

PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT MISUSE OF DRUGS ACT 1971
(AMENDMENT) ORDER 2021

Wednesday 16 June 2021

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The Committee consisted of the following Members:

Chair: DR RUPA HUQ

Caulfield, Maria (*Lewes*) (Con)

Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Hendrick, Sir Mark (*Preston*) (Lab/Co-op)

Holmes, Paul (*Eastleigh*) (Con)

Jardine, Christine (*Edinburgh West*) (LD)

† Jones, Sarah (*Croydon Central*) (Lab)

Keeley, Barbara (*Worsley and Eccles South*) (Lab)

Lloyd, Tony (*Rochdale*) (Lab)

Mak, Alan (*Lord Commissioner of Her Majesty's Treasury*)

† Malthouse, Kit (*Minister for Crime and Policing*)

Mann, Scott (*Lord Commissioner of Her Majesty's Treasury*)

Morris, James (*Lord Commissioner of Her Majesty's Treasury*)

† Owatemi, Taiwo (*Coventry North West*) (Lab)

† Pursglove, Tom (*Corby*) (Con)

Thomson, Richard (*Gordon*) (SNP)

Throup, Maggie (*Lord Commissioner of Her Majesty's Treasury*)

† Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)

Zoe Backhouse, *Committee Clerk*

† **attended the Committee**

Fifth Delegated Legislation Committee

Wednesday 16 June 2021

[DR RUPA HUQ *in the Chair*]

Draft Misuse of Drugs Act 1971 (Amendment) Order 2021

9.25 am

The Chair: Before we begin, I remind Members to observe social distancing and to sit only in the assigned places with a tick—as everyone is doing, I think. I remind Members that Mr Speaker has deemed that masks should be worn in Committee—apart from by me, because I might need to speak at any second. Our *Hansard* colleagues will be most grateful if Members send their speaking notes to hansardnotes@parliament.uk.

The Minister for Crime and Policing (Kit Malthouse): I beg to move,

That the Committee has considered the draft Misuse of Drugs Act 1971 (Amendment) Order 2021.

It is a great pleasure to appear under your chairmanship, Dr Huq.

The draft order was laid before the House on 25 March. I thank the Advisory Council on the Misuse of Drugs for its advice, which has helped to inform the order before the Committee for consideration. To that end, the proposed amendment to the Misuse of Drugs Act 1971 follows the ACMD's advice, published on 29 April last year, about three benzodiazepines.

The three benzodiazepines under consideration are flualprazolam, flunitrazolam and norfludiazepam. The ACMD recommended controlling all three substances under class C of the 1971 Act, owing to their potential harm and the evidence for the prevalence of the drugs in the UK. This will be the first additional control of benzodiazepines under the Act since the control of 16 benzos in May 2017; those are also controlled under class C of the 1971 Act.

Benzodiazepine medicines with specific uses may be prescribed by clinicians, but the matter before us today is the consideration of illicit benzodiazepines, with no known medicinal benefits in this country. High dependency is often associated with benzodiazepine use, together with severe withdrawal symptoms for even short-term use. When combined with other “recreational” drugs, most particularly opioids and other central nervous depressants, there is an increased risk of mortality, which has contributed to a significant number of drug-related deaths each year.

Data from the national programme on substance abuse deaths showed that there were 5,740 benzodiazepine-related deaths in England between 2006 and 2015. Just under 4% of those recorded benzodiazepines as the only compounds implicated in the cause of death, which suggests the frequency with which they are associated with poly drug use.

I thought it might help the Committee if I explained a bit more about the specific details related to each of the three benzodiazepines—in particular their prevalence in the UK, which has a significant effect on the consideration of harm. Beginning with flualprazolam, the ACMD's report states that, as of March 2020, as recorded by regional statistical agencies, there have been 12 flualprazolam-associated deaths in the UK. The ACMD report also cites the report of the European Monitoring Centre for Drugs and Drug Addiction on flualprazolam in March 2019, which outlines deaths with confirmed exposure to the compound in 24 reported cases in Sweden and two in Finland. In eight of those cases, flualprazolam was cited as a contributory or possibly contributory factor.

On flunitrazolam, the ACMD's report states that it is likely that the potency of the compound is greater than that of flunitrazepam, otherwise known as Rohypnol, which is highly potent and controlled as a class C drug under the 1971 Act. The report goes on to confirm that between 2014 and October 2019, a small number of seizures have been made at the UK border and that small-scale seizures of a mixture of tablets and powder have been identified in Germany in 2016 and Denmark in 2017.

Norfludiazepam has been identified twice in the UK. Both occasions took place in 2017, once from a police seizure and once by TICTAC, a drug identification provider. Further afield, there were small-scale seizures in Germany in 2016, Sweden in 2017 and Norway in 2018. PostScript360, an organisation providing treatment for those undergoing withdrawal from benzodiazepines highlighted anecdotal reporting of the use or purchase of norfludiazepam.

