA press release <http://www.emcdda.europa.eu/news/2012/10> (11.12)
- <sup>12</sup> Op cit 10
- <sup>13</sup> ibid
- <sup>14</sup> Hallucinogenic Mexican plant
- <sup>15</sup> Tree indigenous to Indochina. Leaves are usually taken – stimulant in low doses and sedative in higher doses.
- <sup>16</sup> eg Amanita Muscaria or Fly Agaric
- <sup>17</sup> ACPO evidence to this Inquiry
- <sup>18</sup> <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/drugs-misuse-dec-1112/extent-adults> (1/13)
- <sup>19</sup> Kevin Smith and J Flatley (eds) (2011) Drug Misuse Declared: Findings from the 20010/11 British Crime Survey. Home Office Statistical Bulletin 13/10. London: Home Office. 2011 <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1211/hosb1211?view=Binary> (11.12)
- <sup>20</sup> ibid
- <sup>21</sup> Gallup, Inc. (2011), *Youth attitudes on drugs*, Flash Eurobarometer 330 [http://ec.europa.eu/public\\_opinion/flash/fl\\_330\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_330_en.pdf) (11.12)
- <sup>22</sup> Wood D, Measham F and Dargan P (2011): 'Our favourite drug': Prevalence of use and preference for mephedrone in the London night time economy one year after control, *Journal of Substance Use*, 17(2): 91-97. April 2012
- <sup>23</sup> Sheila Bird (2010): Banned drug may have saved lives not cost them: Straight Statistics website 22/11/2010 <http://www.straightstatistics.org/article/banned-drug-may-have-saved-lives-not-cost-them> (11.12)
- <sup>24</sup> Dr Les King: Oral Evidence to the Inquiry 17/5/12
- <sup>25</sup> Dr Fiona Measham: Oral evidence to the Inquiry 14/6/12 also Measham, F., Moore, K., & Østergaard, J. (2011). Mephedrone, "Bubble" and unidentified white powders: the contested identities of synthetic "legal highs". *Drugs and Alcohol Today*, 137-146.
- <sup>26</sup> ACMD Advisory Council on the Misuse of Drugs. Consideration of the major cannabinoid agonists. July 2009
- <sup>27</sup> Serious Organised Crime Agency (Intelligence Report). 2011. Drugs: Risks Associated with New Psychoactive Substances. (unpublished): quoted in the Home Office action plan on NPS : <http://www.homeoffice.gov.uk/publications/alcohol-drugs/drugs/annual-review-drug-strategy-2010/drug-strategy2010-review-may2012?view=Binary> (11.12)
- <sup>28</sup> Home Office (2012): Drug Strategy 2010: Annual Review 2012: Home Office, London, May 2012: <http://www.homeoffice.gov.uk/publications/alcohol-drugs/drugs/annual-review-drug-strategy-2010/drug-strategy2010-review-may2012?view=Binary> (11.12)

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- <sup>29</sup> Home Office. Annual Report On The Home Office Forensic Early Warning System (FEWS). A System To Identify New Psychoactive Substances in the UK. May 2012
- <sup>30</sup> ACMD Statement on Methoxetamine, March 2012
- <sup>31</sup> Home Office Circular 008/2012. 'A change to the Misuse of Drugs Act 1971: control of methoxetamine under a temporary class drug order'
- <sup>32</sup> Oral Evidence from Professor Les King at the 17th May AM APPG for Drug Policy Reform NPS Inquiry Hearing
- <sup>33</sup> Written evidence of Professor Rudi Fortson QC to the Inquiry
- <sup>34</sup> Evidence of Craig McClue, Trading Standards Institute, oral evidence to the Inquiry, 14/6/12
- <sup>35</sup> New Zealand Law Commission (2010):Controlling and regulating drugs: NZLC IP16 February 2006 [http://www.lawcom.govt.nz/project/review-misuse-drugs-act-1975?quicktabs\\_23=issues\\_paper](http://www.lawcom.govt.nz/project/review-misuse-drugs-act-1975?quicktabs_23=issues_paper) (11.12)
- <sup>36</sup> Home Office, Factsheet on the Temporary Class Drug Orders, 2011
- <sup>37</sup> Oral Evidence from Gus Jaspert of the Home Office at the 24<sup>th</sup> May AM APPG for Drug Policy Reform NPS Inquiry Hearing
- <sup>38</sup> Oral evidence from Professor Val Curran, Dr Simon Elliot and Dr Tim Williams ISCD at the Inquiry Session 24/05/12 pm
- <sup>39</sup> Oral evidence from Dr Owen Bowden Jones at the 7<sup>th</sup> July AM APPG for Drug Policy Reform Inquiry into NPS
- <sup>40</sup> Oral Evidence from Dr John Ramsey at the 17<sup>th</sup> May AM APPG for Drug Policy Reform NPS Inquiry Hearing
- <sup>41</sup> Written Submission from Dr John Ramsey of Tic Tac Limited to the APPG for Drug Policy Reform NPS Inquiry
- <sup>42</sup> Misuse of Drugs Bill Second Reading: Hansard, March 25<sup>th</sup> 1970: *vol 798 cc1446-560*
- <sup>43</sup> Supplementary written evidence of Prof Rudi Fortson QC to the Inquiry
- <sup>44</sup> Nutt D, King L, Saulsbury W & Colin Blakemore. "Development of a rational scale to assess the harm of drugs of potential misuse" *The Lancet* 2007; 369:1047-1053.
