

Response to Home Affairs Committee Inquiry on New Psychoactive Substances

by Her Majesty's Chief Inspector of Prisons

Introduction

1. We welcome the opportunity to submit a response to the Committee's inquiry into psychoactive substances, and consider this inquiry opportune to inform the passage of the Psychoactive Substances Bill, introduced in May 2015, through Parliament.
2. Her Majesty's Inspectorate of Prisons (HMI Prisons) is an independent inspectorate whose duties are primarily set out in section 5A of the Prison Act 1952. HMI Prisons has a statutory duty to report on conditions for and treatment of those in prisons, young offender institutions (YOIs) in England and Wales and immigration detention throughout the UK. HMI Prisons also inspects court custody, police custody and customs custody (jointly with HM Inspectorate of Constabulary), and secure training centres (with Ofsted).
3. HMI Prisons coordinates, and is a member of, the UK's National Preventive Mechanism (NPM) the body established in compliance with the UK government's obligations arising from its status as a party to the UN Optional Protocol to the Convention Against Torture (OPCAT). The NPM's primary focus is the prevention of torture and ill treatment in all places of detention. Article 19 (c) of the Protocol sets out the NPM's powers to submit proposals concerning existing or draft legislation.
4. As part of HMI Prisons' statutory duty to report on conditions for and treatment of those in prisons, YOIs and immigration detention facilities, all inspections are carried out against *Expectations* - independent criteria based on relevant international human rights standards and norms. We evaluate the extent to which prisoners with drug and/or alcohol problems are identified at reception and receive effective treatment and support throughout their stay in custody, whether there are effective security measures in place to prevent the supply or abuse of drugs in prison and the extent to which their availability impacts on the safety and decency of the prison.¹
5. We monitor and report on the rise of new Psychoactive Substances (NPS) use and availability in prisons in England and Wales. Specialist substance use inspectors are responsible for inspecting clinical and psychosocial aspects of in-prison substance use treatment and associated education and awareness programmes, and work with colleagues to determine the effectiveness of prisons' drug supply reduction initiatives including drug testing programmes.

¹ <http://www.justiceinspectorates.gov.uk/hmiprison/about-our-inspections/inspection-criteria/#.VdXpcaPsqQA>

6. In October 2014, HMI Prisons reported to the National Assembly for Wales Health and Social Care Committee's inquiry into new psychoactive substances.²

HMI Prisons submission

1. New legislation on psychoactive substances will be of great relevance to prisons, where there has been a recent, rapid increase in the availability of new psychoactive substances (NPS)³. This has led to problems of debt and violence. We note the recent report from the Prisons and Probation Ombudsman suggesting that emerging evidence points to possible links between NPS and suicide or self-harm in prisons.⁴
2. HMI Prisons is currently preparing a thematic report on substance misuse in prisons. The findings from this report will be available later this year, but our research so far suggests that synthetic cannabinoids were identified as a concern in 37% of men's prisons (37%) inspected in 2013/14 and 64% in 2014-15. The extent of their use varied across prisons and regions. In particular, we found that Spice (a synthetic cannabinoid) was the new 'drug of choice' in prisons in England.
3. The increased use of NPS in prisons will to some extent reflect their greater use in the community. In addition, we believe that some prisoners find NPS an attractive alternative to more traditional drugs because it is difficult to detect and because of reduced risks of penalties under the current legislative framework. Furthermore, anecdotal evidence suggests that because NPS are legal in the community but not permitted in prisons, the difference between the 'street price' and the 'prison price' is much greater than for those drugs that are illegal in both environments. Supply of NPS into prisons is therefore attractive because of the profits that can be made. For these reasons, we view positively efforts to strengthen the legislative framework to encompass NPS.
4. We have noted the concerns expressed by other experts that the breadth of the term 'psychoactive substances' used in the bill would include any substance that affects the physiological and/or psychological functioning of the brain. It has been suggested that this is an unhelpful term as it does not discriminate between benign/potentially beneficial and potentially harmful effects.
5. We note that psychoactive substances are prescribed in the treatment of a range of illnesses, and we would be concerned if a definition that was insufficiently discriminatory had unanticipated effects on legal prescribing for these purposes in prisons as well as in the community.

2

<http://www.senedd.assembly.wales/documents/s33106/LH%2018%20HM%20Inspectorate%20of%20Prisons.pdf>

³ NPS are usually synthetic versions of existing drugs developed to avoid legal sanction and detection and are easily available through retail outlets and the internet. NPS appear and disappear rapidly under multiple brands and users are not always clear what they are taking. This makes it difficult to capture the full level of use, assess the health and substance misuse need and put credible timely information into the public domain. They can be broadly divided into: synthetic cannabinoids, stimulant type drugs and hallucinogenics.

⁴ Prisons and Probation Ombudsman, *Learning lessons bulletin no.9, New Psychoactive Substances*.
http://www.ppo.gov.uk/wp-content/uploads/2015/07/LLB_FII-Issue-9_NPS_Final.pdf#view=FitH

6. This submission will now provide answers to each of the questions published by the Home Affairs Select Committee, as follows:

Which groups will be particularly affected by a ban on psychoactive substances?

