

**EXPLANATORY MEMORANDUM TO
THE MISUSE OF DRUGS ACT 1971 (AMENDMENT) ORDER 2010**

2010 No. [DRAFT]

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order in Council classifies for control under Schedule 2 to the Misuse of Drugs Act 1971 cathinone derivatives including 4- *methylmethcathinone* also known as mephedrone. These substances are classified in Part 2 of the Schedule as Class B drugs (with the exception of cathinone itself and those cathinone derivatives already controlled under the Act, and bupropion).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Misuse of Drugs Act 1971 (“the 1971 Act”) controls drugs that are “dangerous or otherwise harmful”. Schedule 2 to the 1971 Act specifies these drugs and groups them in three categories – Part 1 lists drugs known as Class A drugs, Part 2 contains Class B drugs and Part 3 lists Class C drugs. The three-tier system of classification (A, B and C) provides a framework within which criminal penalties are set with reference to the harm a drug has or is capable of causing when misused and the type of illegal activity undertaken in regard to that drug.

4.2 Section 2 of the 1971 Act enables amendments to be made to the list of drugs controlled under the Act by means of an Order in Council. Such Orders are subject to the affirmative resolution procedure which requires that they be approved by each House of Parliament. Section 2 also provides that the Secretary of State may not recommend the making of such an Order except after consultation with the Advisory Council on the Misuse of Drugs (ACMD).

4.3 The control and classification of cathinone derivatives including mephedrone is predicated on an assessment of harm and in accordance with a recommendation made by the ACMD. The ACMD assessed these substances as harmful drugs, sufficient to justify control under the 1971 Act as Class B drugs. They are structurally similar to amphetamines which are already classified under the 1971 Act as Class B drugs.

4.4 Cathinone (class C), methcathinone (class B), diethylpropion (class C) and pyrovalerone (class B) are already controlled under the Misuse of Drugs Act 1971. They are therefore specifically excluded from this Order. Bupropion is also excluded because of its legitimate uses as an anti-depressant and as an aid to stop smoking.

4.5 It is intended to make two further related statutory instruments which will be subject to the negative resolution procedure. The Misuse of Drugs (Designation) (Amendment) Order 2010 will specify mephedrone and other cathinone derivatives as drugs which have no statutorily recognised medicinal use. The Misuse of Drugs (Amendment) Regulations 2010 will amend the Misuse of Drugs Regulations 2001 to include these drugs.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Home Secretary for the Home Department, Alan Johnson, has made the following statement regarding Human Rights:

In my view the provisions of the Misuse of Drugs Act 1971 (Amendment) Order 2010 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 The ACMD undertook a full assessment of mephedrone and other cathinone derivatives reviewing their status through the examination of their use, pharmacology, physical and societal harms. It found that the harms associated with cathinones derivatives include anxiety and paranoid states, and the risk of over-stimulating the heart and nervous system to cause fits and delusions as well as the risk of dependency. The ACMD's report will be available at <http://drugs.homeoffice.gov.uk/drugs-laws/acmd/>

7.2 The Government has accepted the ACMD's assessment that the harms and misuse of mephedrone and other cathinone derivatives being controlled are commensurate to Class B of the 1971 Act. The maximum penalties for offences relating to a Class B drug set by the legislative framework are - on indictment, for possession, five years imprisonment and for supply, production or trafficking, fourteen years imprisonment and/or an unlimited fine; the maximum penalties on summary conviction for any of these offences are six months imprisonment and/or an unlimited fine.

7.3 By using the generic definition provided by the ACMD, this Order in Council will capture a range of cathinone derivatives and therefore both current and future foreseeable trends. It is also consistent with the UK's legislative approach to other synthetic drugs.

- ***Consolidation***

7.4 None.

8. Consultation outcome

8.1 In light of the urgent need to act to protect public health, no public consultation has been carried out prior to the laying of this Order. In providing its advice, the ACMD consulted a range of experts in this field and concluded that the drugs subject to this Order have no legitimate use.

9. Guidance

9.1 The law changes and their consequences will be communicated to key stakeholders and the wider public, especially young people, in two main ways. The Home Office will issue a Circular with legislative guidance primarily for the police and the courts, while information about the changes will be made widely available via FRANK – the Government's national drugs awareness campaign.

