

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### APPROVED PREMISES (SUBSTANCE TESTING) BILL

*Wednesday 15 December 2021*

*(Morning)*

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CLAUSES 1 AND 2 agreed to.  
Bill to be reported, without amendment.

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**Sunday 19 December 2021**

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**The Committee consisted of the following Members:***Chair:* DAVID MUNDELL

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|---|--|
| † Butler, Rob ( <i>Aylesbury</i> ) (Con)                    | † Marson, Julie ( <i>Hertford and Stortford</i> ) (Con)    |
| Crawley, Angela ( <i>Lanark and Hamilton East</i> ) (SNP)   | † Mullan, Dr Kieran ( <i>Crewe and Nantwich</i> ) (Con)    |
| Daby, Janet ( <i>Lewisham East</i> ) (Lab)                  | Osborne, Kate ( <i>Jarrow</i> ) (Lab)                      |
| † Davison, Dehenna ( <i>Bishop Auckland</i> ) (Con)         | † Randall, Tom ( <i>Gedling</i> ) (Con)                    |
| Dhesi, Mr Tanmanjeet Singh ( <i>Slough</i> ) (Lab)          | † Reeves, Ellie ( <i>Lewisham West and Penge</i> ) (Lab)   |
| † Eagle, Maria ( <i>Garston and Halewood</i> ) (Lab)        | Shannon, Jim ( <i>Strangford</i> ) (DUP)                   |
| † Gibson, Peter ( <i>Darlington</i> ) (Con)                 | † Spencer, Dr Ben ( <i>Runnymede and Weybridge</i> ) (Con) |
| Holden, Mr Richard ( <i>North West Durham</i> ) (Con)       | Adam Mellows-Facer, <i>Committee Clerk</i>                 |
| † Hunt, Jane ( <i>Loughborough</i> ) (Con)                  |  |
| † Malthouse, Kit ( <i>Minister for Crime and Policing</i> ) | † <b>attended the Committee</b>                            |

## Public Bill Committee

Wednesday 15 December 2021

[DAVID MUNDELL *in the Chair*]

### Approved Premises (Substance Testing) Bill

9.25 am

**The Chair:** Before we begin, I remind Members that they are expected to wear face coverings and to maintain social distancing as far as possible, in line with current Government guidance and that of the House of Commons Commission. Please give one another and members of staff space when seated and when entering and leaving the room. I remind everyone that they are asked by the House to have a lateral flow test twice a week if coming on to the estate, which can be done either at the testing centre in the House or at home.

Please switch electronic devices to silent. *Hansard* colleagues would be grateful if Members emailed their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). My selection and grouping for today's sitting is available online and in the room. No amendments were tabled. We will have a single debate covering both clauses of the Bill.

#### Clause 1

SUBSTANCE TESTING OF RESIDENTS IN APPROVED PREMISES

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss clause 2 stand part.

**Rob Butler** (Aylesbury) (Con): It is a pleasure to serve under your chairmanship, Mr Mundell. I must declare that, prior to my election, I was a non-executive director of Her Majesty's Prison and Probation Service and a magistrate member of the Sentencing Council.

As I highlighted on Second Reading, patterns of drug misuse in both custody and the community are changing. In recent years, psychoactive substances have become much more prevalent in the illicit economy in approved premises. Prescription medicines are also abused by some residents, which sometimes can prove lethal. The use of drugs in approved premises can have a significant impact on the physical and mental wellbeing of individuals. Taking substances undermines an offender's ability to engage in rehabilitation.

The measures set out in clause 1 would allow Her Majesty's Prison and Probation Service to create a comprehensive drug-testing framework in approved premises. That would bring us in line with the testing regime currently used across the prison estate. It would allow the drug-testing framework to respond effectively and flexibly to changing patterns of drug misuse and improve the identification of residents misusing substances, ensuring that appropriate care planning and referrals to

treatment are in place. It is important to emphasise that the first step is to try to ensure guidance and assistance for those found to have illicit substances in their bodies as a result of testing.

