House of Commons

Home Affairs Committee

Khat: Government Response to the Committee's Eleventh Report of Session 2013–14

Seventh Special Report of Session 2013–14

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Home Affairs Committee

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Seventh Special Report

On 29 November 2013 the Home Affairs Committee published its Eleventh Report of Session 2013–14, *Khat* (HC 869). The Government's response to the Report was received on 13 March 2014, and is published as an Appendix to this Special Report.

Appendix A: Government response

Letter from Rt Hon Theresa May MP, Home Secretary, 13 March 2014

I am writing to provide the Government's formal response to the Home Affairs Select Committee's report on khat published on 29 November 2013.

I welcome the Committee's consideration of some of the issues associated with khat in the UK.

I have made clear that the decision to ban khat was finely balanced. Having reviewed the Committee's report, I am not persuaded to reconsider my decision which was made following an extensive consultation process and careful consideration, not least because of the breadth and complexity of the issues associated with khat in the UK and abroad.

The Government has developed a wider framework to address the concerns and issues associated with khat and support the affected communities in England. I set this out in my further response to the advice from the Advisory Council on the Misuse of Drugs (ACMD) to Government on khat, published on 20 November 2013, which the Committee appears not to have seen prior to issuing its report.[1]

I am aware that, following the publication of your report, the Committee received representations from 32 organisations of the UK Somali Network. They represent large sections of the British Somali diaspora who share the view that the control of khat can deliver real and positive changes on family life, community cohesion, health and economic outcomes and can promote integration. Indeed, it was the concerns expressed by some of these organisations that I considered, alongside the ACMD's advice and broader policy factors, before making my decision last year.

The Committee has also received representations made on behalf of the Kenyan Government, which is concerned that the UK's decision may have an adverse impact on its khat industry. I acknowledge their particular concerns about the people and economy of Meru County in Kenya. The UK is providing assistance to Meru County through the Kenyan Market Access programme. However, we cannot ignore the facts that the UK's current position is being exploited by the international khat trafficking trade and that this places UK interests at risk.

[1] Appendix B

The Committee acknowledges this risk in its report, stating that "there is good evidence to suggest that this argument is correct" and citing the example of the Netherlands, where khat was banned last year. I welcome its support for the need to address this threat. It remains clear to me that without robust Government intervention to tackle this issue the UK will be at serious risk of becoming a single, regional hub for the smuggling of khat to countries which have banned it to protect their own citizens from harm.

Conclusion/Recommendation 1

We recommend that the Home Office publish a unified strategy for addressing the multiple disadvantages faced by the Somali diaspora in the UK, drawing on the areas identified by the Advisory Council on the Misuse of Drugs and previous research in this area. (Paragraph 21)

taken with

Conclusion/Recommendation 2

We recommend that the Home Office establish a framework for evaluating the impact of the khat ban on police/community relations, including recording the frequency with which on-street police powers such as stop and search are used; the number of arrests, out-of-court disposals and convictions for khat-related offences; and community attitudes to the police. Data should be published annually. (Paragraph 22)

taken with

Conclusion/Recommendation 3

We recommend that evidence presented by the Advisory Council on the Misuse of Drugs be given a more comprehensive Government response and used more extensively in the Secretary of State's decision-making process (…) (Paragraph 23)

A further response to the ACMD's recommendations to Government on khat was issued on 20 November 2013. In this letter I set out our wider response to the issues faced by local communities where khat is causing concern. A copy of that letter is annexed to this response.[2] Our response to the ACMD was informed by the full consideration of its findings, which have helped us to gain a better understanding of the related issues and informed cross-government deliberations which have included the Department of Health, the Department for Communities and Local Government, and the Department for Work and Pensions.

Besides the health and community-based interventions that we will continue to promote and support, we acknowledge the wider issues faced by the affected communities as well as the need to respond sensitively to concerns about khat and vulnerable users. My further response to the ACMD therefore explains how, by removing khat from affected communities, and building on approaches to address khat-related issues, we will continue to deliver our equalities and integration strategies to engage and support these communities in pursuing equality of opportunities and chances in life. It further sets out

[2] Appendix B

briefly the escalation framework for the proportionate and consistent policing of khat possession offences, supported by timely Government messaging and targeted communications about the risks associated with khat and the services locally available for users and their families.