10. Impact

10.1 Mephedrone and the other cathinone derivatives subject to this Order are not assessed to have any legitimate purpose. They are currently sold in ‘headshops’ and over the internet for misuse purposes though often under the guise of being legitimate products; these businesses will lose the income from this trade. Given the relative small numbers of businesses considered to be involved the impact would be negligible.

10.2 The impact on the public sector relates to certain healthcare sectors, the police and criminal justice system. It is expected that there will be some prosecutions in respect of the drugs to be controlled under this Order but also importers and suppliers will self-regulate before the Order comes into effect.

10.3 An Impact Assessment and Equality Impact Assessment are attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business. The harm that can be done through misuse and diversion of these drugs is such that we will expect all businesses to comply with the Order.

12. Monitoring & review

12.1 The Government will monitor the control measures as part of the ongoing Drug Strategy. In tandem with this, the Government will review its public health messages to ensure that they are appropriately targeted and informative.

13. Contact

Angela Scrutton at the Home Office, tel: 020 7035 0458 or e-mail: Angela.Scrutton@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: HOME OFFICE	Title: Impact Assessment of NEW DRUG CONTROLS	
Stage: FINAL	Version: FINAL	Date: March 2010
Related Publications: None		

Available to view or download at: www.drugs.homeoffice.gov.uk

Contact for enquiries: Angela Scrutton

Telephone: 020 7035 0458

What is the problem under consideration? Why is government intervention necessary?

The substances to be controlled – Mephedrone and other cathinone derivatives under the Misuse of Drugs Act 1971 are considered sufficiently harmful, following assessment and advice from the Advisory Council on the Misuse of Drugs, to warrant control measures relating to possession, supply, manufacture and import/exportation with associated criminal sanction. Government intervention is necessary to help protect the public from these substances.

What are the policy objectives and the intended effects?

To control substances considered “dangerous or otherwise harmful” in accordance with the terms of the 1971 Act. The intended effects are to deter use of this substance, particularly by young people, and reduce their availability via supplier “self-regulation” following implementation of control measures as well as enabling law enforcement agencies to undertake appropriate enforcement action, in particular activity to tackle production and supply.

What policy options have been considered? Please justify any preferred option.

Option 1 : No change

Option 2 : Control under the Misuse of Drugs Act 1971 for mephedrone and five other cathinone derivatives which have been encountered in the UK to date.

Option 3 : Control under the Misuse of Drugs Act 1971 for mephedrone and other cathinone derivatives via generic legislation.

Option 3 is the preferred option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The control measures will be reviewed as part of the Government’s ongoing Drug Strategy and through the monitoring of Criminal Justice and national survey statistics to evaluate effects on use and enforcement.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options

Signed by the responsible Minister:

David Hanson

.....Date: 30th March 2010

Summary: Analysis & Evidence

Policy Option: 3

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' It is not possible to monetise the costs of this option from existing data as there is very little data currently available on prevalence and use.
	One-off (Transition)	Yrs	
	£ UNKNOWN		
	Average Annual Cost (excluding one-off)		
	£ UNKNOWN	Total Cost (PV)	£ UNKNOWN
Other key non-monetised costs by 'main affected groups' Potential costs fall to the police and criminal justice system. However, without baseline figures of prevalence, these cannot be quantified at this time. There are no known potential additional administrative costs to the healthcare sector in respect of the use of mephedrone as it currently has no legitimate use.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' It is not possible to monetise the benefits of this option.
	One-off	Yrs	
	£ UNKNOWN		
	Average Annual Benefit (excluding one-off)		
	£ UNKNOWN	Total Benefit (PV)	£ UNKNOWN
Other key non-monetised benefits by 'main affected groups' Control measures bringing about the curtailment of availability of these substances will have benefits across government and society as a whole.			

