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Drug law charity condemns Government's decision to ignore evidence and advice of their own experts as it moves to criminalise nitrous oxide

LONDON (26 March 2023) – Government decision to control nitrous oxide under the Misuse of Drugs Act 1971 ignores the recent recommendations of the independent body of experts, the Advisory Council on the Misuse of Drugs (ACMD).

On the 6 March 2023, the ACMD provided recommendations to the Home Office in relation to nitrous oxide. The ACMD was clear [in its advice](#) that nitrous should not be added to the Misuse of Drug Act 1971. The sale and supply of nitrous is already restricted under the Psychoactive Substances Act 2016, and a move to controlling it under the 1971 legislation would criminalise possession. The ACMD categorically advised against this for three reasons: 1) the level of health and social harms associated with nitrous were not comparable to substances currently controlled under the 1971 legislation; 2) it would be disproportionate to apply the sanctions available under the MDA 1971 considering the level of harm, and to control nitrous in this way could have its own unintended consequences; 3) it could impact on legitimate uses of nitrous oxide, notably in its use as a food additive and in medicine.

Whilst there has been increased reports of health problems linked to nitrous use, the risk of harm is still very small compared to the level of use. Use of nitrous amongst 16 to 24 years olds peaked in 2016/17, with 9% of that age group reporting using the drug in the previous year, falling to 3.9% last year. No expert nor clinician appears to support the criminalisation of possession, which will inevitably target young people. Many doctors report that the small number of people accessing health services already feel shame about their situation; to criminalise further will increase barriers to those seeking treatment when it is needed, creating more physical damage as conditions go untreated. It also risks creating criminal records to young people, impacting their life opportunities at an early age.

Niamh Eastwood, Executive Director of Release, stated “The Government is ignoring its own experts, in an attempt to out manoeuvre Labour as both of the main parties try to appear tough on drugs. This is all about winning elections and has nothing to do with preventing harms or protecting young people.”

She added: “Nitrous oxide is a relatively safe substance, and possible health harms could be mitigated through a large-scale harm reduction campaign, educating people on how to stay safe. There is a much bigger risk associated with criminalisation, which impacts life opportunities including education and employment. It is largely young people who will suffer as a result of this decision, they will be the target of law enforcement, they will be the ones who will be criminalised, they will be the ones who will be afraid to seek help if they need it for fear of punishment.”

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Note to the editor:

Release is the UK centre of expertise on drugs and drug laws, providing free and confidential specialist services to professionals, the public, and people who use drugs. Release believes in a just and fair society where drug policies should reduce the harms associated with drugs, and where those who use drugs are treated based on principles of human rights, dignity and equality.

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