7. Current research suggests that those engaged with the criminal justice system, including prisoners, are among the groups most likely to use psychoactive substances. Young people under the age of 25, mostly men, and persons with disabilities/serious illnesses and/or mental health problems are also more likely to use them. Persons experiencing emotional distress or chronic illness may experiment with psychoactive substances as a form of self-medication.
8. In general, NPS are most frequently chosen by young people or those who do not want to have it detected, such as prisoners, and less affluent persons may also choose to use NPSs as they are cheap to purchase and easily accessible.
9. As we noted in our submission to the Welsh Assembly, inspections of Welsh prisons over the last two and a half years have shown NPS to be less of a problem than in English prisons. We believe this may be related to lower levels of use in the community outside prison, and that this may change in the near future.
10. HMI Prisons' survey data suggests that the use of NPS (synthetic cannabinoids) is most prevalent among men or younger prisoners. 3% of prisoners in one women's prison reported having taken Spice specifically, compared to 11% of men in seven men's prisons. Only 7% of those aged 50 and over reported taking Spice or Black Mamba.

What steps can the Government take to educate these groups about the dangers?

11. Prisons generally have good access to public health materials and are usually adept at displaying them in key areas (eg healthcare, gymnasium and visitor centres). The materials we see displayed currently are out of date and need to be regularly updated to take account of changing use. Information provided to prisoners also needs to take account of low literacy levels and be delivered in a number of different formats. Visitors are likely to be one source of supply and information should be targeted at them.
12. We have seen evidence of the effectiveness of education as several prisons have successfully reduced the number of NPS-associated medical emergencies by educating prisoners about the effects of NPSs. For example we have seen targeted initiatives at HMP Wymott and HMP Oakwood including information on Spice and Black Mamba to staff, prisoners and visitors. HMP Dovegate had introduced a DVD about NPS that was shown to all new entrants on reception. We judged this to have had a clear and significant impact by reducing the number of NPS-related incidents in the prison. At HMP High Down, good proactive education using peer mentors to warn prisoners about the dangers and consequences of using NPS appeared to have had a positive impact on reducing its previously high usage.

How will the Government explain the change in the legal status of these substances?

13. The explanation should be based on minimisation of harm to the public. Public awareness must be raised in a public health campaign that is adjusted to the chosen communication media and styles of the target groups. This could helpfully include specific material for display in youth justice services, police custody suites and prisons. Prisons and YOI should make any change in status and the associated penalties for supply very clear to visitors to prisons and YOIs.

What specialist treatment do users of psychoactive substances require?

14. The majority of prisoners we speak with do not acknowledge that treatment for the use of NPS is needed as they do not associate 'legal highs' with dependence and see NPS as superior to established illicit substances of dependence. Younger prisoners view NPS as a recreational choice, to be used in the same way as legal psychoactive substances such as alcohol.
15. Police and prison officers require up-to-date information about NPS and training in recognition of the markers of intoxication. This is especially important as testing methods are unable to detect many NPS and so reliance on presentation is crucial. Voluntary disclosure by prisoners of taking NPS taken may explain some aspects of their feeling unwell, but this is limited as NPS are known to be adulterated or not as sold. In prison there needs to be an appropriate balance between using sanctions and encouraging persons into treatment.
16. Research is required to determine which NPS have dependence properties. It is rare for prison substance misuse services (SMS) to report that prisoners are presenting for treatment of addiction to NPS and because of the lack of research into which NPS are addictive, they are unable to make their own determination as to whether a prisoner might be addicted to a specific NPS.
17. It is assumed that current drug treatment options (which include education, psycho-social work and peer support) treatment options are suitable for users of NPS. This may or may not be the case as treatment needs are not yet defined or effective models defined. Research is required in this regard.
18. Conventional SMS are discrete and separate from other public and health services though service users may require assistance from them such as symptomatic relief from health services and assistance to find housing when released from prison etc. All clients will require information and some level of psychosocial interventions, either on a one-to-one basis or in group settings. Prisoners place a high premium on support from their peers. Prison SMS peer support workers or 'recovery champions' require appropriate training, supervision and reward.

What can be done to counter a shift to using controlled drugs once there is a ban?

19. Regularly invigorated public health campaigns are required to maintain good levels of public awareness. The broader risk factors and triggers for substance misuse such as social deprivation require attention on an individual basis. Many prisoners will seek alternative substances if NPS are in short supply, so prison authorities must remain sited on reducing the supply of illicit controlled drugs, and the diversion of

medications. To this end, prison health services must comply with national guidance in the prescription of 'divertible' medications so as to minimise opportunities for bullying to obtain prescribed medications.

Do the enforcement agencies have the necessary powers and resources to effectively enforce the proposed new laws?

20. The supply of NPS and the associated disruption to the safety and security of individual establishments currently creates significant resource demands on prisons. Reductions in supply and a clearer legal base for responding to its use and supply will reduce resource pressures in prisons.
21. It is important that prison have appropriate testing and detection methods. Some prisons now have drug dogs that can detect some NPS and it is important that these and other detection methods are detected and rolled out as quickly as possible.

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