

**LICENSING COMMITTEE**  
**2 SEPTEMBER 2021**

**NITROUS OXIDE ISSUES IN LICENSED PREMISES**

**1.0 Purpose of Report**

- 1.1 To update Members on the recreational use of nitrous oxide across the district and any issues in licensed premises.

**2.0 Background**

- 2.1 Nitrous oxide is a colourless gas used by dentists as a sedative and anaesthetic agent. It is also used in the catering industry and is often found in silver, pressurised whipped cream chargers.
- 2.2 This is a depressant drug, which slows down the body. When it is inhaled it can make people feel happy, relaxed and giggly, hence the name 'laughing gas'. It can also lead to mild euphoria, feeling light-headed or dizzy and hallucinations. Some people experience headaches and/or nausea while using.
- 2.3 The gas is usually inhaled from a balloon that has been inflated using a whipped cream charger canister. A balloon may be passed around a group, with each person taking a gulp.
- 2.4 Inhaling nitrous oxide can result in a lack of oxygen to the brain. This can result in a person falling unconscious and even dying through suffocation or heart problems. This risk is likely to be greater if the gas is consumed in an enclosed space or if a lot is used at the same time.
- 2.5 Regular or heavy use of nitrous oxide has been linked to a deficiency in vitamin B12. This can lead to nerve damage which causes pain and tingling in the toes and fingers. Studies have also linked heavy use of the gas to some forms of anaemia.
- 2.6 Nitrous oxide has a legitimate use in the catering industry as a propellant for whipped cream and therefore it is readily available for purchase on line.

**The Law and Police Powers**

- 2.7 Nitrous oxide is normally treated as a "psychoactive substance" under the Psychoactive Substances Act 2016. Producing, supplying and importing/exporting psychoactive substances for human consumption is illegal. It is not illegal to possess psychoactive substances unless it is with intent to supply. Possession of such a substance in prison is also an offence. However, the application of the 2016 Act in cases involving nitrous oxide has not always been straightforward.
- 2.8 Police have a range of powers which help them enforce the law. They can stop and search those they suspect are committing an offence under the 2016 Act. Police can also get a warrant to search premises for psychoactive substances. Finally, they can seize substances they find if they suspect they are drugs meant for recreational use.

- 2.9 Whilst the supply of nitrous oxide is illegal it is not illegal to inhale the gas and therefore the controls the Police have are very limited.

#### Local Concerns

- 2.10 There are concerns about anti-social behaviour associated with the drug's use. Some are worried about the disturbance caused by those using the drug in public. Littering of empty canisters on the street and in car parks is also a problem.
- 2.11 Boxes of discarded canisters sometimes in excess of 100 are often found in the Riverside car park in Newark. The car park on Victoria Street in Newark has also seen a number of incidents. Other areas of the district have suffered from occasional problems but the nature of the inhaling enterprise often means that it is carried out in secluded or quiet locations.
- 2.12 The Council's cleansing team have reported a recent down turn in the number of locations from which canisters are being collected.

#### Licensed Premises

- 2.13 The inhaling of nitrous oxide is often undertaken as a group activity with numerous canisters being used over a period of time, often involving the use of a balloon to inhale from and share with other users. This is not something that can be done discretely.
- 2.14 Due to this, the use of nitrous oxide is not an activity associated with licensed premises and there have been no reports of incidents involving taking the drug within premises.

### **3.0 Enforcement**

- 3.1 Local authorities can prohibit people from taking psychoactive substances in a specific place by making a public space protection order (PSPO). In order to do so they must show that the persistent use of psychoactive substances is causing a "detrimental effect on the quality of life of those in the locality".
- 3.2 The use of a PSPO has been considered but it was considered that there was insufficient evidence to support making such an order.
- 3.3 A petition put before Parliament in 2020 asked the Government to make the recreational use of nitrous oxide an offence. Given its widespread use for legitimate purposes, such a prohibition was considered difficult to police. The Government stated it had no plans to change the criminal law with regard to nitrous oxide.

### **4.0 RECOMMENDATION**

**That Members note the local position with regard to the use of nitrous oxide.**

#### Background Papers

Nil

For further information please contact Alan Batty on Extension 5467.

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