Key Assumptions/Sensitivities/Risks

None

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		UK	
On what date will the policy be implemented?		April 2010	
Which organisation(s) will enforce the policy?		Police/HO/CJS	
What is the total annual cost of enforcement for these organisations?		£ UNKNOWN	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		N/A	
What is the value of the proposed offsetting measure per year?		£ 0	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	Net Impact	£ NEGLIGIBLE

Kev: **Annual costs and benefits: Constant Prices** (Net) Present Value

This Impact Assessment deals with mephedrone and other cathinone derivatives proposed to be controlled under the Misuse of Drugs Act 1971 by Misuse of Drugs Act 1971 (Amendment) Order 2010 as follows:

MEPHEDRONE AND OTHER CATHINONE DERIVATIVES

Background

Mephedrone and its other cathinone derivatives are part of the 'Cathinone' group of drugs that are 'cousins' of the amphetamine compounds that include MDMA/ 'ecstasy'. Mephedrone hydrochloride salt is a white powder. Its free base is a yellowish liquid at ambient temperature. It is widely sold on the internet, at music festivals and in 'head shops' in a stable, water soluble, white, or lightly coloured hydrochloride salt. The purity of mephedrone supplied over the internet is very high - purportedly about 95%.

In March 2009 the Advisory Council on Misuse of Drugs (ACMD) was commissioned by the Government to look at the harms and availability of so called 'legal highs'. The (ACMD) undertook a full assessment of mephedrone and other cathinone derivatives, reviewing their status through the examination of their use, pharmacology, physical and societal harms. Mephedrone has effects similar to MDMA producing euphoria, alertness, talkativeness and feelings of empathy. It can also cause anxiety and paranoid states and risk over-stimulating the heart and nervous system to cause fits and delusions. Severe nosebleeds have been reported after snorting. Mephedrone also has potential dependence liability. There have been at least 25 deaths in the UK where cathinones have been implicated

The Government has accepted the ACMD's assessment that the harms and misuse of mephedrone and its other cathinone derivatives are commensurate to Class B of the 1971 Act. This is the middle category of control under the 1971 Act. The maximum penalties for offences relating to a Class B drug set by the legislative framework are - for possession, the maximum penalty on indictment is five years imprisonment and for supply, production and trafficking, the maximum penalties on indictment are fourteen years imprisonment and/or an unlimited fine. The maximum penalties on summary conviction are six months imprisonment and/or an unlimited fine.

The ACMD advised that several of the related cathinone derivatives are being misused or capable of being misused in the UK. These are listed below and will be subsumed by the generic definition proposed by ACMD;

4-Methylmethcathinone (Mephedrone)

4-methoxymethcathinone (bk-PMMA/ methedrone)

3-Fluoromethcathinone

2-methylamino-1-(3,4-methylenedioxyphenyl)propan-1-one (bk-MDMA/methylone)

2-methylamino-1-(3,4-methylenedioxyphenyl)butan-1-one (bk-MBDB/butylone)

Methylenedioxyprovalerone (MDPV)

A number of countries including Sweden, Denmark, Norway, Estonia, Croatia, Germany, Netherlands, Romania and Israel currently control mephedrone and one or more related cathinone derivatives under their respective domestic legislation. A list of other countries, including Ireland and Hungary, are also moving towards controlling these substances.

As mephedrone is not controlled to date under the 1971 Act, there is no population or household survey data collection. A small-scale study of club-goers has shown that mephedrone is popular amongst young people in the UK and that it is viewed favourably in comparison to cocaine. Whilst it is difficult to say whether seizure data is a direct indication of prevalence and use or more reflective of enforcement action, it is an indicator in the absence of further information. The UK forensic services reported an increasing trend in seizures from 2 in 2008 to 20 in the first half of 2009 and then 600 in the second half

of 2009 (amounting to 37 kilograms of powder mephedrone). This accounted for 88% of synthetic cathinones seized over the period. Mephedrone, MDPV and methylone seizures collectively represented over 97% of seizures and total weight of synthetic cathinones in 2009.

Concerns around mephedrone have been very publicly raised as the media has widely reported increased prevalence. Availability appears to have increased significantly following the sudden appearance of a number of internet sites marketing mephedrone and other cathinone derivatives and their recent implication in a number of drug related deaths. A targeted internet search for online shops conducted in December 2009 in English showed that at least 31 websites were selling the substance; the majority of them were dedicated mephedrone sites based in the UK. An identical search in March 2010 showed 78 online shops, half of which sold mephedrone both in retail and bulk quantities. The vast majority of sites (about 90-95%) specialised in synthetic cathinones. This includes numerous sites aggressively offering bulk purchases of the drug at discount prices. There is also evidence of University campuses being targeted with leaflets and offers as the drug gains popularity.

