



Home Office

# The Psychoactive Substances Act Review Framework

July 2017



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# Background

## Introduction

The Psychoactive Substances Act (PSA) 2016<sup>1</sup> came into force on 26 May 2016 and created a blanket ban on the production, distribution, sale and supply of psychoactive substances in the United Kingdom for human consumption. It gives police and other enforcement agencies a range of powers including: powers to seize and destroy psychoactive substances as defined by the PSA; search persons, premises and vehicles; and enter premises by warrant. It also includes a number of civil sanctions to enable a proportionate enforcement response.

Section 58 of the PSA commits the Secretary of State to review the operation of the PSA, prepare a report of the review, and lay a copy of the report before Parliament 30 months after commencement. This framework document details our approach to reviewing the PSA and outlines some research questions that the review will aim to examine. This document was developed after the Impact Working Group of the Advisory Council on the Misuse of Drugs (ACMD) provided recommendations on a working draft of the review framework on 27 August 2015. This framework does not present any findings from the review.

## Scope of the review

By using, or developing, existing data sources, the review will measure as far as possible any change in activity before and after the implementation of the PSA. This will provide an indication of whether the aims of the PSA are being achieved. The review will also consider potential negative factors that could be a result of the implementation of the PSA. There will also be an assessment of how the legislation operates, including the routing of substances through the Misuse of Drugs Act (MDA) 1971.

## Approach

The review will be undertaken by researchers in the Home Office with contributions from agency partners, other government departments and the devolved administrations.

A 'Theory of Change' model is the basis for the review.<sup>2</sup> This approach includes an investigation into the causal relationships between stages of the model, that is:

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<sup>1</sup> <https://www.gov.uk/government/collections/psychoactive-substances-bill-2015>

<sup>2</sup> For more detail see HMT (2011) *The Magenta Book: Guidance for Evaluation* London: HM Treasury. Available at: <https://www.gov.uk/government/publications/the-magenta-book>

context, input, output, outcomes and impact. And it aims to understand the combination of factors that has led to the intended or unintended outcomes.

The review will comprise four broad stages:

- Develop a logic model containing the underlying activities and potential outputs and impacts of the PSA.
- Use or develop existing data sources from the UK government to answer specific research questions that underpin the theory of change.
- Reference the best research evidence (including that identified by the ACMD's Impact Working Group).
- Identify unintended consequences, and responses to the PSA that were observed ahead of implementation.

### Limitations

The limitations of this approach are acknowledged, many of which are inherently unavoidable. In particular, the nature of the intervention (a ban that applies across the UK) means that an experimental design is not possible. This will make it difficult to prove conclusively that any observed changes are a direct consequence of the PSA, and would not have occurred otherwise.

As the use of new psychoactive substances is a relatively uncommon behaviour, it may be difficult to detect small changes in the use of these substances over time.

There are many data sources available for the review, although these are not exhaustive. No new data collections will be commissioned for the purposes of this review, but adaptations will be made to existing data collections where possible to obtain the most relevant data.

Additionally, the scope of data collections varies across the constituent countries of the UK. Therefore coverage in some areas will be limited to individual countries only.

# Overview of the logic model

Under the Theory of Change approach the logic model for the PSA review is shown in Figure 1. This high level model explains the over-arching theory of change and includes the following stages:

Stage 1: **inputs** (resources). This includes both the PSA legislation and the mobilisation of resources to implement it.

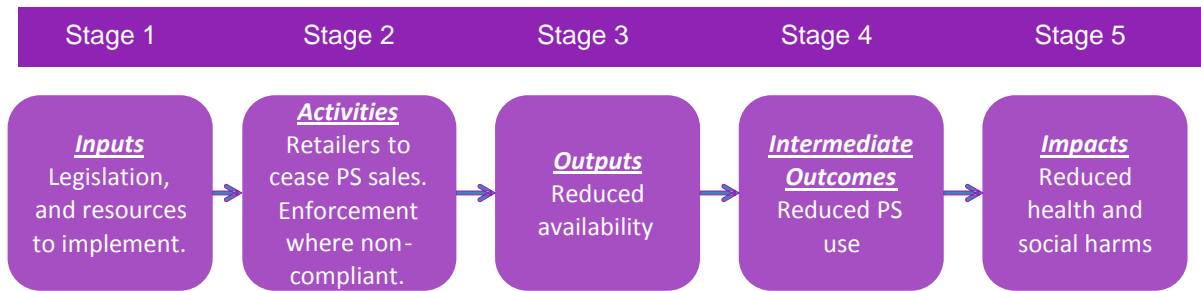
Stage 2: **activities** (what is delivered with those resources). Under the PSA these activities aim to cease psychoactive substances sales by retailers, and enforce where retailers are non-compliant.

Stage 3: **outputs** (what is achieved as result). The central output is the reduced availability of psychoactive substances.

