



## **RESPONSE TO National Assembly for Wales - Health and Social Care Committee: Inquiry into new psychoactive substances**

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by Her Majesty's Chief Inspector of Prisons

## Introduction

1. We welcome the opportunity to submit a response to the inquiry into new psychoactive substances (NPS).
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) and immigration detention facilities. 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. All inspections are carried out against our [Expectations](#) - independent criteria based on relevant international human rights standards and norms.
5. In response to the serious threats that drugs and alcohol pose to health and safety in prisons, HMI Prisons has on its staff three specialist substance use inspectors. They have wide ranging backgrounds in substance use nursing, addiction rehabilitation and service management within prisons and the community. They also bring experience in substance use treatment programme design and evaluation, both in the UK and internationally. Inspectors' on-going involvement with substance misuse research in prisons adds to the specialist knowledge base. Working as part of the HMI Prisons healthcare team, they inspect clinical and psychosocial aspects of in-prison substance use treatment and associated education and awareness programmes. Substance use inspectors also work closely with security inspectors to determine the effectiveness of prisons' drug supply reduction initiatives including drug testing programmes.
6. As part of HMI Prisons' statutory duty to report on conditions for and treatment of those in prisons, YOIs and immigration detention facilities, we have monitored and reported on the rise of NPS use and availability in prisons in England and Wales. The following response is based on evidence from HMI Prisons' most recent inspections of Welsh prisons, as follows:
  - HMP Swansea: unannounced inspection, 29 September – 10 October 2014 (*report not yet published*)
  - [HMYOI Parc Juvenile Unit: unannounced inspection, 28 April – 9 May 2014](#)

- [Arolygiad dirybudd Carchar EM / Sefydliad Troseddwy'r Ifanc y Parc \(9-19 Gorffennaf 2013\)](#) –/– [HMP/YOI Parc: unannounced inspection, 9 – 19 July 2013](#)
- [Adroddiad ar arolygiad heb ei gyhoeddi ymlaen llaw o CEM Brynbuga a CEM/STI Prescoed \(22 Ebrill – 3 Mai 2013\)](#) –/– [HMP Usk and HMP/YOI Prescoed: unannounced inspection, 22 April – 3 May 2013](#)
- [Arolygiad lle rhoddwyd rhybudd o Garchar Ei Mawrhydi Caerdydd \(18–22 Mawrth 2013\)](#) –/– [HMP Cardiff: announced inspection, 18 – 22 March 2013](#)

## Summary

- Drugs get into prisons through five main routes.
- HMI Prisons inspections of Welsh prisons over the last two years have shown new psychoactive substances (NPS) to be less of a problem than in English prisons. This may change in the near future.
- Spice and Black Mamba have been an increasing problem in English prisons since autumn 2013.
- Areas of good practice are beginning to emerge, from which lessons can be learned.
- Current drug testing programmes in prisons are not equipped to deal with NPS.
- Under the current legislative framework, prisoners find NPS an attractive alternative to more traditional drugs for a number of reasons related to the lack of detectability and reduced risks of penalties.
- Inspection findings over the last year have pointed to increased safety concerns in prisons. The rise of NPS misuse is one such factor that may also partly be a result of the other factors that contribute to prisoners feeling less safe, given that people who feel under stress will often take drugs in an attempt to relieve that stress.

## HMI Prisons response

7. In order to reflect the sole focus of HMIP on places of detention, this evidence focuses specifically on the inquiry's terms of reference that fit with the unique circumstances of prison environments. We have therefore left the remaining three areas more effectively to be evidenced by community-based service users and providers.

### ***How to raise awareness of the harms associated with the use of legal highs among the public and those working in the relevant public services.***

8. The wider awareness of drug problems in prisons at a strategic level, includes an understanding of how drugs get into prisons. In 2008, David Blakey produced a report entitled '[Disrupting the supply of illicit drugs into prisons.](#)' That report cited five routes that are still widely used:
  - *With visitors* – normally passed to prisoners during a visit
  - *'Over the wall'* – people on the outside use various devices to throw drugs over prison walls for prisoners to retrieve from exercise yards and walkways. Small packets or even single coins holding a single tablet are commonly found especially in inner-city prisons. Coins are used to provide weight and velocity sufficient to ensure passage through nets that are sometimes erected to prevent throw overs.
  - *In post and parcels* – even confidential letters from legal representatives have been used to get drugs into prisons.