Notwithstanding the potential harms of the cathinone derivatives it is apparent that mephedrone is being sold without any apparent effective regulation. It is predominantly sold over the internet and in 'head shops'. Websites selling mephedrone normally exhibit a disclaimer that the compounds 'are not for human consumption'. Instead, they are sold as research chemicals, 'novelty bath salts' or, more commonly, as plant food/plant growth regulators. These forms of advertising are simply ruses used by sellers to try and dodge medicines and poisoning legislation by saying that the substance is not being sold for human consumption. The Medicines and Healthcare products Regulatory Agency (MHRA) has confirmed mephedrone does not fit the definition of a medicinal product as it is marketed as 'not for human consumption'.

Both the European Fertiliser Manufacturers' Association and the Agricultural Lime Association have confirmed that there is no use for mephedrone as a plant food or plant growth regulator. It is understood that mephedrone has no known medical use (human or veterinary) in the European Union. The Advisory Council on the Misuse of Drugs has confirmed that none of the cathinones have any recognized efficacy as a plant fertilizer nor would they suitably function as bath salts.

A joint European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol evidence gathering and evaluation process is currently underway with regard to mephedrone. Reports on mephedrone and related cathinone derivatives and analogues from Member States will be published on 7th April ahead of formal presentation to the Council of Europe, the European Commission and European Medicines Agency. Findings from the EMCDDA-Europol report will lead to a decision on whether to commission a formal risk-assessment to provide member states with further information on the harms of these substances.

Rationale for intervention

The case for intervention through control measures under the 1971 Act can be examined in relation to potential harms and misuse of the drug.

- *Use of mephedrone and other cathinone derivatives is associated with a range of physical and psychological harms and hazards.* There are risks associated with the use of any stimulant substance. Whilst the data is limited, clinical reports suggest that mephedrone users suffer a range of adverse reactions such as anxiety and paranoia and risk over-stimulating the heart and nervous system to cause fits and delusions. Severe nosebleeds have been reported after snorting. The effects of the drug are more severe when combined with alcohol.
- *To restrict the availability of mephedrone and other cathinone derivatives and to deter their use.* Control measures will send a clear message to users, including young people, that these drugs are potentially harmful.

Objective

The measure to control mephedrone and other cathinone derivatives under the Misuse of Drugs Act 1971 (and the Misuse of Drugs Regulations 2001 as amended) is to support the overarching aim of UK drugs laws - to protect individuals and society from the harmful effects of dangerous or otherwise harmful drugs. Mephedrone and other cathinone derivatives have been shown to be substances of misuse.

Options and Appraisal

3 options have been considered in respect of mephedrone and other cathinone derivatives.

Option 1- Do nothing

This option is not acceptable to Government nor was it supported by ACMD advice. The UK Government would not be acting to protect the public from the serious harms associated with the use of these substances if this option is adopted.

Option 2- Control mephedrone only under the Misuse of Drugs Act 1971 as a Class B drug (and Schedule 1 to the Misuse of Drugs Regulations 2001 (as amended))

This option is not acceptable to Government nor was it supported by ACMD advice. It does not reflect the UK Government's approach to synthetic drugs where it looks to control the family of compounds (e.g. cannabinoids and MDMA). Failing to introduce generic controls on cathinone derivatives is likely to see those controlled quickly replaced by non-controlled but harmful derivatives.

This option can be extended to include all the cathinone derivatives or analogues, listed below, which have been encountered in the UK to date;

4-Methylmethcathinone (Mephedrone)
4-methoxymethcathinone (bk-PMMA/ methedrone)
3-Fluoromethcathinone (Flephedrone)
2-methylamino-1-(3,4-methylenedioxyphenyl)propan-1-one (bk-MDMA/methylone)
2-methylamino-1-(3,4-methylenedioxyphenyl)butan-1-one (bk-MBDB/butylone)
Methylenedioxypropylone (MDPV)

This option is also not acceptable to Government as it again fails to deal with future development and availability in the UK of derivatives these substances.