The ACMD report recommended not only the control of these three drugs under class C of the 1971 Act, but that they be placed in schedule 1 of the Misuse of Drugs Regulations 2001 and part 1, schedule 1 to the Misuse of Drugs (Designation) (England, Wales and Scotland) Order 2015, given that the drugs have no known medicinal benefits in the UK.

Should this order be approved, the Government intend that a further statutory instrument, subject to the negative resolution procedure, come into force at the same time as this order. That would be 28 days after the date when the Order in Council is made. That further instrument would make the necessary amendments for the 2001 regulations and the 2015 order. The approval by Parliament of that order would make it unlawful to possess, supply, produce, import or export these drugs, except under a Home Office licence for research. The maximum sentence for possession of a class C drug is two years in prison and unlimited fine or both, while for supply it is up to 14 years in prison, an unlimited fine or both.

We all know the destructive effects that illegal drugs have on not only the lives of those who take them, but their families and wider societies. The ACMD's advice makes clear that these benzodiazepines are harmful, and I trust that I have made a clear case for their control today.

I give a real-life example. You will remember, Dr Huq, that early last year the National Crime Agency undertook an operation called Venetic, which revealed a variety of information about organised criminal gangs producing and importing drugs into the UK. As part of that operation, the NCA managed to bust open a factory in

Kent, where they discovered 27 million street benzo tablets, which had been manufactured and were specifically targeted at Scotland—27 million is quite a lot of tablets for each and every Scot. The impact of the drugs, particularly north of the border, is very significant and I hope that the order today will contribute to their control.

9.31 am

Sarah Jones (Croydon Central) (Lab): It is a pleasure to serve under your chairship, Dr Huq. I thank the Minister for his remarks. The Opposition support the proposals of this instrument, which brings three benzodiazepines—the compounds known as flualprazolam, flunitrazolam and norfludiazepam, under control as class C drugs under the Misuse of Drugs Act 1971. We are committed to working with the Government, the police and other public bodies to tackle drug misuse, strengthen controls on dangerous substances and widen the availability of treatments to prevent overdose deaths and get drug users clean. Clearly, where drugs cause harm, they must be classified and enforcement action must be taken.

On the three benzodiazepines covered by this order, the Advisory Council on the Misuse of Drugs provides some statistics, some of which the Minister highlighted, and background information. On flualprazolam, the report states:

“In the UK, several identifications of the compound have been reported from seizures and samples analysed by National Crime Agency...as well as anecdotal reports of use from clients in receipt of treatment from Postscript360, a Bristol-based charity”—the Minister referred to it—

“providing treatment solutions and referral pathways for people with benzodiazepine dependence. This indicates significant availability of this compound in UK markets...As of March 2020, there have been 12 flualprazolam-associated deaths in the UK recorded by regional statistical agencies...In October 2019, an unknown number of deaths were reported in Stockton-on-Tees where flunitrazolam was the only psychoactive substance present.”

The report goes on:

“Norfludiazepam has been notified in the UK from a police seizure of 14 pale-blue tablets in March 2017 and one sample analysis by TICTAC”,

which the Minister referred to,

“in December 2017. Small-scale seizures of a mixture of tablets and powders have also been”

identified in several other European countries. However, no deaths related to norfludiazepam have been reported in the UK as of March 2020.

On flunitrazolam, the report goes on,

“there is limited information about doses, effects, safety and tolerability available. However, based on its structural similarity to other triazolo-benzodiazepines, it is likely that the potency of flunitrazolam is greater than of the already highly potent flunitrazepam”,

which is Rohypnol.

“As of March 2020, no deaths or other harms associated with flunitrazolam have been reported in the UK. However, the specialist benzodiazepine charity, Postscript360, have reported that clients in receipt of treatment for benzodiazepine dependency had anecdotally reported either the use or purchase of flunitrazolam.”

Adding these drugs to the class C list is important, but it must come alongside a robust preventive approach to drugs misuse.

While the three benzodiazepines relevant to this SI are of no medicinal use, it is important to mention the issue of prescribed drug dependence in the UK, as

general benzodiazepines are prescribed in the UK. The Advisory Council on the Misuse of Drugs 2020 report states:

“Prescribing of benzodiazepines by General Practitioners in the UK has been discouraged and has fallen progressively in recent years. Prescription items issued in primary care in England fell from 16.3 million in 2015-16 to 14.9 million in 2018-19”.

Despite the numbers falling, that is still a very large amount. The report says that

“deaths where a benzodiazepine was implicated have increased over the past decade across the UK...consistent with an increased role of illicitly manufactured benzodiazepines. There is evidence of this in Scotland”—

which the Minister referred to—

“where ‘street’ or unlicensed benzodiazepines were involved in 85% of the 792 deaths in 2018 where a benzodiazepine was implicated, while medicinal ‘prescribed’ benzodiazepines were reported in only 30%”.

It is important that the Government strengthen withdrawal services so that those with addictions to prescribed drugs can get the support they need to manage it. The Government’s explanatory note states:

“A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.”

However, making these benzodiazepines controlled drugs should prompt the Government to consider the private, voluntary and public sectors, and to take preventive action to tackle the use of these drugs through advertising, educational campaigns about the dangers of drugs misuse, support for voluntary support services and investment in drug treatment services.