- *Brought in by prisoners* – drugs are often secreted in body cavities – a practice known as ‘packing’ or ‘plugging’. As well as opportunistic attempts by individual prisoners, a new trend is emerging in this area. Intelligence from some areas of the UK points to organised gangs directing individuals released on licence to commit minor offences that ensure a short return custody. This enables drugs to be taken into local prisons regularly and in relatively large quantities.
  - *Through corrupt staff* – Blakey said “Most staff are not corrupt and have a clear integrity. They are let down by a minority of staff who are corrupt. That corruption will extend, in some cases, to receiving large amounts of money for carrying in phones or drugs.”
9. When we inspected [HMP Cardiff](#) in March 2013, whilst the diversion of prescribed medication was an issue, there was no evidence of NPS availability or use. Similarly, at HMP/YOI Parc four months later in July 2013 and at the inspection of the Parc Juvenile unit in May 2014, there was no evidence of an emerging NPS problem. Most recently, at our inspection of HMP Swansea in early October, (report not yet published), staff and prisoners told us there was little or no evidence that NPS were becoming an issue within the prison.
10. Nevertheless, prison staff and prisoners alike often say that drug trends within prisons follow those in the community. As NPS gain momentum in Welsh communities, it can be predicted with some confidence that Welsh prisons should expect a rise in the incidence of NPS misuse – as is certainly the case in England.
11. On 28 October 2014, the [WalesOnLine](#) website reported the Chief Inspector's warnings for the proposed new prison in North Wales. Stating legal highs had a “prison value” 10 times that of the “street value,” he stressed the health dangers and warned: “[They] are a cause of debt and debt is a cause of violence. What we found is that on the whole in Welsh prisons, actually, they don’t have the problem yet to the same extent as English prisons...“But I think it will [arrive] and therefore those Welsh prisons need to be ready for this to hit them and on the whole I think the system has been too slow to react.”

### ***International evidence on approaches taken to legal highs in other countries.***

12. In the autumn of 2013 we reported the beginnings of the availability and use of NPS in prisons with our report on the Category D establishment, [HMP Blantyre House](#) (Kent, England), inspected 9 – 20 September 2013. We made the following comments:

*The number of violent incidents had increased since the last inspection and there had been two recent serious assaults. Although the level was still low, more prisoners reported victimisation than at the last inspection and at similar establishments. This appeared, at least in part, to be due to the availability of ‘Spice’ – a synthetic cannabinoid – and associated debt and bullying. Current testing methods did not detect Spice, so the very low positive drug testing rate did not give an accurate picture of the availability of drugs in the prison. The prison’s response to the issue was inadequate.*

13. In our report on the Category C establishment, [HMP Ranby](#) (Nottinghamshire, England), inspected 10 – 21 March 2014, we raised the following concern:

*There were high levels of illicit drug and alcohol availability. More than half of the population said that it was easy to get illegal drugs and a quarter that it was easy to get alcohol. The number of finds was high. Most intelligence and finds related to undetectable diverted medication and new psychoactive substances (especially ‘Mamba’)... In the previous six months substance misuse and health services staff had responded to 25 acute medical situations which were thought to have resulted from prisoners taking such substances...The prison had taken some reactive measures but there was no coordinated action plan to reduce supply and demand.*

14. To address the above concern we made the following recommendation to HMP Ranby:

*An action plan to address drug and alcohol supply reduction and demand should be implemented and should address the specific issue of new psychoactive substances and diverted medication.*

15. HM Chief Inspector reported on inspection findings across prisons in England and Wales in his [Annual Report 2013-14](#), specifying:

*NPS, specifically 'Spice' and 'Black Mamba', were cited as causes for concern at 14 (37%) of the adult male establishments inspected, particularly local and category D jails. Although many prisons had taken steps to promote awareness of this problem, we highlighted the need for some to give prisoners and staff accurate and up-to-date information on the acute health dangers associated with NPS.*

16. Drugs education and treatment programmes in prisons in England and Wales have experienced huge changes in recent years. The previous nationally-based and prison service-run CARAT (counselling, assessment, referral, advice and throughcare) service, has been replaced by locally commissioned, civilian-based services. Much time and effort has been, in our opinion rightly, devoted by these newer services to the development of integrated clinical and psychosocial opiate treatment programmes (e.g. heroin and its substitutes). Whilst this has been in response to previously assessed levels of need, the demographics of drug use are constantly changing. Services in England, where NPS is becoming a problem have had to devise awareness and education programmes quickly and with minimal resources.

17. Staff training, in some prisons where NPS is a problem, has been difficult to organise. Overall shortages in staff have reduced opportunities to take staff away from operational duties for training.

