The Association of Directors of Public Health

Members Briefing on the Psychoactive Substances Act 2016 and Legal Highs

It has been announced that the Psychoactive Substances Act, which was due to come into force on 6th April 2016, has been postponed. It is now due to be implemented on 26th May 2016.

Background

The emergence of new psychoactive substances (NPS) has presented major challenges to drug control in the UK and internationally.

Various laws have been used in response to NPS, including the Intoxicating Substances Act 1965 and the Temporary Class Drug Orders 2011. However, there are only a small number of examples of the effective use of such laws and to date they have not been deemed adequate to the expanding NPS market.

What are Psychoactive Substances?

Psychoactive Substances can alter the consciousness, mood and thoughts of those who use them. There are a number of legal highs available on the market. Some are known by their product or brand name, for example Benzo Fury or Ivory Wave. Others are known commonly by their chemical name, such as Dimethocaine or MDAT. Certain legal highs are also often referred to by slang names; 'bubble' is a generic name for any synthetic powder that has a stimulant effect.

There are four categories of NPS:

- Stimulants
- Downers
- Hallucinogenics
- Synthetic Cannabis

One of the biggest problems with NPS is that little or no research has gone into their effects, especially their long term effects. It is becoming increasingly clear that legal highs are far from harmless and can have similar health risks to drugs such as cocaine, ecstasy and speed. Studies in Manchester reveal that as many as 97 deaths were associated with the use of Legal Highs in 2012[1]. The government has struggled to control the increasing availability of legal highs and assess them for safety because they are being created at a rapid rate.

Development of the Act

The Psychoactive Substances Act began with the intention to ban legal highs in the UK. It has since developed into a blanket ban across all substances deemed as 'psychoactive'.

Under the Act, possession of a psychoactive substance will not be an offence, except in a 'custodial institution' (i.e. prison, young offender center, removal center). Possession with intent to supply, importing or exporting a psychoactive substance will all become offences. The Act is intended to act against shops and websites supplying legal highs.

[1] Study carried out by The Centre for Social Justice: http://www.turning-point.co.uk/media/1077517/legal_highs_guide_a5_20p_9750_v2_lr_for_website.pdf

The only exemptions from the Act are substances which are already controlled by the Misuse of Drugs Act, nicotine, alcohol, caffeine and medicinal products as defined by the Human Medicines Regulations (2012).

The Home Office has made an exemption to the upcoming Psychoactive Substances Act for 'Poppers', which will allow the substances to be continued to be sold and used. This was decided after the ACMD provided a report in March 2016 which stated that they did not believe that poppers constituted being a psychoactive substance.

The Act does not replace the Misuse of Drugs Act (1971), so laws around existing illegal drugs will remain the same. At present, a substance causing concern must be reviewed by the ACMD (the Advisory Council on the Misuse of Drugs) to assess any potential harm. Once the Psychoactive Substances Act is enforced, the ACMD will still have a role to play, and a 'new' or emerging psychoactive substance can still be brought under the Misuse of Drugs Act.

One of the most contentious elements of the Act is the chosen definition of NPS, which the government have stated as:

> "Any substance which (a) is capable of producing a psychoactive effect in a person who consumes it and (b) is not an exempted substance."

The ACMD and others have consistently argued that the definition used is too broad and is therefore unworkable in practice.

Public Health Implications

An individual's decision to use drugs, including NPS is complex. Access and availability are just one factor, and other motivations need to be considered, including mental health, unconscious bias and social and environmental structures.

Similar legislation was implemented in the Republic of Ireland. Following this blanket ban, hospital admissions involving 'legal highs' dropped. However, reported use of such substances increased. It was clear that in Ireland, the Act deterred people from seeking help. There is the danger that the same consequences will follow as a result of the Act being implemented in the UK.

This legislation will need to be accompanied by improved drug treatment service resource and development. Public Health England are currently developing specific NPS resources and intelligence sharing systems which is promising. There is little provision for resources to enforce the act, and there is no additional funding that is offered from the Act. Therefore DsPH will need to consider how to manage existing drug and rehabilitation services to cope with the increasing number of NPS users.

ENDS

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