Clause 1 inserts proposed new section 13A into the Offender Management Act 2007. It extends the range of substances that can be tested for and makes provision for HMPPS to test all residents in approved premises for controlled drugs, psychoactive substances and prescription-only medicines. It achieves that by using the definitions of those substances and medicines already set out in legislation, including the Misuse of Drugs Act 1971, the Psychoactive Substances Act 2016 and the Human Medicines Regulations 2012.

Subsection (2) of proposed new section 13A contains an express power that, in accordance with an authorisation given by the approved premises manager, a member of approved premises staff may require a resident to provide a sample of urine to ascertain whether the resident has in their body a controlled drug, a prescription-only medicine or psychoactive substance. The move to urine testing, rather than the currently used oral fluid testing, will allow HMPPS to test for a wide range of different substances for longer. Depending upon the drug, in oral fluid the drug would be detectable for perhaps only 12 to 24 hours. In urine testing, some drugs such as heroin will be detectable for up to five days. In addition to, or instead of urine, subsection (3) provides for a sample of any other description to be required, provided that it is not an intimate sample as defined in section 65 of the Police and Criminal Evidence Act 1984.

Subsections (5) and (6) set out a requirement for staff to

"have regard to any guidance...issued by the Secretary of State" regarding the exercise of the drug-testing power. Guidance is expected to be along similar lines to the existing guidance on drug testing in approved premises, which contains detailed procedures and instructions to ensure the integrity of the testing and ensure that accurate records are kept.

Proposed new section 13A also makes provision for anonymised prevalence testing for controlled drugs, medicinal products and psychoactive substances. With an express power to conduct prevalence testing, HMPPS will be better able to understand the ever-changing drug landscape and therefore take appropriate action to tackle the threat of drugs in approved premises efficiently and in good time.

The new section would also allow the Secretary of State to make any necessary changes in the event of any future change to the Human Medicines Regulations 2012 or

"other subordinate legislation...which relates to human medicines", so that if a substance definition referred to in the new section were revoked in future, we could amend the Offender Management Act 2007 accordingly to include that definition or refer to alternative legislation. That will assure that we can avoid any impact on the approved premises drug-testing framework.

Clause 2 confirms the Bill's short title, makes provision for the Bill to come into force by regulations and provides that it will extend to England and Wales only, as offender management is devolved in Scotland and Northern Ireland.

**Ellie Reeves** (Lewisham West and Penge) (Lab): It is a pleasure to serve under your chairmanship, Mr Mundell. I thank the hon. Member for Aylesbury for introducing this important Bill.

It is concerning that drug deaths in approved premises have increased in recent years, while there has been a rise in psychoactive substances such as Spice and skunk. Meanwhile, there is currently no comprehensive framework for substance testing in approved premises; the Bill would remedy that, so the Opposition welcome it.

Approved premises play an incredibly important role in the rehabilitation of high-risk individuals. It is crucial that they be safe, drug-free and a conducive environment for residents' rehabilitation. Sadly, I am getting increasingly concerned about the abuse of psychoactive substances and prescription drugs, detection of both of which can be evaded under the current testing regime. It is right for managers of approved premises to have the tools to identify drug misuse, enabling them to tackle the problem and ensure that residents can receive the support that they require to protect them and their fellow residents and, more importantly, keep members of the public safe.

It is important to focus on rehabilitation. People living in approved premises are not typical offenders; they often have complex problems. The main goal of the framework should be to identify those who have taken drugs and give them appropriate assistance to prevent further use. I welcome the hon. Member's comments today and on Second Reading that the Bill is about providing assistance and rehabilitation first and about prosecution second. More generally, I urge the Government to secure treatment pathways that offenders found to be using illegal substances can be placed on as soon as possible instead of having to wait weeks for help.