- <sup>45</sup> David J Nutt, Leslie A King, Lawrence D Philips on behalf of the Independent Scientific Committee on Drugs(2010): Drug Harms in the UK, A multicriteria decision analysis: *Lancet* 2010; 376:1558-65
- <sup>46</sup> Turnbull P (2009): The Great Cannabis Classification debacle. What are the likely consequences of policing cannabis offences in England and Wales: *Drug and Alcohol Review* (2009), 28, 202-209 – the statistics for cannabis use presented are taken from the British Crime Survey.
- <sup>47</sup> Cannabis production and markets in Europe, EMCDDA, Lisbon, June 2012
- <sup>48</sup> Written evidence from Dr Owen Bowden Jones of the Club Drug to the APPG for Drug Policy Reform Inquiry into NPS and Oral evidence from Dr Owen Bowden Jones at the 7<sup>th</sup> July AM APPG for Drug Policy Reform Inquiry into NPS
- <sup>49</sup> Written evidence from Dr Fiona Measham of Lancaster University to the APPG for Drug Policy Reform Inquiry into NPS and Oral evidence from Dr Fiona Measham of Lancaster University at the 14<sup>th</sup> June PM APPG for Drug Policy Reform Inquiry into NPS
- <sup>50</sup> Written evidence from Gus Jaspert of the Home Office to APPG for Drug Policy Reform Inquiry into NPS
- <sup>51</sup> Oral evidence of Professor Val Curran and Dr Tim Williams ISCD – Inquiry session 24/05/
- <sup>52</sup> House of Commons Science and Technology Select Committee (2006): Drug Classification:making a hash of it: Fifth report of Session 2005/6: House of Commons July 2006 <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1031/1031.pdf> (11.12)
- <sup>53</sup> ACMD report to the Home Secretary on New Psychoactive Substances 2012
- <sup>54</sup> King L, Nutt D, Singleton N & R Howard. Analogue controls: An imperfect law. UK Drug Policy Commission & Independent Scientific Drugs Commission. June 2012
- <sup>55</sup> Stephen Stahl. Essential Psychopharmacology. Neuroscientific Basis and Practical Applications. Chapter 11. Antipsychotic Agents. Pages 431-435. Second Edition. Cambridge University Press 2000
- <sup>56</sup> King L, Nutt D, Singleton N & R Howard. Analogue controls: An imperfect law. UK Drug Policy Commission & Independent Scientific Drugs Commission. June 2012
- <sup>57</sup> Evidence from ACPO
- <sup>58</sup> Oral evidence from Martin Malloy SOCA Inquiry session 12/07/12 am
- <sup>59</sup> Oral evidence for Professor Les Iverson Inquiry session
- <sup>60</sup> *ibid*
- <sup>61</sup> Oral evidence of Gus Jaspert to the Inquiry session 24/05/12
- <sup>62</sup> (Wood, Measham, & Dargan, 2012)

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- <sup>63</sup> Dr Simon Elliot (ISCD) oral evidence to Inquiry session 24/5/12 Note: The Home Office gave evidence which quoted a MIXMAG survey which suggested a decline in the use of Mephedrone post ban. A survey of clubbers by a team led by Dr Fiona Measham indicated that mephedrone use had increased
- <sup>64</sup> Oral evidence of Professor Val Curran to the Inquiry: 24/5/12
- <sup>65</sup> Celia J. A. Morgan, H. Valerie Curran, the Independent Scientific Committee on Drugs (ISCD) (2011): Ketamine use, a review: *Addiction Journal*, volume 107, pp 27-38, January 2012
- <sup>66</sup> Release (2012): A quiet revolution. Drug decriminalisation policies in practice across the Globe
- <sup>67</sup> Hughes, C., & Stevens, A. (2010). What can we learn from the Portuguese decriminalisation of illicit drugs?<sup>[35]</sup> *British Journal of Criminology*, 50(6), 999-1022.