As recommended by the ACMD, we have committed to reviewing the impact of our policies by monitoring seizure and treatment data which are published annually. We do so for all drugs, although in the case of khat we will look to monitor the impact locally and nationally in more detail where appropriate. My Chief Scientific Adviser also wrote to the relevant Research Councils and the Government's Chief Medical Officer to bring to their attention the ACMD's recommendation that further research will be needed to understand the links between khat and the associated harms. We are exploring the possibility of monitoring the use of khat among the general population by reintroducing a question on use to the drug misuse module of the 2014/15 Crime Survey for England and Wales.

Conclusion/Recommendation 3

(…) and that the ACMD should be allowed to review annually decisions taken by the Secretary of State with a view to recommending whether the control should be removed, retained or moved to another class. (Paragraph 23)

Under the Misuse of Drugs Act 1971, the ACMD is under a statutory duty to keep under review the situation in relation to all drugs, including controlled drugs. The ACMD can of course advise Government on drug-related issues of its own volition which Ministers will consider and respond to. However, I am not persuaded that decisions made on drug control – most often in line with the ACMD's own recommendation, and always scrutinised and approved by Parliament – need to be subject to a systemised and frequent review. Where there is merit in reviewing the status of a drug's control, more particularly where the evidence has developed over time, we have taken such action. I draw your attention to the ACMD's latest advice on ketamine which I commissioned.

Conclusion/Recommendation 4

We recommend that the Government enter into urgent discussions with the Kenyan Government and international aid agencies to understand the impact of the UK's khat ban on khat-growing areas, and stand ready to delay or reverse its proposed ban if necessary in order to prevent any negative impact. (Paragraph 24)

taken with

Conclusion/Recommendation 5

We recommend that the Government introduce a scheme for licensing the importation of khat to the United Kingdom, instead of controlling khat under the Misuse of Drugs Act 1971. (Paragraph 25)

Although I acknowledge the Committee's reasoning behind these recommendations, the Government's decision to control khat is of course primarily concerned with the protection of UK interests and UK citizens.

Licensing the importation of khat would not address the public concerns about its prevalence in local communities. It would not provide the necessary and strongest response to tackle the risk of the UK being the single, regional trafficking hub for khat. It should also be remembered that the two active ingredients of the khat plant are controlled Class C drugs because they are harmful. Moreover, in the context of our Drug Strategy aims to reduce all drug use, such an approach would be entirely inconsistent with our wider approach to drug issues, including public health messaging on drug misuse and inequalities in the UK.

We have discussed the proposed ban with the Kenyan Government on a number of occasions. Notably, on 17 September 2013, the Foreign Secretary discussed the matter with his Kenyan counterpart, Amina Mohamed. On 20 November 2013 his officials also met the Kenyan Parliamentary Select Committee on khat when they visited the UK.

I appreciate the associated concerns about the livelihood of khat farmers in Meru County. The UK is delivering a number of projects in Meru County through the Kenya Market Access programme intended to better enable low-income households to participate in a range of value added markets. Current support includes work on aquaculture, livestock and improving the productivity of agricultural communities in Kenya. The Government is considering how best to improve the commercialisation of rangelands, including through supporting investment in the livestock value chain, tourism and leisure as well as other value added markets. This should help the Government to achieve our objective of lifting the poorest Kenyans out of poverty and provide Kenya with an exit from aid.

For these reasons, I remain satisfied that the decision to control khat is the right one. Mindful of the broader policy framework to address the issues associated with khat, and having weighed up the wider risks and issues concerning khat and the UK's position (including the potential impact of control), I have decided to make no change to my decision, and not to delay the introduction of the ban.

I am copying this to the Prime Minister, Deputy Prime Minister, Foreign Secretary, Secretary of State for Communities and Local Government, Secretary of State for Work and Pensions, Minister for Integration, Minister for Public Health, Minister for Crime Prevention, Minister for Security, Chief Constable Andy Bliss and Devolved Administrations.

Rt Hon Theresa May MP,
Home Secretary,
13 March 2014

Appendix B: Letter from the Home Secretary to the Advisory Council on the Misuse of Drugs

Letter from Rt Hon Theresa May MP, Home Secretary, to Professor Les Iversen, Chair, Advisory Council on the Misuse of Drugs, 20 November 2013

GOVERNMENT RESPONSE TO ACMD ADVICE ON KHAT

I wrote to you on 3 July to respond to the ACMD's advice on the potential harms of khat in relation to control under the Misuse of Drugs Act 1971. In the letter, I set out the reasons for the decision to control khat as a Class C drug. The Government has now laid the draft legislation before Parliament for the control of khat to come into force across the UK in early 2014.