I am glad that the Bill is a step in the right direction. I hope that drug use in approved premises will be tackled efficiently for the benefit of residents undergoing rehabilitation and for the safety of the wider public.

**Peter Gibson** (Darlington) (Con): It is a pleasure to serve under your chairmanship, Mr Mundell. I commend my hon. Friend the Member for Aylesbury for expertly guiding the Bill through Second Reading and into Committee. I know from recent experience that that can be a challenging task; I congratulate him on navigating the process to this stage.

Sadly, we know that psychoactive drugs are becoming more prevalent in approved premises across the United Kingdom and are undermining the important work there. I welcome clause 1, which, building on the recommendation of the prisons and probation ombudsman, would allow managers to authorise approved premises staff to ask for and require a urine sample, rather than an oral fluid test, from any resident. The sample could then be used to identify a controlled drug, a prescription-only medicine or a psychoactive substance in the resident's body.

**Maria Eagle** (Garston and Halewood) (Lab): I congratulate the hon. Member on his own experience with Bills, which he has recently acquired, I think. Does he agree that enabling testing for a wider range of substances ought to prevent those living in approved premises who are tempted to take these substances from doing so, because they know that they can be detected for longer? It might help those living in approved premises to not reoffend.

**Peter Gibson:** I am grateful to the hon. Lady for her intervention, and I thank her for her support in Committee for my private Member's Bill. I trust that her point will be picked up on by the Member in charge or the Minister. I am glad to have an opportunity to further support the Bill promoted by my hon. Friend the Member for Aylesbury, and I look forward to Third Reading in the new year.

**The Minister for Crime and Policing (Kit Malthouse):** It is a pleasure, as always, to appear under your wise and guiding hand, Mr Mundell. I start by extending my wholehearted support for my hon. Friend the Member for Aylesbury. I thank him for introducing this important Bill.

Having the privilege of being Minister for Crime and Policing, I am aware of how necessary these provisions are. Drugs not only have an impact on an individual's physical and mental state, but they also play an important role when it comes to crime, not just because of the direct harm they do, but because of the wide range of criminality they can drive. In the year to March 2020, 48% of homicides were drug-related. The Government are committed to cutting crime and dismantling the entire business model of drugs, from supply to demand.

We set this out in the beating crime plan, which we published in the summer, and our commitment to tackling drug use is set out clearly in our cross-Government drugs strategy and the prisons strategy White Paper, both published last week. The drugs strategy represents an ambitious, 10-year generational commitment to work across Government to address illegal drug use, including increased and enhanced testing in prisons and, I hope, approved premises. The strategy is the formal, substantive response to the exceptional and comprehensive independent review of drugs led by Dame Carol Black, and it accepts all her main recommendations.

Our strategy sets out three core priorities: cutting off drug supply, creating a world-class treatment and recovery system, and achieving a generational shift in the demand for drugs. Our vision goes beyond treatment. People who suffer from addiction have multiple and complex needs for which they need support. We are leading the world in delivering a joined-up package across treatment, accommodation and employment. Drug treatment will be joined up with our investment in NHS mental health services, so that people's wider needs can be addressed together.

As set out in the prisons White Paper, our goal is for prisons to have a culture of zero tolerance to drugs and an approach that ensures meaningful and lasting recovery for all prisoners. We will ensure that every offender has access to the treatment they need and a plan to help them to turn their backs on crime. Prisoners will be supported to use their time in prison to become free of drugs. On release, accommodation and employment support will help them to stay away from drugs and crime.

It is important, however, that work to tackle substance misuse continues outside prison. Our drugs strategy is underpinned by record investment of nearly £900 million of additional funding over the next three-year spending review period, taking the total investment on combating drugs over the next three years to £3 billion. From this we will invest more than £2.8 billion over the next three years to create a world-class treatment and recovery

[Kit Malthouse]

system. This includes £780 million of additional investment—the largest ever single increase in treatment and recovery funding.

