Minutes

37th Expert Advisory Committee on Drugs meeting

Date:	27 October 2022
Time:	9 am – 2 pm
Location:	Eagle Room, Miramar Links Golf Club
Chair:	John Ashton
Attendees:	Committee: Brendan Gage, Carina Walters, Jason Howarth, Patrick O'Connor, Stuart Mills, Susan Schenk Observers: s 9(2)(g)(ii) Secretariat: Regulatory Analysis Team (Tania Jones, Leanne Soo, Elsa Lotz, Joanna Tomlin (minutes))
Apologies:	Paul Fitzmaurice, s 9(2)(g)(ii) Richard Jaine

Item	Notes
1	**Tea and coffee on arrival 8.45-9.00am**
2	**Welcome and apologies** The Chair welcomed everyone to the meeting. Apologies were received for s 9(2)(g)(ii) . s 9(2)(g)(ii) from the National Drug Intelligence Bureau is attending in her behalf. Apologies were received for Paul Fitzmaurice and Richard Jaine.
3	**Conflicts of interest** There were no conflicts of interest to declare.
4	**Previous meeting minutes** The minutes from the previous meeting held on 4 May 2022 were confirmed out of session.
5	**Previous meeting action points**
5a	Group scheduling of synthetic cannabinoids and fentanyl analogues The Committee considered a paper for the group scheduling of synthetic cannabinoids presented by the Secretariat.

	Options presented for group scheduling were: • *Option 1: focus on well-known indole or indazole synthetic cannabinoids* • *Option 2: focus on emerging synthetic cannabinoid backbones* • *Option 3: develop 2 structural group definitions which captures both existing and emerging synthetic cannabinoids for independent scheduling.* The Committee reviewed and discussed the advantages and disadvantages between a structural and pharmacological approach to group scheduling. The Committee considered that: • the pharmacological action of substances contributes to harm but there can delays in obtaining evidence of pharmacology for new, emerging substances • a structural approach could be more efficient for categorising new substances and is more consistent with how substances are currently scheduled under the Misuse of Drugs Act 1975 • potential over-classification of substances with similar structures but have different pharmacology • a structural definition could mean some CB1 receptor agonists are not captured in line with their risk of harm • potential impact of a substance being over-classified if there were no legitimate use. The Committee noted that different approaches to group scheduling were used in different jurisdictions internationally. The Committee highlighted that the aim of the group scheduling definition is to capture substances without delay, should there be a delay in scheduling, Police and Customs may not have the necessary powers to control the supply of unregulated substances. The timing is critical for new and emerging substances. The Committee requested further information on the potential to schedule a structural definition which also includes a pharmacological component, or for a definition to only have a pharmacological component. The Committee asked whether a substance could be treated individually if they were shown to have a greater risk of harm than the group scheduling entry. The Secretariat advised that the definition would include a component that would exclude substances that were otherwise individually scheduled differently under the Misuse of Drugs Act 1975. **Outcome**: The Committee did not form a consensus on the outcome of an approach to group scheduling. **Action**: The Secretariat will liaise with the Parliamentary Counsel Office to determine if a pharmacological definition could be scheduled under the Misuse of Drugs Act 1975. **Action**: The Secretariat will write a paper that outlines the advantages and disadvantages of a structural versus pharmacological synthetic cannabinoid group scheduling approach outlining: a) the ability to enforce the law b) any problems with ambiguity in terms of a pharmacological definition c) the ability to capture substances with the same level of harm. **Action**: The Secretariat will organise an out of session meeting to discuss the group scheduling definition.
5b	9(2)(g)(i) [redacted]

	9(2)(g)(i) [redacted]
	Morning tea 10.30-10.45am
5c	**Previous meeting action points continued** <u>Substances that could be reclassified under the Misuse of Drugs Act 1975</u> The Committee were asked to consider if there were any substances scheduled under the Misuse of Drugs Act 1975 that they would like to review the classification of. The Committee requested further information on the harms and therapeutic values of psychedelic substances which are currently Class A controlled drugs. **Action point**: The Secretariat will provide further information on lysergic acid and psilocybin at the next meeting.
6	**Secretariat update** <u>Misuse of Drugs (Classification and Presumption of Supply) Order 2022</u> The Secretariat gave an update on the progression of the order which will classify 49 substances under the Misuse of Drugs Act 1975. The substances being scheduled comprise of scheduling recommendations from the Committee from 2015 to 2018. <u>15 October 2019 and 4 May 2022 substance recommendations</u> The Secretariat advised that the street value of etizolam provided in the technical paper considered at the May 2022 meeting was incorrect. The Committee was asked to reconsider the previous recommendation for etizolam to be scheduled as a Class C5 controlled drug with no presumption of supply. The Committee discussed that although the price did contribute to the decision in the May 2022 meeting, they agreed that the recommendation should stay consistent with other benzodiazepines that are already scheduled under the Misuse of Drugs Act 1975.

