

New Psychoactive Substances

Purpose

1. This report is to inform members of the ongoing work to address New Psychoactive Substances (NPS).

Background

2. New Psychoactive Substances (NPS), often inaccurately known as 'legal highs' are dangerous products sold to consumers with the object of mimicking illegal drugs. NPS are packaged and branded through organised supply chains and are openly sold predominantly in high street establishments known as 'head shops' – as well as on-line through a number of websites. NPS do not meet the specific chemical structure of controlled drugs and thereby fall beyond the scope of the Misuse of Drugs Act 1971. As a consequence, enforcement action by the police is extremely challenging.
3. NPS are being created and altered at a faster rate than regulators can analyse/classify them using traditional controls. In an attempt to exclude their liability for consumer safety, NPS producers label them as 'not for human consumption' and mark them variously as bath salts, plant food, room deodoriser or research chemicals, etc., doing so in the full knowledge that the products are being consumed for psychoactive effects and have no utility as far as their false descriptions are concerned.
4. Between 2009 and 2013, a total of 203 deaths were reported where NPS was present in the bloodstream. Whilst it should be noted that almost all deaths where NPS was identified in the body other drugs were also present, the presence of NPS indicates a growing trend in drug related deaths.
5. A wide and concerning array of harms have been reported from the NHS and health care professionals relating to the consumption of NPS, including kidney failure, heart and lung problems, hyperthermia, aggressive and unpredictable behaviour, memory loss and psychosis. Some side effects are not only frightening for the user, but can be terrifying for those around the individual including friends and family, who are quite often unaware about what the user has consumed. In addition, these substances are still a relatively new phenomenon and the long term impacts are not yet fully clear. Further details on the harms caused by NPS as well as details of the three main categories they fall under is set out under Annex A.
6. A considerable amount of progress has been made since the Policy and Improvement Manager raised the issue at the June meeting of the COSLA Community Wellbeing Executive Group including the introduction of a Psychoactive Substances Bill in late June as well as the work carried out by the Trading Standards Scotland NPS Strategic Working Group. The following sets out the facets of work ongoing to tackle NPS in more detail.

Psychoactive Substances Bill

7. The Scottish Government brought together an Expert Review Group to look at the legal barriers to tackle NPS and they reported their findings in February. Alongside this, reviews were also undertaken by the All-Party Parliamentary Group for Drug Policy Reform and the Home Office's Expert Review Panel.

8. As a result of the recommendations from these groups, the UK Government announced that new legislation would be brought in to ban the new generation of psychoactive drugs. The Psychoactive Substances Bill was introduced in the House of Lords on 28 May and will aim to create a blanket ban on the production, distribution, sale and supply of psychoactive substances in the UK.
9. In more detail, the Bill will:
 - make it an offence to produce, supply, offer to supply, possess with intent to supply, import or export psychoactive substances; that is, any substance intended for human consumption that is capable of producing a psychoactive effect. The maximum sentence will be 7 years' imprisonment;
 - exclude legitimate substances, such as food, alcohol, tobacco, nicotine, caffeine and medical products, from the scope of the offence, as well as controlled drugs, which will continue to be regulated by the Misuse of Drugs Act 1971;
 - exempt specific persons from certain offences under the bill, such as healthcare professionals, who may have a legitimate need to use NPS in their work;
 - include provision for civil sanctions – prohibition notices, premises notices, prohibition orders and premises orders (breach of the two orders will be a criminal offence) – to enable the police and local authorities to adopt a graded response to the supply of NPS in appropriate cases; and
 - provide powers to stop and search persons, vehicles and vessels, enter and search premises in accordance with a warrant, and to seize and destroy psychoactive substances.
10. The powers under the Bill fall mainly to the Police although joint powers exist in areas such as premises and prohibition orders. However, in the interim, there are still opportunities for local government to make an impact on the run up to the Bill becoming enacted.
11. The Bill has now had its third reading in the Lords and will go to the Commons for its consideration. Of note, during the Lords report stage, an unsuccessful amendment was proposed over the definition of 'psychoactive substance' to include the concept of harm was taken to a vote. Members voted 95 in favour and 314 against.
12. However, the producers of NPS have shown themselves to be capable of anticipating and adapting to legislative changes and this again seems likely in light of the Psychoactive Substances Bill. If it succeeds in its aims there is likely to be pressure on NPS suppliers to deal products that can no longer be openly retailed and this could potentially lead to heavy discounting in order to get rid of old newly prohibited stock. If that is the case there could be greater risks to consumers as the price of unsafe products fall. Under such circumstances the need for actions in the short-term to protect consumers will become even greater.