I also committed to consult more widely across Government on the ACMD's other recommendations and to provide a full response. The Devolved Administrations have also received the ACMD's report on khat to consider these other recommendations which relate to their delegated responsibilities. I set out below the Government's response to the ACMD's advice on the potential harms associated with khat use, as well as the wider community concerns in England.

The ACMD made recommendations for locally-led policies and community-based interventions to address the potential harms of khat. I am pleased to have received supportive responses from across Government and local organisations to these recommendations. In my view, they confirm that, despite the challenges posed by the paucity of evidence on harm, the ACMD's report has also helped us to better understand the issues affecting local communities where the prevalence of khat is causing concern.

Overall context

The Government has carefully considered the ACMD's findings and all available evidence to inform our policy approach in local communities, within the context of the pending control of khat. We have been mindful to ensure that our response is aligned to the Government's 2010 Drug Strategy and Equality Strategy. The Government moved away from a focus on social identification and background to recognising people as individuals, breaking down the barriers to social mobility and giving them equal opportunities to succeed. We are also giving local authorities the freedom and responsibility to meet the needs of the diverse communities that they serve. Government departments will therefore support local authorities to explore and commission services that are tailored to the needs of khat users, their families and communities.

Health risks and prevalence

Public Health England (PHE) will lead on identifying opportunities to raise awareness of the potential harms of khat and associated community needs at a local level. PHE has developed the Joint Strategic Needs Assessment (JSNA) guidance and data for local public health commissioners which include information about khat. Additional PHE advice to local areas where khat may be misused will cover a range of issues highlighted by the ACMD, including the need to:

- Ensure that treatment providers are competent to support people whose khat use is problematic;
- Alert clinicians in Mental Health services to the scope for khat to complicate treatment of existing mental health problems; and
- Alert midwives and health visitors to the risk of potential harm to the child from khat use in pregnant women or breast-feeding mothers.

PHE will further support local areas in England where there are centres of khat use and related concerns, so that local commissioners and providers take appropriate action. In particular, we will ensure that local public health officials in these areas receive updates on the timeline to the control of khat so that they can prepare for a potential influx of users seeking help once they find that khat is no longer available. For example, we will use *NHS News* to alert them including primary care staff to signpost khat users and their families to the support services available to them.

Further to the ACMD's recommendation, khat use among those seeking treatment is already included in the regular monitoring provided by treatment agencies for national statistics, service providers and commissioners. In its support for local areas, PHE will draw to commissioners' attention the ACMD's advice about regular monitoring and publication. PHE will also produce bespoke reports for individual areas including detailed data about their in-treatment clients to help inform the annual commissioning process.

Commissioners are expected to understand local treatment needs and plan services accordingly. Any numbers of khat users currently in treatment can indicate the local areas where khat use has been the most prevalent, as well as any emerging demand for treatment in the lead up to and following the control of khat. Even a small increase in such demand will need to be considered amongst new and emerging drug trends and, as necessary, influence local commissioning plans.

The ACMD further recommended that local law enforcement agencies monitor the prevalence of khat use, as part of regular monitoring, to inform future research and respond to local concerns. The Home Office will continue to monitor the situation in relation to khat. Relevant data will be gathered through licensing and compliance activities as well as law enforcement seizures and treatment data – as we do with other drugs. My Chief Scientific Adviser will also write to Research Councils to draw their attention to the ACMD's comment on the need to better understand the harms of khat.

As part of its considerations on local public health approaches, the ACMD also provided advice on education and prevention initiatives specific to khat. Accordingly, earlier this

year, the Department of Health updated the references made to the risks and potential harms associated with khat on the FRANK website.

The Department for Education is also funding Mentor UK's Alcohol and Drug Education and Prevention Information Service (ADEPIS), which is run in partnership with DrugScope and Adfam. As well as promoting the Education and Prevention Template which the ACMD reproduced at Annex D of its report, ADEPIS will continue to provide its toolkit for schools. Appendix B of the toolkit contains a checklist for reviewing drug education which contains the following prompt: "Has the local context been taken into account, e.g. local data, local priorities for drug education?" PHE's support for local areas will further highlight the need to tailor (as appropriate) drug prevention initiatives where khat is a local issue.

