

## Briefing Paper on Proposed Re-classification Synthetic Cannabinoid Receptor Agonists (SCRAs)

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### The Current Classification System:

1. Synthetic Cannabinoid Receptor Agonists (SCRAs) is an umbrella terms for the "large group of drugs, which have a strong effect on the endocannabinoid system". 'Spice' and 'Mamba' are brand names, which contain "different SCRAs with different levels in potency".<sup>i</sup>
2. Some SCRAs are controlled under the Misuse of Drugs Act (MDA) 1971 as Class B drugs and others are controlled under the Psychoactive Substances Act (PSA) 2016. It is not clear whether the proposal is to re-classify all SCRAs as a Class A drug or simply those controlled under the Misuse of Drugs Act 1971.
3. Sentencing outcomes for possessing a Class B drug are already very harsh – outcomes generally range from discharge to 26 weeks' custody with maximum 5 years' custody. Possession in prison or in a school is likely to result in a more punitive sentence.<sup>ii</sup>

### Tackling Supply:

4. While re-classifying SCRAs as Class A drugs would increase sentences for supply offences, it would also needlessly increase sentences for people who use these drugs (and remove the option to discharge at sentencing). Sentencing outcomes for possessing a Class A drug generally range from a fine to 51 weeks' custody with maximum 7 years' custody.<sup>iii</sup>
5. Many of our prisons are already overcrowded and understaffed<sup>iv</sup> – we do not need to be remanding or sentencing more people into custody (or extending existing sentences) for simply possessing a drug.
6. The classification of a drug does not guide drug law enforcement efforts. Just under 76% of drug offences recorded by the police last year were for simple possession of cannabis (a class B drug).<sup>v</sup>
7. Re-classifying SCRAs as Class A drugs would not grant any additional enforcement powers to the police.

### Harmfulness of SCRAs and Re-classification:

8. The harms of SCRAs have already been assessed by the Advisory Council on the Misuse of Drugs (ACMD), the body responsible for recommending classifications to the government, and they determined that some SCRAs should be Class B drugs.<sup>vi</sup> The proposal to classify SCRAs as Class A drugs because of their harms is not grounded in evidence and is contrary to the ACMD's expert recommendation.
9. The re-classification of SCRAs would exacerbate harms to the people who use them. NPS use is more prevalent amongst some of the most disenfranchised and marginalised populations, such as the street homeless, socially excluded teenagers and people in prison with fewer life opportunities.<sup>vii</sup> Creating lengthier sentences, especially for possession, will only perpetuate the marginalisation of these groups. Some of the harmful effects of criminalising on people who use drugs that the Home Office has identified include: "increased violence", "social and family harms" due to incarceration and "unemployment".<sup>viii</sup> Parental imprisonment has also been cited as a risk factor for childhood offending, mental health problems and substance misuse.<sup>ix</sup>

## **Drug Control and Classification Have No Deterrent Effect:**

10. There is no evidence to suggest that re-classification would reduce the use of these drugs and that drug control has a deterrent effect. For example, people have continued to use SCRA after the Psychoactive Substances Act 2016, including continued use within prisons.<sup>x</sup> Similarly, cannabis use remains very prevalent after being re-classified as a Class B drug in 2009.<sup>xi</sup>
11. The Home Office's 'International Comparators' report concluded that "there is no relationship between tougher/punitive sanctions on drug possession and the level of drug use in a country".<sup>xii</sup> More recently, in an evaluation of the 2010 Drug Strategy, the Home Office recognised that drug law enforcement has "little impact on availability" and "Illicit drug markets are resilient and can adapt to even significant drug and asset seizures".<sup>xiii</sup>