Trading Standards Scotland NPS Strategic Working Group

13. As referred to in paragraph 7, the Scottish Government established an Expert Review Group to provide advice to Scottish Ministers on the powers available to tackle the sale and supply of New Psychoactive Substances in Scotland. In particular, the Group considered the devolved and reserved powers available to Scottish Government and Scottish public authorities, reflecting on how these substances fall outside the remit of the Misuse of Drugs Act 1971.
14. The Expert Review Group acknowledged that there are a range of powers at the disposal of Trading Standards that could be considered, in particular the General

Product Safety Regulations 2005 (GPSR), and more specifically, Regulation 8 which covers the Obligation on Distributors. Indeed, the final report stated,

“To date, any examples using consumer protection legislation to tackle NPS show that success lies mostly within the provisions of Regulations 8 of the General Product Safety Regulations. However, in the absence of bespoke legislation there remains uncertainty, risk and a lack of uniformity of approach across different local authorities. Accordingly the application of General Product Safety Regulations to NPS might be improved through the issue of enforcement Guidance. This could lead to a more co-ordinated and consistent approach to enforcement (where it is being considered) with the legislation as it stands at present.”

15. The Group produced a full report detailing their findings in February 2015 in which six key recommendations were made. Of particular interest to local government was the recommendation that a toolkit providing operational guidance to help frontline Trading Standards staff in tackling NPS be produced to ensure consistency of enforcement action.
16. Coinciding with the final stages of the Expert Review Group, Trading Standards Scotland (TSS) was working with local authority Trading Standards services to identify priorities for 2015/16. Following discussion and endorsement from the Consumer Protection Task Group in March 2015, NPS, alongside Scams, Doorstep Crime and Illicit Trade, was agreed as one of the four national priorities for collective Trading Standards activity in 2015/16. It was subsequently agreed to establish strategic groups for each priority to develop a collective approach to addressing them via enforcement, intelligence and prevention priorities. The NPS Strategic Working Group has now met twice with membership comprising of TSS, local authority Trading Standards services, Scottish Government, Police Scotland, the Crown Office & Procurator Fiscal Service, education, social work, health and the third sector.
17. As per the recommendation from the Expert Review Group, the Strategic Group has been working to develop guidance for Trading Standards that are minded to take action against sellers and suppliers of NPS. The Guidance covers applicable laws, partnership working and focusses primarily on the application of the GPSRs. Although there is not, as yet, any specific legislation designed to tackle NPS, experience to date has shown that the GPSRs are possibly the most applicable and effective consumer protection tool for Trading Standards Services.
18. This Guidance has now been finalised and was launched at an event in COSLA on Tuesday 15 September. The event was attended by Paul Wheelhouse MSP and Cllr Brian Topping. A link to the associated press release follows:
http://www.heraldscotland.com/news/13719708.Scotland_cracks_down_on_legal_high_retailers_ahead_of_UK_wide_ban_next_year/?ref=ebln
19. The toolkit has been produced for the purposes of guidance and will not be prescriptive as there is recognition that whilst Trading Standards has a role to play in tackling NPS, local authorities will have full autonomy to decide the extent to which they wish to use the toolkit.
20. Intelligence on NPS still remains patchy but the Strategic Group is considering ways to establish a more comprehensive picture of NPS sellers as a prerequisite for effective enforcement action. As the market for NPS changes in 2015/16, there will potentially be an even greater requirement for intelligence to assist in more effective targeting of initial efforts under the new Act. This will help to inform regulators of the intentions of NPS suppliers in the run up to, and the aftermath of, the legal change.