Stage 4: **outcomes** (the short and medium-term consequences). The main intermediate outcome for the PSA is reduced psychoactive substances use.

Stage 5: **impacts** (the longer term health and social effects). This includes the wider societal impacts of reductions in health and social harms associated with the use of psychoactive substances.

**Figure 1: High-level logic model for the Psychoactive Substances Act 2016**



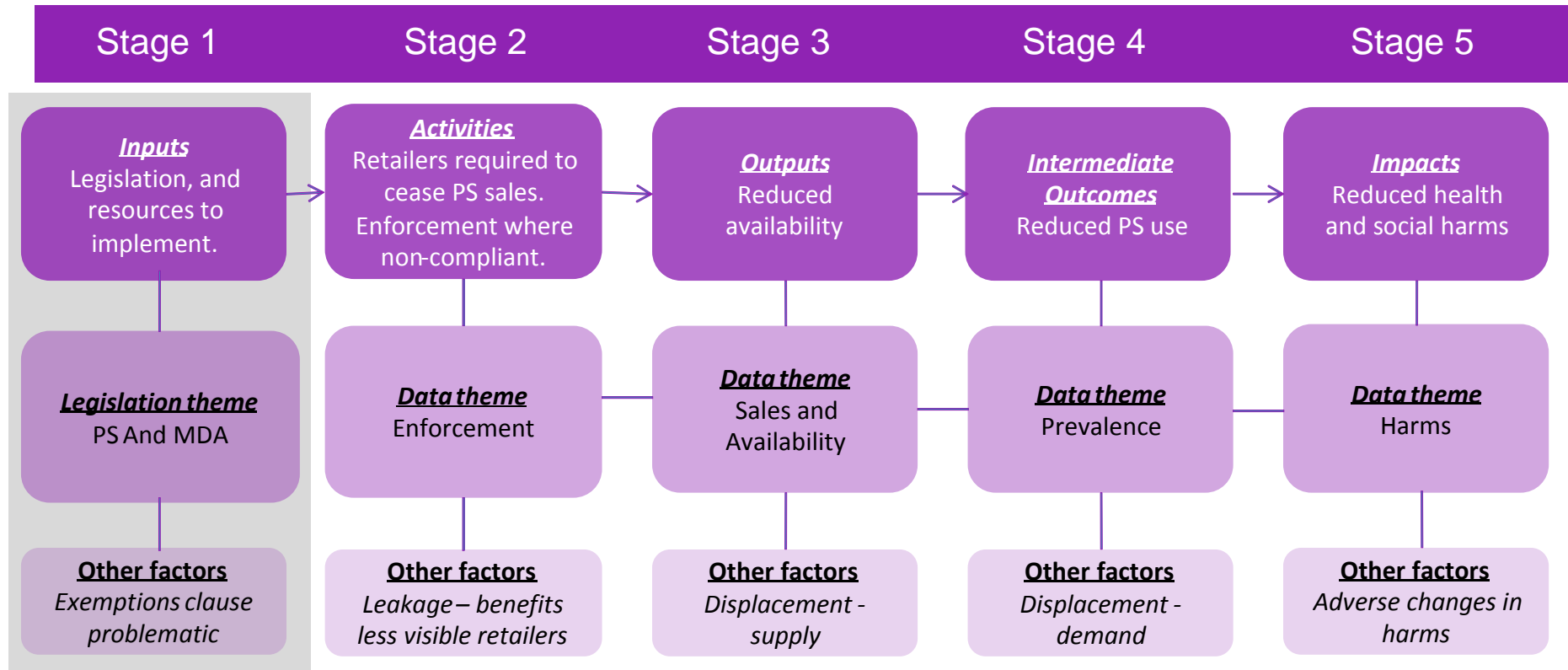
However, to understand fully the impact of the PSA, the model is extended to highlight the key themes under which the research questions are presented (see Figure 2). This provides the framework for the review, at each stage of the logic model.

Figure 2 also includes other factors that may occur due to the implementation of the PSA. These include ‘leakage’, ‘displacement’ and the potential for burdensome demand on the operation of the exemption clause<sup>3</sup>.

- Leakage is where the legislation benefits others outside the target group, for example, less visible retailers.
- Displacement may occur both at the point of supply (with the development of an illicit market) and the point of demand (with users displacing to other substances, which may be more or less harmful).

<sup>3</sup> A large range of substances are exempt from the PSA because they are already regulated by other laws.

Figure 2: Logic model for the Psychoactive Substances Act 2016, including data themes and potential unintended consequences





# Stages of the logic model

The remainder of this framework sets out some detailed research questions under the data themes shown in the detailed logic model (Figure 2). In answering these research questions the review aims to test the theory of change, by describing ‘how’ and ‘why’ the PSA works in practice.