	Outcome: The Committee agreed that the previous advice to the Minister remains and would like to progress the recommendation to the Minister. **Motion**: s 9(2)(g)(ii) raised a motion that the advice for etizolam is unchanged. All were in favour of the motion.
7	**Synthetic cannabinoids** The Committee were asked to consider 6 synthetic cannabinoids for scheduling: MDMB-4en-PINACA, 5F-AMB-PINACA, CUMYL-PEGACLONE, 4F-MDMB-BINACA, 4F-MDMB-BICA, ADB-BUTINACA. The Committee discussed the current classification of these synthetic cannabinoids and their relative risk of harm. The Committee noted that CUYML-PEGACLONE is currently regulated as a psychoactive substance under the Psychoactive Substances Act 2013. The Committee considered the low seizure numbers and limited detections of these substances in New Zealand but noted the potential risk of harm these substances may pose if they became more widely circulated. It was noted by the Committee that variations in potency between these synthetic cannabinoids pose a level of risk for users. Users may not be aware of, or understand, the potency of these substances when they are consumed which can lead to greater levels of harm. Further discussion by the Committee included that currently 5 of the substances, as controlled drug analogues, could be intercepted at the border. The only substance which may not be intercepted when crossing the border would be CUMYL-PEGACLONE, however there are still some enforcement actions which can be applied under the Psychoactive Substances Act 2013. The Committee agreed at this stage, the current regulation for 6 synthetic cannabinoids should remain as is and will review their classification if any new information emerges. **Outcome**: The Committee agreed that more information was required to determine the appropriate classification of the 6 synthetic cannabinoids and the harm that they pose. **Motion**: It was moved by s 9(2)(g)(ii) that the status quo be kept for the 6 synthetic cannabinoids. The motion was seconded by s 9(2)(g)(ii) . The Committee were all in favour pending information being brought to the Committee when appropriate. **Action**: The Secretariat will provide the Committee with a comparison of the pharmacological action of the 6 synthetic cannabinoids and will continue to monitor these 6 synthetic cannabinoids and present any new information to the Committee if appropriate.
8	**Break 12.00-12.05pm**
9	**Amphetamine precursors** The Committee were asked to consider 5 amphetamine precursors for scheduling: MAPA, APAAN, APAA, P2P methyl glycidic acid, and P2P methyl glycidate. The Committee discussed the importance of regulating precursor substances under the Misuse of Drugs Act 1975. The Committee noted that there are no legitimate uses for the substances being considered and therefore, any scheduling of these substances will likely have a limited impact on industry. The Committee noted that there was no evidence that these substances were being used in the manufacture of methamphetamine in New Zealand currently but agreed that is may be possible that this manufacturing method may become more prevalent in New Zealand.

	It was suggested to schedule these precursors in order to be consistent and not leave any gaps in which these substances could be misused. **Outcome**: The Committee agreed the 5 amphetamine precursors may pose a risk of harm if used illegitimately. **Motion**: It was moved by s 9(2)(g)(ii) that MAPA, APAA, APAAN, P2P methyl glycidate and P2P methyl glycidic acid are scheduled as precursor substances. The motion was seconded by s 9(2)(g)(ii) . The Committee were all in favour.
10	**Lunch 12.30-1.00pm**
11	**Synthetic cathinones** The Committee were asked to consider 3 synthetic cathinones for scheduling: eutylone, 4-chloromethcathinone (4-CMC) and dimethylpentylone. The Committee discussed the classification of other cathinones which are already scheduled or going to be scheduled under the Misuse of Drugs Act 1975. These substances were scheduled as Class B controlled drugs. The Committee discussed use patterns of these synthetic cathinones. It was noted that synthetic cathinones were often consumed as misrepresented MDMA and intentional synthetic cathinone use remains low. The Committee considered the New Zealand seizure numbers including the increasing number of seizures of dimethylpentylone, risk of harm from these substances (including risk of misrepresentation as MDMA, re-dosing, abuse and dependence) and the relative risk of harm compared to MDMA. The Committee discussed if they wanted to be consistent with some of the scheduling recommendations of methcathinone and ethylone, and schedule these substances as Class B1 controlled drugs. 9(2)(g)(i) they wanted to ensure that the respective classifications of cathinones were in line with their relative risk of harm. These substances are considered more harmful than MDMA and should be classified higher. **Outcome**: The Committee considered the 3 synthetic cathinones posed a high risk of harm and agreed to schedule them as Class B1 controlled drugs. **Motion**: It was moved by s 9(2)(g)(ii) that eutylone, 4-CMC and dimethylpentylone are scheduled as Class B1 controlled drugs. The motion was seconded by s 9(2)(g)(ii) . The Committee were all in favour. **Presumption of supply** The Committee considered 2 options for a presumption of supply amount based on advice from the Ministry of Health. *Option one: maintain status quo* *Set no presumption of supply. The default amount of 56 grams will apply.* *Option two: set a presumption of supply* *Set a presumption of supply at:* • *5 grams or 100 doses, whether or not contained in a substance, preparation, or mixture, or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug.* The Committee noted that the presumption of supply option for the substances is the same as for ethylone and N-ethyl pentylone which are being scheduled under the Misuse of Drugs Act 1975 in the Misuse of Drugs (Classification and Presumption of Supply) Order 2022.