Option 3 - Control mephedrone and other cathinone derivatives by means of a generic definition under the Misuse of Drugs Act as Class B drugs (and Schedule 1 to the Misuse of Drugs Regulations 2001 (as amended))

This option is proposed to Parliament as the Government's preferred option and is supported by the ACMD's advice. The use of generic legislation in controlling these substances provides the strongest controls of cathinone derivatives, including mephedrone, which may be available now or are yet to be developed.

Costs

The sale and supply of mephedrone is currently lawful under the MDA. However, mephedrone and other cathinone derivatives (excluding bupropion which is not included in the Order) are known to have no legitimate use or purpose.

Costs in respect of option 3 are as follows;

- *To law enforcement and CJS in respect of enforcement against the illicit market.*

Any real costs associated with Option 3 cannot be predicted. Not only is the scale of the availability of mephedrone and other cathinone derivatives unknown, but the impact on the police and consequently the CJS is dependent on the policing response to its control as Class B drugs.

Whilst the Association of Chief Police Officers is considering the policing response with a view to updating the current policing 'legal highs' practitioner advice on the enforcement approach; training and forensic issues, it is expected in the absence of spare capacity within the CJS, the enforcement response will be managed within existing resources, informed by policy and operational prioritisation. The police and other law enforcement agencies will prioritise resources towards tackling crime, including drugs crime with a focus on those offences which cause the most harm. As such, operational activity may focus on Class A and B drugs. It is also envisaged that enforcement activity will be directed towards supplier and manufacturers of these substances rather than possession for personal use.

As indicated above, there is currently no population or household survey data collection. However, some small-scale survey data on club-goers provides us with limited information on this population group. The data suggests that mephedrone is a popular drug amongst the young and that it is viewed favourably in comparison to cocaine.

- *Business impact*

Mephedrone and other cathinone derivatives are predominantly sold in 'headshops' and over the internet. This proposal will effectively remove the legal market for these substances. 'Headshops' and internet businesses currently selling these substances will lose the income from this trade. Given the small numbers of businesses involved the impact would be negligible.

Benefits

The overarching benefit of this proposal is that controls should help reduce the supply and use and thus limiting potential harm to individual misuser's health, with associated costs of treatment and care. It will also aid detection and monitoring of the manufacturing and trafficking of these substances.

Control of these drugs under the 1971 Act sends a clear message to users, including young people who may be considering using, as well as to those selling them. Young people in particular may often equate legal with "safe" and do not always understand that these drugs carry real risks. Control will re-enforce our educational messages about the harms of these drugs. There are also potential additional but difficult to measure benefits, for example, improvements in health of a person may enhance an individual's ability to work, career progression and day to day social activities.

Whilst there is no current direct evidence that mephedrone cause any *significant* social harms such as acquisitive crime and anti-social behaviour, controlling the substances under drugs legislation may have some further social benefit in protecting the public.

IMPLEMENTATION

Subject to Parliamentary approval, the Misuse of Drugs Act (Amendment) Order 2010 will come into force on 16th April 2010.

MONITORING & EVALUATION

The Government will monitor the control measures as part of the ongoing Drug Strategy.

FEEDBACK

Information for the purposes of evaluation will be gathered from Criminal Justice and national surveys (such as the British Crime Survey) in each UK country to evaluate effects on use and enforcement; further consideration and advice from the ACMD.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Annexes

List of References

None



Equality Impact Assessment

Preliminary Screening

Statistics & Research

Gathering Evidence through Community Engagement

Assessment & Analysis

Action Plan

The EIA Report



EQUALITY IMPACT ASSESSMENT
Group: Crime and Policing Group
Directorate: Drugs, Alcohol and Partnerships Directorate
Unit: Drug Strategy Unit

PRELIMINARY SCREENING

Date of Screening	2010
Name of Policy Writer	Angela Scrutton
Director General	Stephen Rimmer

Name of Policy	<input checked="" type="checkbox"/>	This is a new policy
	<input type="checkbox"/>	This is a change to an existing policy
	<input type="checkbox"/>	This is an existing policy

Policy Aims, Objectives & Projected Outcomes
To control mephedrone which is considered “dangerous or otherwise harmful” in accordance with the terms of the Misuse of Drugs Act 1971. Mephedrone is part of the ‘Cathinone’ group of drugs that are ‘cousins’ of the amphetamine compounds that include MDMA/ ‘ecstasy’. The intended objectives are to deter use of mephedrone, particularly by young people, and to reduce their availability via supplier “self-regulation” following implementation of control measures as well as enabling law enforcement agencies to undertake appropriate enforcement action, in particular activity to tackle production and supply.