18. Nevertheless, as well as pointing out areas for improvement, the HMI Prisons inspection process is a useful way of identifying good practice. In recent months we have found good practice that has begun to address NPS in some prisons in England has included the following components: (due to this information being recent, reports are not yet published):

- Adaptations of drugs strategies and action plans that specifically address supply reduction, demand reduction and harm reduction relating to NPS.
- Up-to-date, accurate information on the appearance and effects of NPS – given to both staff and prisoners.
- Extra training given to discipline staff and primary healthcare staff that better equips them to recognise and deal with acute health situations caused by prisoners' use of NPS.
- Extra training given to drug workers to enable delivery of NPS-specific demand reduction and harm reduction initiatives.
- Exploration of initiatives to reduce the supply of NPS including:
- The training of drug dogs to recognise 'Spice' and other synthetic cannabinoid receptor agonists (SCRAs)
- The development of accurate tests to detect SCRAs

***The possible legislative approaches to tackling the issue of legal highs, at both Welsh Government and UK Government level.***

19. Powers to require prisoners to provide a sample for drug testing purposes were introduced as part of the [Criminal Justice and Public Order Act 1994](#) (Appendix 1). The initial powers for testing prisoners for drugs were added under the aegis of [Section 16A the Prison Act 1952](#), and came into force on 9 January 1995.

20. HMI Prisons has noted that while there has been a general decline in the positive rates resulting from the mandatory drug testing (MDT) of prisoners – both in random testing and that carried out under ‘reasonable suspicion’ – this trend does not mean that prisoners’ illicit drug use has reduced. While MDT rates provide an indicator, they do not reliably measure drug availability in establishments – nor does testing necessarily deter prisoners’ use of illicit drugs. In our survey, 31% said that illegal drugs were easy or very easy to obtain in their prison, and 7% told us they had developed a problem with illegal drugs and 7% with diverted medications since coming to prison. HMI Prisons considers that the main reason for this is that the current MDT does not detect new psychoactive substances (NPS) and most diverted prescribed medications.
21. It is important to consider that the wide range of drugs that fall into the ‘NPS’ (which includes stimulants like Mephedrone, to depressant hallucinogenics like Spice and other SCRA) makes the development of tests a complex issue involving many drugs, the precise ingredients of which are constantly changing.
22. The current absence of a usable test for any NPS makes such drugs attractive to some prisoners who might otherwise be deterred by the risk of being caught through drugs testing programmes.
23. The previous two points notwithstanding, the types of drugs used in a prison environment tend not to include stimulants. The majority of prisoners will prefer to use drugs that depress levels of awareness of surroundings, reduce anxiety and produce a sedative effect. Such effects are brought on by depressant drugs. NPS that fall into this category are the SCRA.
24. NPS, and specifically SCRA are also attractive to prisoners for the following reasons:
- These substances have little odour when mixed and smoked with tobacco.
  - The penalties for a prisoner caught with NPS will be limited to ‘possession of an unauthorised article’, rather than ‘possession of a controlled drug’. The former will lead to a temporary loss of privileges whilst the later can be adjudicated by an Independent Adjudicator (a judge) and lead to the greater penalty of added days to the sentence.
  - This is because each sample, if found in the possession of a prisoner, would have to be forensically tested to determine whether or not it fell within current definitions of drugs controlled under the Misuse of Drugs Act (1971). Such analysis is expensive and unlikely to be given funding. Also, given the constantly changing nature of NPS at a molecular level, the manufacturers of NPS are often able to keep ahead of the drugs covered by statute.
  - We have spoken to many prisoners who say they enjoy the risks associated with taking new drugs, the effects of which are unpredictable.
25. In conclusion, the emergence of NPS in English prisons is likely to be mirrored in Welsh prisons in the near future. Lessons that can be learned include the need for a strategically co-ordinated, ‘whole prison’ approach to tackling the new threats posed by NPS.
26. A ‘whole prison’ approach to drugs is a strategy that recognises a simple principle: Drugs have the potential to affect virtually all areas of prison life. It therefore follows that an effective strategic response will address all relevant issues in all those same areas of prison life. The ‘whole prison’ approach will have at its core, strategies that tackle three areas:
- Supply reduction: stopping drugs getting into the prison – security is everyone’s business.
  - Demand reduction: treatment for drug users - but importantly not just that. This area also involves all areas that reduce demand. Some examples:
    - Where prisoners feel safer in custody they experience lower levels of stress and therefore will be likely to have reduced self-medication needs.

- Time out of cell and purposeful activity reduce boredom and stress, facilitating healthy sleep that prisoners otherwise may feel the need to induce with drugs.
- Good healthcare and effective pain management reduces demand for self-medication.
- Harm reduction: up-to-date, accurate and effective drugs awareness and education that equips staff and prisoners to deal with situations and make informed choices in their own behaviour. Good harm reduction supports demand reduction by recognising that some users of illicit recreational and diverted prescription drugs in prisons are not regular drug users in the community. Simply put, any prisoner who feels unsafe, unfulfilled and unhealthy may be more likely to want to take mind-altering substances.

***Closing remarks***

27. I hope that you find this information useful and should you require anything further, please do not hesitate to contact me. I look forward to attending the Committee hearing on 12 November 2014.

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HM Inspectorate of Prisons

*On behalf of*

**Nick Hardwick**

HM Chief Inspector of Prisons

**28 October 2014**