Protecting communities

The ACMD recommended that Police and Crime Commissioners (PCCs) address local community concerns about social harm which is associated with khat. Some premises where khat is advertised for sale (and sometimes consumed) and khat users have been associated with wider community problems. These problems include anti-social behaviour (ASB), public nuisance, local dealing and litter. We know that these anecdotal incidents, whilst they can appear minor, can lead to increased disorder, low-level crime and fear of crime.

PCCs were elected to be accountable to local communities for cutting crime and ASB in their force area, as well as working with Health and Wellbeing Boards to support victims. PCCs therefore need to give due regard to the plans and priorities of the local organisations in their force areas, which may include khat if it is a local issue.

The Government will also share and promote examples of effective approaches and partnership working between local organisations to respond to community concerns where there have been centres of khat use and associated ASB. This will be done through our communications networks with local authorities. Examples of local partnership working include Multi-Agency Safeguarding Hubs which co-locate police and other public protection agencies to facilitate information-sharing and co-ordinate actions to address a local issue between them.

Supporting people

As the ACMD considered in its report, khat use is entwined in a complex web of issues affecting vulnerable members and some of our communities, including users and their families. The Government has taken the view that khat should no longer be regarded as a minority-specific issue; it is a matter of public health and welfare for these communities. We also recognise that ethnic groups can be among the most disadvantaged communities. For some, particularly recent migrants including refugees, the problem can be further exacerbated by cultural and linguistic barriers.

The Government's approach to integration is to give them the opportunities to come together and play an active role in society, emphasising the things that we have in common. This is based around the five key themes of building common ground;

developing personal and social responsibility; improving social mobility; increasing participation; and tackling intolerance and extremism.

Our work on integration sits alongside the Equality Strategy as well as the Social Mobility Strategy, which sets out to address socio-economic disadvantage in England to benefit all communities including ethnic minorities. We have moved away from a top-down approach so that communities and local agencies can make decisions at a local level. We have also moved away from promoting programmes aimed at specific communities because individuals face different problems and share different views.

Programmes to deliver the strategies include driving forward improvements in health support to ethnic groups across five major conditions (diabetes, mental health, pre-natal mortality, coronary heart disease and stroke), which is led by the NHS, and Department for Work and Pensions work to address the barriers faced by particular ethnic groups in some Jobcentre Plus Districts. We are also supporting over 30 local, practical projects which demonstrate positive or pioneering ideas and create the conditions for integration, like a £6 million competition to discover new ways of delivering community-based language learning to those most isolated through their lack of English.

The Government also has a strategy for increasing ethnic minority employment and participation in the labour market. We are mainstreaming access to employment opportunities through the Government's Work Programme and Jobcentre Plus by tailoring support to individual jobseekers' needs. Local autonomy and flexibility in the help and services provided in this area have replaced the one-size-fits-all approach of previous employment schemes.

Proportionate policing

In my letter of 3 July, I committed to ensuring that we have a robust and proportionate policing response to khat-related offences under the Misuse of Drugs Act 1971. Due to the bulky nature of khat and its reliance on transnational freight, law enforcement activity will primarily focus on UK borders.

However, we want to ensure that police forces are able to address local community concerns about khat and its misuse in an effective and sensitive manner. The Government has developed an escalation framework for policing the possession of khat for personal use in England and Wales. This work was informed by the characteristics of khat which, like cannabis, can be identified by frontline officers who will have the required knowledge and experience of their local community. We have also taken account of the representations made by community leaders.

The escalation policy will allow for a suitable choice of disposals which provide opportunities to signpost vulnerable offenders to local support and tackle repeat offending. It will be supported by national policing guidance issued to frontline officers. The escalation policy for khat will be similar to the one in place for cannabis: police officers will be able to issue 'khat warnings' for a first simple possession offence and a Penalty Notice for Disorder (albeit £60) for a second possession offence. I am grateful for the support of its introduction from the National Policing Lead for Drugs, Chief Constable Andy Bliss.

The Home Office has further developed a cross-government programme of communications activity to inform the general public about khat and target key messages to users and businesses involved in the khat trade and local communities.

I am grateful to the Secretary of State for Communities and Local Government, the Secretary of State for Work and Pensions, the Minister for Integration and the Minister for Public Health for their departments' consideration of the ACMD's report and contributions to the Government's response.

I am copying this letter to my colleagues; the Minister for Crime Prevention, the aforementioned Ministers, the Devolved Administrations and Chief Constable Andy Bliss for their information.

Rt Hon Theresa May MP,
Home Secretary,
20 November 2013