Will the policy have an impact on national or local people/staff?	YES
Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy	YES
Are there any aspects of the policy that could contribute to equality or inequality?	Unknown
Could the aims of the policy be in conflict with equal opportunity, elimination of discrimination, promotion of good relations?	NO
If this is an amendment of an existing policy, was the original policy impact assessed?	N/A

If your answer to any of these questions is **YES**, go on to the full EIA.

If you have answered **NO** to all of these questions then please attach the following statement to all future submissions and within your regulatory impact assessment and ensure it is signed off by senior management.

“This policy was screened for impact on equalities on [insert date]. The following evidence [Evidence] has been considered. No full equality impact assessment is required. “

Remember that all policies that are likely to have a significant impact on individuals and the public as a whole are likely to require a full EIA.

FULL IMPACT ASSESSMENT

STATISTICS & RESEARCH

What relevant quantitative & qualitative data do you have in relation to this policy?

Equality Target Areas	How does the data identify potential or known positive impacts? How does the data identify any potential or known adverse impacts?
Race (consider e.g. nationalities, Gypsies, Travellers, languages)	None at present. To our knowledge, no data is available on race in relation to the use of this substance. It is not anticipated that the change in policy will have any disproportionate impact on race.
Disability (consider social access and physical access)	None at present. To our knowledge, no data is available on disability in relation to the use of this substance. It is not anticipated that the change in policy will have any disproportionate impact on disability.
Gender	None at present. It is not anticipated that the change in policy will have any disproportionate impact on gender.
Gender Identity	None at present. To our knowledge, no data is available on gender identity in relation to the use of these substances. It is not anticipated that the change in policy will have any disproportionate impact on gender identity.
Religion and Belief	None at present. To our knowledge, no data is available on religion and belief in relation to the use of these substances. It is not anticipated that the change in policy will have any disproportionate impact on religion and belief.
Sexual Orientation	None at present. To our knowledge, no data is available on sexual orientation in relation to the use of these substances. It is not anticipated that the change in policy will have any disproportionate impact on sexual orientation.
Age	Indications from small-scale surveys (e.g. Mixmag, Frank Website) and anecdotally suggest young people are the largest consumers of these substances. The change in policy will protect the huge number of young people currently using

	<p>these substances or intending to do so from the harms caused by these substances.</p> <p>It is not anticipated that the change in policy will have any significant adverse impact on this group of users.</p>
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What research have you considered commissioning to fill any data gaps?

The gathering of quantitative data on use amongst the population is needed to inform this area. Each of the major general population surveys on drugs or crime in the UK countries are planning to include a question on mephedrone use in their next fieldwork cycle. For example, questions asking about last year use of mephedrone will be asked on the British Crime Survey from April 2010.

As part of our 2008 national drug strategy, "*Drugs: protecting families and communities*", the Government agreed to consider conducting a qualitative analysis of the sources of data and information relating to diversity that are available at a national and local level.

To ensure Drug Strategy expectations that the needs of all members of the community should be properly understood and met, we have put in place a consultative framework to ensure equality issues can be addressed coherently. We therefore re-launched in 2009 the Drug Strategy Equality Forum with a membership that can better reflect the full range of key equality groups than ever before. Key priorities for the Forum are to look across the Drug Strategy and drive delivery of our equality commitments, which include the development of a Drug Strategy Equality toolkit; review of ongoing equality research needs and identification of effective communications and case studies of effective practice.

Who are the stakeholders, community groups, staff or customers for this policy area?