Since David Cameron’s Government took drug treatment services out of ring-fenced NHS funding, they are now a postcode lottery and have faced successive cuts by Government. A lack of proper drug treatment services risks driving up acquisitive crime and drug lines. The Government have introduced Project ADDER—addiction, diversion, disruption, enforcement and recovery—which we welcome, but this kind of investment is needed across the country, not just in five areas.

We welcome this statutory instrument, but I want to take this opportunity to remind the Minister of his Government’s record on tackling the problem of illegal drug use. Illegal drugs are a huge issue in this country, and the Government must do more to tackle the problem. A Home Office review concluded that drugs were

“a major driver of the national increases in serious violence over recent years”,

mainly as the crack and heroin markets were taken over by county lines gangs. Part 1 of Dame Carol Black’s 2020 drugs review provided detailed analysis of the challenges around drug supply and demand, and noted:

“The illicit drugs market is big business, worth an estimated £9.4 billion a year. Around 3 million people took drugs in England and Wales last year, with around 300,000 in England taking the most harmful drugs (opiates and/or crack cocaine).

Drug deaths have reached an all-time high and the market has become much more violent”,

with the total costs of drugs to society estimated at

“over £19 billion, which is more than twice the value of the market itself.”

Most illegal drugs consumed in the UK

“are produced abroad. The supply of drugs has been shaped mostly by international forces, the activities of Organised Crime Groups and advances in technology.”

[Sarah Jones]

The report continues:

“The heroin and crack cocaine retail market has been overtaken by the county lines model, which is driving increased violence in the drugs market and the exploitation of young people and vulnerable drug users.”

The Government’s failure to dismantle organised criminal gangs and the supply of drugs has led to a rampant rise in illegal drug use. The National Crime Agency’s latest annual plan, for 2020-21, revealed that more than 3,000 deal lines were identified in 2019, of which 800 to 1,000 lines are estimated to be active during a given month. The Children’s Commissioner for England has estimated that 27,000 children are gang members, and modelling done by Crest identified 213,000 vulnerable children. The strongest and most dangerous drugs are becoming more accessible, and the drug networks are driving violence and child criminal exploitation.

The Government are failing to get a grip on the misuse of the most serious drugs, including class As. Class A drug use was on a downward trend between 1996 and 2011. Since then, class A drug use has increased every year, and the Home Office’s own research admitted that it was slow to notice rising levels of crack use beginning in 2013-14.

Despite drug use and violence increasing, the Government have drastically cut spending on treatment by underfunding local government budgets as well as central Government funding. The Government have not provided the necessary resources for drug treatment and recovery, which has meant that they have been unable to break the cycle of drug misuse and offending. In May this year, we passed the 50th anniversary of the Misuse of Drugs Act 1971. Research by the Transform Drug Policy Foundation has pointed out that when that Act was first introduced by Prime Minister Heath, there were under 100 drug-related deaths a year in England and Wales; now, there are 2,883. Our country is in the middle of a drugs crisis. Legislation that says, “Using or selling these harmful drugs is a criminal offence” is really important, but we must also have a health approach from this Government, so that people understand the risks and can get the help they need to deal with addiction problems.

We all know the terrible impact that drugs can have on individuals, families and communities. Increasing enforcement of drug misuse and stamping out the organised

criminal drugs gangs that drive and profit from it is incredibly important, but it is only one part of the solution. The other must be drug treatment and preventive services to properly break the cycle of drug misuse.

The Chair: I imagine that the Minister will want to respond.

9.40 am

Kit Malthouse: The hon. Member for Croydon Central is nothing if not persistent in her desire to look backwards rather than forwards. As she knows, we have been very assertive in our approach to drugs over the past two years. We are having some success, particularly on county lines and in other areas, and she will have seen that in the last spending round we secured significant amounts of extra money for drug treatment. I am very pleased that she mentioned the ADDER projects as the progenitor: those were broadly my idea, along with Blair Gibbs, who was No. 10’s crime and justice advisor at the time. It is a model of operation that we hope in time to take to other parts of the country, but we first need to prove that we can shift those appalling numbers in those parts of the country.

As you will know, Dr Huq, we will have an entire Backbench Business debate tomorrow on exactly this subject—the Misuse of Drugs Act—so I do not propose to rehearse some of the issues that the hon. Lady has raised in her response. I will just say that I am grateful for the support of the ACMD in outlawing these benzodiazepines. It looked at 10 other compounds, but did not find evidence that substantiated their being made illegal, although they will of course be covered by the Psychoactive Substances Act 2016, which was passed by this House just a few years ago.

Finally, given the devastating impact of street benzos—as they are called—in Scotland in particular, I am disappointed that no representative from the Scottish National party is here today. Drug deaths in Scotland are off the scale—easily the worst in western Europe, if not the developed world. The legislative control of drugs remains an important measure in the fight against this societal evil, and I am grateful to the Committee for supporting it.

Question put and agreed to.

9.42 am

Committee rose.