It also sets out some of the other factors that will need further consideration in the final review. The research questions and other factors are posed as hypothetical questions, and it is not intended to suggest that all of the proposed actions will be realised. Their inclusion within this framework is simply an acknowledgement that these issues will need to be explored in the final report of the review, in order to provide a comprehensive and balanced perspective on the operation of the PSA.

The framework is structured around the four data themes presented in the logic model as well as the legislation theme.

- **Legislation:** the routing of substances between the PSA and MDA, and amendments to legislation.
- **Data themes:**
  - **Enforcement:** the police, local authority and wider criminal justice system implementation of the PSA, and subsequent results.
  - **Sales and availability:** the availability and visibility of NPS, and the shape, size and platforms of the NPS market.
  - **Prevalence:** use of newly controlled substances across the general population and sub-groups, displacement to other substances.
  - **Health and social harms:** changes in health and social harms, including indirect harms.

## Logic model stage 1: Legislation

### Research questions:

- How frequently is the list of exempted substances and activities amended?
- Do the exemptions provide an effective safeguard against a range of unintended consequences?
- Are substances that warrant control under the MDA routed appropriately?

### Other factors for further consideration:

- Has enforcement (or the perceived threat of enforcement) had an adverse impact on the trade of psychoactive substances exempt from the legislation, or upon legitimate activities as yet unidentified?

## Logic model stage 2: Enforcement

### Research questions:

- a. Will the vast majority of retailers voluntarily cease trading before the implementation of the PSA, without the need for formal enforcement activity?
- b. Will enforcement activity be police (rather than local authority) led?
- c. Is the majority of enforcement activity conducted through prohibition/premises notices, and are these generally complied with?
- d. Will there be an increase in seizures of suspected psychoactive substances at borders?
- e. Is the use of prohibition/premises orders limited and are criminal prosecutions rare?
- f. How proportionate and equitable is the enforcement activity?

### Other factors for further consideration:

- a. Are enforcement agencies using their new powers, or are these powers problematic to implement?
- b. Is the level of enforcement activity consistent with that anticipated?
- c. Does the criminalisation of social supply have differential impacts on groups sharing particular characteristics?
- d. Is it possible to prove offences beyond forensic doubt?

- e. Has stop and search under the MDA (as possession is not an offence under the PSA) increased?

### Logic model stage 3: Sales and availability

#### Research questions:

- a. Has the number of psychoactive substances previously unseen in the UK reduced, as evading legislation is no longer driving innovation?
- b. Are headshops no longer selling psychoactive substances, and how many have closed as a result?
- c. Have the UK registered clearnet sites selling psychoactive substances closed down?

#### Other factors for further consideration:

- a. Are psychoactive substances still available from less visible retail premises (e.g. sex shops, market stalls, off-licenses)?
- b. Have psychoactive substances sales been displaced to the darknet and non UK registered clearnet sites?
- c. Has there been an increase in imports on the person?
- d. Are psychoactive substances being packaged or sold as exempted substances?
- e. Are organised crime groups involved in any illicit market for psychoactive substances?
- f. Was there an increase 'promotional' sales in the run up to implementation of the PSA?

### Logic model stage 4: Prevalence

#### Research questions:

- a. Has the use of psychoactive substances reduced?
- b. Has any reduction been steepest in sub-groups more likely to use NPS and other psychoactive substances?
- c. Are any reductions in use being driven by reduced availability?

#### Other factors for further consideration:

- a. Have users been displaced to other illicit or licit substances (e.g. alcohol, controlled drugs, and medicines)?

## Logic model stage 5: Harms

### Research questions:

- a. Has there been a reduction in acute health harms (including NPS-related deaths and emergency admissions and poisonings)?
- b. Will there be a longer term reduction in treatment presentations? (driven by legislation, and also non-legislative inputs such as prevention work and treatment availability).
- c. Has there been a reduction in NPS-related social harms, such as anti-social behaviour incidents?

### Other factors for further consideration:

- a. Has there been a short term spike in acute health and social harms, as a result of 'promotional' sales ahead of the PSA?
- b. Many of the other factors considered earlier in the framework may also effect health and social harms, such as:
  - Enforcement – differential impact on particular individuals and groups, criminalisation of social supply.
  - Availability – illicit trade and involvement of organised crime groups.
  - Prevalence – displacement to other substances associated with more adverse social harms.

## Next steps

This framework sets out an expansive list of research questions and other factors which will be explored as part of the statutory review of the PSA. These questions will be answered using the best available data and evidence in the review to be laid before Parliament.

Work is currently ongoing to scope all the evidence needed for the PSA review. The majority of this work will involve how to best use, or develop, existing data sources to answer the questions posed in this framework.

We will also continue to refine our approach in collaboration with the ACMD's social science Impact Working Group. We are grateful for the group's contribution to date, which has provided valuable input into the development of the research questions and other factors across all themes of the review.

Following the collection and analysis of the required data, and in keeping with the statutory timetable, the review report will be available in late 2018.