- Drug users, their children, their families and all members of communities impacted by illegal drug use.
- Practitioners working in drug treatment services.
- Advisory Council on the Misuse of Drugs (ACMD).
- The National Treatment Agency for Substance Misuse (NTA).
- Primary Care Trusts (PCTs).
- Inter-agency drug action teams and local partnerships, including Drug Action Teams (DATs), Drug and Alcohol Action Teams (DAATs) and Crime and Disorder Reduction Partnerships (CDRPs).
- Enforcement agencies and all parts of the Criminal Justice System.
- Educational institutions.
- Local Authorities.
- The Home Office.
- Department of Health.
- Department for Children, Schools and Families,
- Ministry of Justice.
- Department for Work and Pensions.
- Department for Communities and Local Government.
- Other UK governments – Wales, Scotland and Northern Ireland.
- Charity and voluntary groups.

What are the overall trends and patterns in this qualitative & quantitative data?

As this substance is not controlled to date under the Misuse of Drugs Act 1971, there is no robust available evidence to evaluate the overall trends and patterns.

There is limited and non-representative data available from a survey of club-goers which reported that respondents were mostly male (69%) and young; the mean age of first use was 23.

Data on the drugs helpline, FRANK, shows that calls regarding cathinones have increased week-on-week for the past four months. Cathinone is now the second-most enquired about drug to the FRANK after cannabis.

The FRANK data also shows that of callers phoning about cathinones for themselves (as opposed to on behalf of a third party) two-thirds were male; the largest proportion of these callers disclosing their age were aged 19-25 followed by the 15-18 age group.

Please list the specific equality issues that may need to be addressed through consultation (and further research)?

The key research issue is prevalence of use; once this has been established through gathering of quantitative data it can be established whether any further research is needed.

GATHERING EVIDENCE THROUGH COMMUNITY ENGAGEMENT

INTERNAL STAKEHOLDER ENGAGEMENT: Consulting & involving Other Government Departments, Staff, Agencies & NDPBs

Does this policy affect the experiences of staff? How? What are their concerns?	
Staff	Bringing these substances under the control of the Misuse of Drugs Act 1971 could affect staff in treatment services, in enforcement agencies, in education and children’s services, staff throughout the criminal justice system and those concerned with benefits and needs assessment and provision.
Staff Networks & Associations	-----
Trade Unions	-----

How have you consulted, engaged and involved internal stakeholders in considering the impact of this proposal on other public policies and services?
The control measures to be introduced are in line with ACMD advice, following consultation with them. The ACMD did not raise any concerns about adverse impact on equality.

What positive and adverse impacts were identified by your internal consultees? Did they provide any examples?
No positive or adverse impacts have been identified.

EXTERNAL CONSULTATION & INVOLVEMENT

How did your engagement exercise highlight positive and negative impacts on different communities?	
Voluntary Organisations	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on local communities and voluntary organisations through raised awareness of these substances.
Race	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on race.
Faith	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on faith.
Disability Rights	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on disability rights.
Gender	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on gender.
Gender Identity	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on gender identity.
Sexual Orientation	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on gender identity.
Age	<ul style="list-style-type: none">• No concern expressed in response to the public consultation over the impact of controlling these drugs on age.

ASSESSMENT & ANALYSIS

Does the EIA show a potential for differential impact on any group(s) if this proposal is introduced? If Yes, state briefly whether impact is adverse or positive and in what equality areas.

EIA highlights the absence of robust data and refers to the potential for greater impact on young people.

What were the main findings of the engagement exercise and what weight should they carry?

The engagement exercise showed support for control measures for these drugs, but did not raise any findings associated with equality issues.

Does this policy have the potential to cause unlawful direct or indirect discrimination? Does this policy have the potential to exclude certain group of people from obtaining services, or limit their participation in any aspect of public life?

Bringing this substance under control of the Misuse of Drugs Act 1971 will not cause unlawful discrimination. The Secretary for the Home Department, Alan Johnson, has made the following statement regarding Human Rights: "In my view the provisions of the Misuse of Drugs Act 1971 (Amendment) Order 2010 are compatible with the Convention rights."

How does the policy promote equality of opportunity?

Control will help to deter use, improving an individual's health and should therefore enhance an individual's ability to work, career progression and day to day social activities.