21. Finally, the strategic group is in the process of developing a targeted consumer education resource awareness campaign highlighting the dangers of NPS products to consumers in specific markets. The strategic group has agreed to focus resources in looked after children and college and university students.

Looked after children

22. Initial scoping discussions with NHS Lothian and CREW 2000 has highlighted that consumers suffering from health & social inequalities are at greater risk from habitual and problematic abuse of NPS. Such consumers, who may involve young vulnerable people in the care system, are less likely to be able to access support and advice due to their health and social disadvantages. With this in mind, the following proposal has been developed:
 23. A project seeking to establish the experiences of staff in the residential and secure care sector is in development looking at what their understanding of NPS is and their experience of young people using these substances within their facilities. This would assist the production of 'train the trainers' packs centred on what staff would find useful to know about NPS. For those units where NPS usage is not as prevalent, awareness raising through the experience of others will equip staff should this become an issue in the future.
 24. This work will also seek to engage young people in the residential and secure care sector to establish their own experience of NPS and will help establish what preventative messages they think would be useful to help steer the work. This engagement could take the form of one to one sessions with the young people, allowing them to relay their thoughts that can then be collated into an awareness raising package for delivery to young people across Scotland.
 25. In addition, the group is working with 'Street Cones', a creative organisation that seeks to relay prevention messages through performance. We are seeking to use them to engage with the younger people. Street Cones was started up by liberated ex-prisoners who have experiences of going through the criminal justice system, substance misuse and young people's residential care homes.
 26. The Association of Directors of Education Scotland (ADES) representative who sits on the strategic group is keen to be involved in this work to ensure that young people who are excluded from mainstream education are encompassed into any preventative work measures. In addition, Social Work Scotland (SWS) are also key partners. An evaluation based on engagement with staff and young people, as well as the drama performance by Street Cones, will also be undertaken seeking to make any relevant improvements from the findings identified before the materials are rolled out across Scotland detailing the good practice identified.
27. **University and college students** - A considerable amount of awareness raising work has been carried out in schools and whilst the focus on early intervention is absolutely crucial there has been little done to educate consumers who may be leaving home for the first time to attend further education to reinforce this message. Such new freedom may lead them to experiment with NPS among new peer groups - perhaps coinciding with the actions of head shops and other suppliers to really push to get rid of stock that might fall foul of new legal controls.
28. Resources to target this group would seek to assist them in making informed purchase decisions on NPS – conscious of the risks involved to their health and aware of the nature of NPS. Whilst there will be an element of university engagement, resources will

be primarily targeted towards colleges by working with the College Development Network (CDN). This will give access to college staff across Scotland. The CDN have expressed their interest in getting involved due to the work the organisation is doing around mental health and wellbeing. Engagement will include briefings to guidance staff as well as participating in access and inclusion events. The Policy and Improvement Manager is working with a designer to develop campaign materials that can be given away at colleges and universities across the country. In addition the designer will develop a website with pages on the different categories of NPS and their associated harms and signposting to other partners' websites for further information. The website will act as an evaluation tool where individuals will be able to provide feedback on the campaign as well as providing the opportunity to report intelligence.

29. Once finalised, this work will culminate in a national launch that will be attended by the Minister for Community Safety and Legal Affairs and the COSLA Spokesperson for Community Wellbeing. An information stand will be set up and similar stands replicated at educational establishments across the country after the launch. Further details on the campaign will be circulated to Members electronically.
30. In the interim, the Policy and Improvement Manager is keen to engage to establish what members of the group would find useful to ensure that any awareness raising materials are appropriately targeted and welcomes any suggestions.

Conclusion

31. NPS are dangerous products sold to consumers with the object of mimicking illegal drugs and are readily available to buy from 'head shops' on the high street and over the internet. This report seeks to inform members of the current work that is being undertaken to address the supply of NPS to current and perspective users as well as highlighting the growing concern that NPS is becoming much more prevalent. Indeed, NPS have become so harmful that NHS Lothian sought to address their concerns by writing directly to the local suppliers of such substances imploring them to cease their activities .
32. Further to the findings of the Scottish Government Expert Review Group, it is evident that there is a potential role for Trading Standards to address part of the issue. Operational Guidance to assist staff in tackling NPS is currently being finalised.
33. It would be helpful to establish the sort of information members of the group would find helpful and the Policy and Improvement Manager will work to bring this together.