- <sup>68</sup> <http://www.release.org.uk/decriminalisation-campaign> (12/12)
- <sup>69</sup> Hilary Metcalfe, Tracey Anderson and Heather Rolfe (2001): Barriers to employment for offenders and ex-offenders: DWP Research Report, 155: Leeds
- <sup>70</sup> Evidence of Rudi Fortson QC
- <sup>71</sup> [www.food.gov.uk/foodindustry/regulation/foodlaw/](http://www.food.gov.uk/foodindustry/regulation/foodlaw/)
- <sup>72</sup> Oral evidence of Gus Jaspert, Home Office, to the Inquiry 24/05/12 am
- <sup>73</sup> Oral evidence of Craig McClue, Trading Standards Institute, to the Inquiry 14/06/12 am
- <sup>74</sup> *ibid*
- <sup>75</sup> Written and oral evidence from witnesses including: Dr Les King (ISCD), ACMD, Home Office, MHRA, ACPO and the Angelus Foundation
- <sup>76</sup> *Op cit* 64
- <sup>77</sup> Written evidence from the Local Government Association
- <sup>78</sup> ACPO, ACMD and TSI
- <sup>79</sup> [http://ec.europa.eu/consumers/cons\\_int/safe\\_shop/fair\\_bus\\_pract/ucp\\_en.pdf](http://ec.europa.eu/consumers/cons_int/safe_shop/fair_bus_pract/ucp_en.pdf)
- <sup>80</sup> Written evidence to the Inquiry from the Trading Standards Institute
- <sup>81</sup> *Op cit* 70
- <sup>82</sup> Written evidence from the Association of the British Pharmaceutical Industry (ABPI)
- <sup>83</sup> ACMD written evidence, Dr Les King oral evidence to the Inquiry 17/05/12
- <sup>84</sup> Oral Evidence of Dr John Ramsey Inquiry session 17/05/12
- <sup>85</sup> Oral evidence of Dr Les King to the Inquiry session 17/05/12 am
- <sup>86</sup> Eg oral evidence of Kevin Costello, Inquiry session 17/05/12 pm
- <sup>87</sup> Written evidence to the Inquiry of the Wine and Spirits Trade Association
- <sup>88</sup> Evidence of Dr. Tim Williams, ISCD Inquiry session 24/05/12 pm.
- <sup>89</sup> Oral Evidence from Dr Les King at the 17th May am session and oral evidence of Professor Les Iverson at the 24th May am session of the Inquiry
- <sup>90</sup> New Zealand Law Commission (2010): Controlling and regulating drugs: NZLC IP16 February 2006 [http://www.lawcom.govt.nz/project/review-misuse-drugs-act-1975?quicktabs\\_23=issues\\_paper](http://www.lawcom.govt.nz/project/review-misuse-drugs-act-1975?quicktabs_23=issues_paper) (11.12)
- <sup>91</sup> *Op cit* 32
- <sup>92</sup> New Zealand Law Commission (2011): Controlling and Regulating Drugs, A Review of the Misuse of Drugs Act 1975 [http://www.lawcom.govt.nz/sites/default/files/publications/2011/05/part\\_1\\_report\\_-\\_controlling\\_and\\_regulating\\_drugs.pdf](http://www.lawcom.govt.nz/sites/default/files/publications/2011/05/part_1_report_-_controlling_and_regulating_drugs.pdf) (09.12)
- <sup>93</sup> *ibid*
- <sup>94</sup> Oral evidence of Kevin Costello (HMRC) to the Inquiry session 17/05/12 pm
- <sup>95</sup> Office of the Associate Minister of Health Cabinet Social Policy Committee(2012): Regulation of Psychoactive Substances: New Zealand Ministry of Health, October 2012 <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements/new-regulatory-regime-psychoactive-substances>
- <sup>96</sup> ACMD Advisory Council on the Misuse of Drugs. Consideration of the Novel Psychoactive Substances ('Legal Highs'). October 2011
- <sup>97</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/news/drugs-call-for-ev/>

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- <sup>98</sup> [www.nhs.uk/Livewell/drugs/Pages/legalhighs.aspx](http://www.nhs.uk/Livewell/drugs/Pages/legalhighs.aspx)
- <sup>99</sup> EC: Commission staff working paper on the assessment of the functioning of Council Decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances: Brussels, 11.7.2011 SEC(2011) 912 final: [http://ec.europa.eu/justice/policies/drugs/docs/sec\\_2011\\_912\\_en.pdf](http://ec.europa.eu/justice/policies/drugs/docs/sec_2011_912_en.pdf) (90112)
- <sup>100</sup> Oral Evidence from Professor Les Iversen, Chair of the ACMD at the 24<sup>th</sup> May AM APPG for Drug Policy Reform NPS Inquiry Hearing
- <sup>101</sup> May T, Correspondence responding to ACMD NPS report, May 2012
- <sup>102</sup> Written Submission from Dr John Ramsey of Tic Tac Limited to the APPG for Drug Policy Reform NPS Inquiry
- <sup>103</sup> *ibid*
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