

National Assembly for Wales

Health and Social Care Committee

Inquiry into new psychoactive substances (“legal highs”)

Evidence from Welsh Government – LH AI 04

Further to your e-mail about the committee’s interest in trading standards issues below, please see attached note for circulation to Chair and Members prior to the meeting tomorrow please. Apologies for the lateness of this note:

The Committee has indicated that, as part of its current inquiry into new psychoactive substances, members would like to explore the role of trading standards with the Minister for Health and Social Services when he attends to give evidence on 26th November. Given that trading standards operate against a backdrop of UK legislation that is very largely non devolved the Minister thought it would be helpful to briefly outline the policy and legislative context in advance.

Trading standards are a local government service which largely operates within non-devolved areas of policy and legislation. Trading standards officers enforce a diverse range of legislation ranging from EU Directives governing the delivery of goods and services across national and international boundaries and UK Government legislation and regulations on non devolved issues such as weights and measures, prices, consumer credit and product safety. The Welsh Government makes regulations on a limited number of specifically devolved issues such as animal health, food standards and food safety.

The Assembly does not have competence to legislate for consumer protection generally. Consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indications, apart from in relation to food (including packaging and other materials which come into contact with food), agricultural and horticultural products, seeds, fertilisers and pesticides (and things treated by virtue of any enactment as pesticides) is listed as an exception to the subject of ‘economic regeneration and development’ found at paragraph 4 of Schedule 7 to the Government of Wales Act 2006. Therefore, unless a matter is devolved to the Assembly, the Assembly does not have legislative competence in these areas, which are generally dealt with by a local authority’s trading standards department.

In terms of the role of trading standards in tackling new psychoactive substances, we understand that local officers rely largely on UK legislation relating to consumer protection and product safety to take any enforcement action necessary. Whilst we understand the difficulties and frustration of trading standards officers working in this area I thought it would useful if the Committee was made aware of the limitations around the powers of Welsh Ministers and the competence of the Assembly to shape the legislative framework. That said, the Minister for Health and Social Services is keen to use every policy lever available to support trading standards officers in their effort to combat the effect of NPS on communities in Wales.

Diolch,