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Annex A

NPS –Types & Associated Harms

1. There is a considerable pace of change in the NPS market as large numbers of products are created and discovered year on year. The Home Office's Forensic Early Warning System (FEWS) and the European Monitoring Centre for Drugs and Drug Addiction (EMCCDA) monitor the emergence of NPS.
 - In 2014, 101 new substances were discovered
 - In 2013 that number was 81.
2. Given the large volume of NPS the risks and harms associated with their consumption can be difficult to empirically assess in the absence of clinical trials. Accordingly an NHS expert in the methods of consumption of NPS and their associated harms, has broadly categorised them into 3 main groups as follows -

Synthetic Cannabinoids (Depressants)

What are they?

3. Synthetic cannabinoids are chemicals that are made to give effects like the active part of cannabis. Typically they are sold in herbal smoking mixtures and concern exists that they may be more potent and dangerous than traditional cannabis with varying strengths of effects and harmful chemicals.

How are they taken?

4. Cannabinoids are typically smoked, or orally ingested, but may also be vaped or injected.

What are the product's harms/risks?

5. There are high numbers of presentations to Scottish A&E Departments from the use of synthetic cannabinoids. Frequently patients collapse, suffer nausea and vomiting; have feelings of a dissociative state; suffer drug induced psychosis; there are often acute behavioural emergency admissions; there are also reports of acute kidney failure or stroke. There are no antidotes and treatment for patients is supportive. NPS product names for synthetic cannabinoids have included Bombay Blue, Exodus, Damnation, Psyclone, Clockwork Orange, Black Mamba and Annihilation, among others.

Stimulants

6. What are they?

Stimulants, as the name suggests, make users feel very 'up', alert and energised. However it can also make them agitated and aggressive. Stimulants mimic the effects of controlled drugs such as amphetamine (speed), cocaine or ecstasy. Examples include methiopropamine, MDAI and dimethocaine.

How are they taken?

7. Stimulants are usually taken orally, but can also be taken nasally (snorted) or intravenously injected.

What are the product's harms/risks?

8. They can produce acute toxicity syndrome, including fast heart rate, raised blood pressure, raised body temperature (hyperthermia), dehydration and agitation. They can also produce acute behavioural disturbances and drug induced psychosis. There can be severe tissue damage with IV use and nasal septum erosion with snorting. Stimulants, both NPS and classified, are addictive and have led directly to a number of deaths.

Hallucinogenics

What are they?

9. Hallucinogenic drugs alter a person's perception distorting objects and reality, including seeing and sometimes hearing things that aren't there, i.e. hallucinations. These experiences are known as 'trips'. Hallucinogenics mimic the effects of controlled drugs such as LSD (lysergic acid diethylamide – or 'acid'), magic mushrooms, ketamine or methoxetamine.

How are they taken?

10. Hallucinogens are typically smoked (e.g. salvia) or taken orally or nasally in the case of ketamine- like drugs, or sometimes orally in small dots – also known as blotters or tabs.

What are the product's harms/risks?

11. Altered states can result in bad experiences or 'trips' and can lead to personal injuries while hallucinating. Tissue damage can result from IV use and death is possible from overdose. They can have serious, longer-term implications for those with mental health problems. They may also trigger a mental health problem that had previously gone unnoticed. There is no antidote for hallucinogenic effects and treatment will be supportive.

Overall Risks

12. Overall, there is growing evidence of the risks to consumers from NPS from many national data sources. Further, the existing data is focussed on acute short term harms, and there is little known about the potential for chronic long term harms from NPS. For example, there is a precedent with ketamine as a new drug that appeared to have very little short term harms, but has subsequently been found to cause longer term harms to health through acute bladder toxicity.