How does your policy promote good relations? How does this policy make it possible for different groups to work together, build bridges between parallel communities, or remove barriers that isolate groups and individuals from engaging in civic society more generally?

The Government's decision to classify this substance under the Misuse of Drugs Act 1971, subject to parliamentary approval, is necessary to help protect the public from these substances.

How can the policy be revised, or additional measures taken, in order for the policy to achieve its aims without risking any adverse impact?

See Action Plan.

Are there any concerns from data gathering, consultation and analysis

that have not been taken on board?

No.

ENSURING ACCESS TO INFORMATION

How can you ensure that information used for this EIA is readily available in the future?

(N.B. You will need to include this in your action plan)

- The full report on the equality impact assessment will be made available for those reviewing the policy at different stages.

How will you ensure your stakeholders continue to be involved/ engaged in shaping the development/ delivery of this policy?

(N.B. You will need to include this in your action plan)

- There is continual liaison with both internal and external stakeholders. This engagement will continue.

How will you monitor this policy to ensure that the policy delivers the equality commitments required?

(N.B. You will need to include this in your action plan)

- The control measures will be reviewed as part of the Government's ongoing Drug Strategy and through the monitoring of Criminal Justice and national survey statistics to evaluate on use and enforcement.
- Prevalence data for each UK country will become available from 2011 following the inclusion of questions on mephedrone use into the respective surveys during 2010.

Now submit your EIA and related evidence for clearance.

ACTION PLAN

Recommendations	Responsibility	Actions required	Success Indicators	Target Date	What progress has been made?
Data Collection	Home Office Scottish Government DHSSPS (Ireland)	Inclusion of new questions in the national drug/crime surveys (such as the British Crime Survey) to monitor future prevalence. Monitor through survey and Criminal Justice System statistics	Up-to-date data and routine data on drugs usage available	Ongoing	
Publication Arrangements	Home Office Drug Strategy Unit	Publish summary of EIA along with final strategy	EIA on Home Office website	March 2010	
Monitoring & Review Arrangements	Local partnerships, commissioners and service providers	Local providers to establish monitoring systems across diversity strands	Improved baseline and continuing data	Ongoing	
Monitoring & Review Arrangements	Home Office Drug Strategy Unit	Engage with Drug Strategy Equality Forum Panel to raise new drugs controls as an issue for Equality toolkit	New drug controls discussed at both forums and covered within the toolkit	March 2010	
Equality	Home Office Drug Strategy Unit	Engage with the Drug Strategy Forum to raise awareness of new controlled drugs	Drug Strategy Forum raises awareness of new controlled drugs	Autumn 2010	

Research	Home Office Drug Strategy Unit	Ensure new drugs controls are considered as part of wider equality research plans of Drug Strategy Equality Forum and Cross-Government Research Programme on Drugs	New drugs controls are considered as part of the forum and programme	March 2010	
Consideration by Cross Government Research Programme on Drugs (CGRPD)	Home Office (RAU)	Consideration of future prevalence data by the CGRPD Strategic Board	Appropriate research issues identified	2011/2012	
Research	ACMD	Continuing consideration of so called "legal highs" with overarching advice on a number of areas including public health issues/messages, analytical challenges and availability.	Improved understanding of drug harms	Ongoing	

THE EQUALITY IMPACT ASSESSMENT REPORT

Background:

On 29 March 2010, the Government announced its intention to classify mephedrone – under the Misuse of Drugs Act 1971. This decision reflects the fact that this substance is considered sufficiently harmful, following assessment and advice from the Advisory Council on the Misuse of Drugs, to warrant control measures relating to possession, supply, manufacture and import/exportation with associated criminal sanction. Government intervention is necessary to help protect the public from these substances.

The Government is tackling drug use through a comprehensive package of measures as part of our national drug strategy, *“Drugs: protecting families and communities”*, including prevention, education, early intervention, enforcement, treatment and reintegration.

Methodology:

The Equality Impact Assessment was informed by the advice from the Advisory Council on the Misuse of Drugs’ reports on mephedrone.

Consultation & Involvement:

None besides ACMD advice – The Government needed to act quickly to control this substance

Assessment & analysis

None at this time.

Recommendations

See Action Plan.