	The Committee discussed that the aim of the presumption of supply is to capture supply but not possession. It was considered that the option to set the presumption of supply may be appropriate for eutylone and dimethylpentylone but did not seem appropriate for 4-CMC. The Committee advised that a presumption of 10 grams may be more appropriate for 4-CMC. The Committee discussed that dosing of these substances can be variable and is dependent on the administration route. Tolerant users may be administering extremely high doses, and so there is a risk that a low presumption of supply will capture dependent users. The Committee considered that an option of 10 grams whether or not contained in a substance, preparation or mixture for all 3 substances would be appropriate to ensure that they are not over-penalising users but are restricting supply. **Outcome**: The Committee considered that a presumption of supply of 10 grams whether or not contained in a substance, preparation or mixture for eutylone, 4-CMC and dimethylpentylone was appropriate. **Motion**: It was moved by s 9(2)(g)(ii) that the presumption of supply be set at 10 grams whether or not contained in a substance, preparation or mixture for eutylone, 4-CMC and dimethylpentylone. The motion was seconded by s 9(2)(g)(ii). The Committee were all in favour.
12	**Flualprazolam** The Committee was asked to consider flualprazolam for scheduling. The Committee discussed that benzodiazepines should be treated consistently with other benzodiazepines scheduled under the Misuse of Drugs Act 1975. The Committee considered the potency of flualprazolam compared to other scheduled benzodiazepines. The Committee noted that in cases where flualprazolam was present, it was mostly seen in conjunction with other substances. The Committee agreed that all benzodiazepines should be treated consistently as Class C5 controlled drugs under the Misuse of Drugs Act 1975. **Outcome**: The Committee agreed that flualprazolam poses a medium risk of harm and proposed for flualprazolam to be classified as a Class C5 controlled drug to be in line with other scheduled benzodiazepines. **Motion**: It was moved by s 9(2)(g)(ii) that flualprazolam is scheduled as a Class C5 controlled drug. The motion was seconded by s 9(2)(g)(ii). The Committee were all in favour. **Presumption of supply** The Committee considered 2 options for a presumption of supply amount based on advice from the Ministry of Health. *Option one: maintain status quo* *Set no presumption of supply. The default amount of 56 grams will apply.* *Option two: set a presumption of supply* *Set a presumption of supply at:* • *12.5 milligrams for 25 doses of flualprazolam* • *50 milligrams for 100 doses of flualprazolam.* The Committee considered that no presumption of supply was necessary for flualprazolam to be in line with other scheduled benzodiazepines.

	Outcome: The Committee agreed that option 1 was appropriate for flualprazolam based on its risk of harm.
13	**Any other business and future meetings** The Secretariat provided an update on the list of substances which still needs to be considered by the Committee. The next meeting will be held in April/May 2023. The Committee advised that in-person meetings were preferred.
14	**Meeting close** The Chair thanked everyone for attendance and closed the meeting at 2.03pm.

Item	Action	Lead
1	The Secretariat will check with the Parliamentary Counsel Office to determine if a pharmacological addition could accompany a structural definition under the Misuse of Drugs Act 1975.	Secretariat
2	The Secretariat will write a paper that outlines the advantages and disadvantages of a structural versus pharmacological synthetic cannabinoid group scheduling approach outlining: a) the ability to enforce the law b) any problems with ambiguity in terms of a pharmacological definition c) the ability to capture substances with the same level of harm.	Secretariat
3	The Secretariat will organise an out of session meeting to discuss the group scheduling definition.	Secretariat
4	The Secretariat will provide further information on lysergic acid and psilocybin at the next meeting.	Secretariat
5	The Secretariat will provide the Committee with a comparison of the pharmacological action of the 6 synthetic cannabinoids and will continue to monitor these 6 synthetic cannabinoids and present any new information to the Committee if appropriate.	Secretariat
6	The Secretariat will progress the scheduling recommendations to the Minister from the October 2022 meeting.	Secretariat
7	The Secretariat will organise an in-person meeting to be held sometime in late April/early May.	Secretariat