## **People Who Use SCRA Are Being Left Behind:**

12. Focusing on re-classification is a distraction from the more important issues – the sharp rise in drug-related deaths.<sup>xiv</sup> Last year, 61 drug poisoning deaths were registered with a novel psychoactive substance mentioned on the death certificate.<sup>xv</sup>
13. There has been a significant disinvestment in drug services. "Drug misuse treatment" faced more reductions in funding than any other public health area in 2016/17 with a 14% reduction in funding between 2015/16 and 2016/17 and with further cuts planned up to 2020-21.<sup>xvi</sup> Cuts to drug services are a "false economy"<sup>xvii</sup> – Public Health England estimates that for every £1 invested in drug treatment there is a £4 social return.<sup>xviii</sup>
14. It is estimated that central government funding for local authorities reduced by 37.3 per cent between 2010/11 and 2015/16.<sup>xix</sup> As local authorities across England are facing ongoing cuts, other support services for people who use SCRA are at risk, which prevents social inclusion.<sup>xx</sup>

## **Alternatives to Re-classification:**

15. Local authorities across the country need to re-invest in drug services, including young people's services and specialist harm reduction services for people who use drugs. The ACMD has rightly recommended: "mandating drug and alcohol misuse services within local authority budgets and/or placing the commissioning of drug and alcohol treatment within NHS commissioning structures" to protect current levels of investment in drug services across the country.<sup>xxi</sup>
16. To improve life opportunities for people who use SCRA, it is imperative that properly funded schemes around employment, education and housing are implemented.
17. People who use SCRA should be diverted away from the criminal justice system. The diversion scheme in Durham, 'Checkpoint', diverts people after arrest on the condition that they undertake a four-month programme to address their offending behaviour; as long as they comply, there will be no criminal record. Some initial findings from the pilot period found those who were diverted to Checkpoint had lower re-offending rates compared to those who were subject to out of court disposals, such as cautions. Participants in Checkpoint also reported improved outcomes in relation to: substance misuse; alcohol misuse; accommodation; relationships; finances; and mental health.<sup>xxii</sup> Avon and Somerset police have also implemented a street diversion scheme that sees people caught in possession of a controlled drug – regardless of previous convictions – referred to their Drug Education Programme.<sup>xxiii</sup>

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- <sup>ii</sup> Sentencing Council (2012) *Drug Offences Definitive Guideline*, [https://www.sentencingcouncil.org.uk/wp-content/uploads/Drug\\_Offences\\_Definitive\\_Guideline\\_final\\_web1.pdf](https://www.sentencingcouncil.org.uk/wp-content/uploads/Drug_Offences_Definitive_Guideline_final_web1.pdf)
- <sup>iii</sup> Ibid
- <sup>iv</sup> MoJ, HM Prison Service and HM Prison and Probation Service (2018) *Population bulletin: monthly August 2018*, <https://www.gov.uk/government/statistics/prison-population-figures-2018> ; MoJ (2018) *HM Prison and Probation Service workforce quarterly: June 2018*, <https://www.gov.uk/government/statistics/hm-prison-and-probation-service-workforce-quarterly-june-2018>
- <sup>v</sup> House of Commons Library (17 April 2018) *Drug Seizures and Offending: Social Indicators page*, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02619#fullreport>
- <sup>vi</sup> ACMD (2012) *Further Consideration of Synthetic Cannabinoids*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/119042/synthetic-cannabinoids-2012.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/119042/synthetic-cannabinoids-2012.pdf)
- <sup>vii</sup> HM Government (2017) *2017 Drug Strategy*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628148/Drug\\_strategy\\_2017.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628148/Drug_strategy_2017.PDF)
- <sup>viii</sup> HM Government (2017) *An evaluation of the Government's Drug Strategy 2010*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628100/Drug\\_Strategy\\_Evaluation.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628100/Drug_Strategy_Evaluation.PDF)
- <sup>ix</sup> Ibid
- <sup>x</sup> EMCDDA (2018) *New psychoactive substances in prison*, <http://www.emcdda.europa.eu/system/files/publications/8869/nps-in-prison.pdf>
- <sup>xi</sup> Home Office (2018) *Drug misuse: findings from the 2018 CSEW*, <https://www.gov.uk/government/statistics/drug-misuse-findings-from-the-2017-to-2018-csew> ; <http://www.emcdda.europa.eu/system/files/publications/8869/nps-in-prison.pdf>
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- <sup>xiii</sup> HM Government (2017) *An evaluation of the Government's Drug Strategy 2010*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628100/Drug\\_Strategy\\_Evaluation.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628100/Drug_Strategy_Evaluation.PDF)
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