The Bill will allow us to further deliver on the commitments set out in the beating crime plan, the prisons White Paper and our drugs strategy to tackle drugs misuse, cut crime and save lives. As my hon. Friend the Member for Aylesbury set out, the Bill will implement a rigorous drug-testing framework, enabling mandatory drug testing for psychoactive substances, together with prescription and pharmacy medicines. Supported by the change in urine testing, this means that we can reliably test for a wide number of different substances for longer.

The Bill will also put prevalence testing on a firmer statutory footing, which allows us to better identify emerging trends and ensure we are able to react quickly to changes in drug use. The combined measures in the Bill will ensure consistency of testing and treatment from prison to the community and will be vital in ensuring that approved premises, which we are of course expanding, are safe and drug-free, and that the risk of serious harm is reduced for the individual, other residents and the wider public.

The Bill will help us tackle drug use in approved premises, ensure that staff in them are able to respond effectively and provide residents with the necessary treatment and support. That will support this Government's commitment to rehabilitate offenders, reduce reoffending and beat crime. The Government are pleased to support the Bill, and I congratulate my hon. Friend the Member for Aylesbury on bringing it forward. I commend the Bill to the Committee.

**Rob Butler:** I thank all Members present here today—both Front-Bench and Back-Bench colleagues. I realise that there are many demands on everybody's time, particularly this close to Christmas. It is important to underline that those here today have shown an interest in an important, but often unrecognised, part of our criminal justice system. Approved premises can make a significant contribution to an offender's rehabilitation at an absolutely crucial moment in their transition from prison back to the community. Helping those tempted or enticed into using drugs is a vital element of achieving success, thereby reducing reoffending and so cutting the number of victims of crime.

The Opposition spokeswoman, the hon. Member for Lewisham West and Penge, talked about the benefit to residents in approved premises and the wider public. It is important that we do not lose sight of that. I will put on the record more detail on the consequences if someone

fails a drug test, to reassure her further about the approach that will be taken in approved premises. The first step is that there would be a discussion between that resident and the member of staff in the approved premises. That might then lead to an improvement plan being initiated; that would encompass referrals to the appropriate drug misuse services. The emphasis is very much on help and guidance, because we know that committing offences while under the influence of drugs is a huge problem. That is, therefore, a key element in trying to overcome that problem. It is important to say that this would not be a purely punitive exercise. However, if other behaviours were associated with that drug use, that could lead to other actions being taken. There is an emphasis on rehabilitation and assistance, but it does not lose sight of the need for punitive action, if required.

I am grateful to my hon. Friend the Member for Darlington for highlighting the impact that this legislation can have. In response to the intervention from the hon. Member for Garston and Halewood, a colleague on the Justice Committee, I am glad that she has focused on deterrence and I agree with her point entirely. Growing awareness of the fact that this testing exists in approved premises is, one hopes, likely to discourage residents of those approved premises from being tempted into drug misuse—whether that is of psychoactive substances, illicitly obtained prescription medicines or more conventional illegal drugs. Finally, I am very grateful to the Minister for highlighting the part that this legislation could play in an overall, long-term drugs strategy, as was proposed last week.

I offer my sincere gratitude to the staff in the Ministry of Justice—one of whom is at the back of the Committee Room—who have been a huge support in the preparation of this Bill and its progress thus far. I also thank members of the House staff; I am not sure whether I am allowed to name them individually, but they know who they are. I pay tribute to those in Ministry of Justice, whether working on the frontline or in the Bill team itself, for their commitment to helping offenders turn around their lives through this legislation.

*Question put and agreed to.*

*Clause 1 accordingly ordered to stand part of the Bill.*

*Clause 2 ordered to stand part of the Bill.*

**The Chair:** At this stage I could afford Mr Butler a further opportunity to say something, but I think he set out his thanks to those who have been involved in getting the Bill to this stage in his previous remarks.

*Bill to be reported, without amendment.*

9.44 am

*Committee rose.*