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# Harm reduction or a catalyst for new harms?

## The impact of smoke-free prison policy on prisoners and the prison regime

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### Introduction

A 2015 Public Health England report identified that the prevalence of smoking among prisoners at the time was roughly four times that of the general population, thereby exposing prison staff, non-smoking prisoners, and visitors to the negative health consequences of second-hand smoke (SHS)<sup>1</sup>. Around the same time, a Ministry of Justice study of SHS in English prisons recommended that NOMS should give consideration to implementing measures for the reduction or elimination of SHS across the prison estate<sup>2</sup>. These concerns around SHS were further supported by a 2016 study of air quality in four English prisons<sup>3</sup>. When compared to non-smoking areas, the levels of airborne particulate matter (a measure of SHS) in smoking areas was between two and nine times higher than the World Health Organisation's recommended daily average. With these studies in mind, it was perhaps inevitable that in 2017 the Ministry of Justice began rolling out a smoke-free prison policy (hereafter referred to as the smoking ban) across England and Wales. By the end of 2017, half of the prisons in England and Wales had implemented the ban, and by the middle of 2018, the ban had been introduced across all prisons. This article presents the findings from the first piece of qualitative research to be undertaken following the implementation of the smoking ban in England and Wales. It investigates the impact of the ban on prisoners' smoking practices, the changes to the tobacco and synthetic cannabinoid markets, and the implications of these changes for prisoner health and the wider prison regime.

### Background

Prior to 2018, prison smoking bans had already been introduced in Canada<sup>4</sup>, New Zealand<sup>5</sup>, and some US states<sup>6</sup>; often with mixed results. For example, a US study found that over three quarters of prisoners continued to smoke after a ban had been introduced<sup>7</sup>, while in Canada, the smoking ban was reversed following prison riots<sup>8</sup>. However, contrary to media reports of violence and unrest following the introduction of the smoking ban in English prisons<sup>9</sup>, the European Organisation of Prison and Correctional Services concluded that there were no incidents in prisons in England and Wales that

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<sup>1</sup> Jones, D. (2015) *Reducing Smoking in Prisons: Management of tobacco use and nicotine withdrawal*. London: Public Health England.

<sup>2</sup> Semple, S., Galea, K., Walsh, P. & Tuckett-Jones, B. (2015) *Report on Second-Hand Smoke in Prisons: Final Report*. London: National Offender Management Service.

<sup>3</sup> Jayes, L.R., Ratschen, E., Murray, R.L., Dymond-White, S. & Britton, J. (2016) 'Second-hand smoke in four English prisons: an air quality monitoring study', *BMC Public Health*, 16(119), pp. 1-8.

<sup>4</sup> Collier, R. (2013) 'Prison smoking bans: clearing the air', *Canadian Medical Association Journal*, 185(10), p. 474.

<sup>5</sup> Beaglehole, R. & Bonita, R. (2017) 'Eliminating the scourge of tobacco for a fairer and healthier world: New Zealand leads the way', *The Lancet Public Health*, 22(1), pp. 12-13.

<sup>6</sup> Cropsey, K.L. & Kristeller, J.L. (2003) 'Motivational factors related to quitting smoking among prisoners during a smoking ban', *Addictive Behaviors*, 28(6), pp. 1081-1093.

<sup>7</sup> Cropsey, K. L. & Kristeller, J. L. (2005) 'The effects of a prison smoking ban on smoking behavior and withdrawal symptoms', *Addictive Behaviors*, 30(3), pp. 589-594.

<sup>8</sup> McNabola, A. & Gill, L.W. (2009) 'The control of environmental tobacco smoke: a policy review', *International Journal of Environmental Research and Public Health*, 6(2), pp. 741-758.

<sup>9</sup> Evans, M. (2017) 'High security prisons on alert after telling inmates they must give up smoking by September', *The Telegraph*, 5 May; Gardner, A. & Warburton, D. (2017) 'Prison trashed in nine-hour riot after cigarette ban - and warders warn of more problems to come', *The Mirror*, 26 August.

were a direct result of the smoking ban<sup>10</sup>; a conclusion that was supported by others<sup>11</sup>. Indeed, the evaluation of the Scottish smoking ban found that, following a largely trouble-free implementation, support for the ban increased among both prisoners and staff post implementation<sup>12</sup>. Added to this, studies investigating the health benefits associated with smoking bans in the US and New Zealand found a reduction in the levels of airborne particulate matter of between 50 and 80 per cent<sup>13</sup>.

When it comes to evaluating the introduction of the smoking ban in prisons in England and Wales, there is a dearth of qualitative research exploring the impact of the ban. The two qualitative studies that have investigated the smoking ban were both undertaken *prior* to the implementation of the ban. The first, by Woodall and Tattersfield<sup>14</sup>, was undertaken in a category-C prison in England. Three focus groups were undertaken with 18 prisoners and 15 staff. This study predicted that the prohibition of smoking would reduce prisoners' repertoire of coping strategies. Indeed, smoking was regarded as an effective coping mechanism to deal with the stresses of prison confinement; by having a calming effect that de-escalated anxiety, and as a means to mitigate the tedium of being locked in cells for extended periods. As such, it was predicted that the ban would lead to the development of a black market in tobacco which, as a consequence of market forces, would increase the cost of tobacco. The second study, by Dugdale and her colleagues<sup>15</sup>, aimed to expand upon the findings of Woodall and Tattersfield by gathering data across four prisons in the north of England. A total of eight focus groups were conducted with 47 prisoners. In line with Woodall and Tattersfield's study, prisoners predicted that prices for tobacco products within the prison would increase once the smoking ban was implemented. It was also noted that the potentially extortionate prices that might be charged for tobacco could lead to increased prisoner debt and/or an increased popularity of synthetic cannabinoids, more commonly known as 'Spice'.

Bearing in mind these anticipated problems and issues, it was essential that research be carried out *post*-smoking ban to explore the impact of the ban on prisoners' smoking practices, the changes in the tobacco and 'Spice' markets, and the implications of these changes for prisoner health and the wider prison regime. Between March and June 2018, 24 semi-structured face-to-face interviews were undertaken in a category-B prison in the north of England that had implemented the smoking ban in late 2017<sup>16</sup>. The interviews were conducted with 11 prisoners and 13 prison staff<sup>17</sup>. In addition to the interviews, two focus groups were undertaken; one with four prison staff, and one with five staff and

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<sup>10</sup> European Organisation of Prison and Correctional Services (2018) *Her Majesty's prison estate is now smoke free*. The Hague: Europris.

<sup>11</sup> ASH (2018) *Briefing: The implementation of smoke free prisons in England and Wales*. London: Action on Smoking & Health; Robinson, A., Sweeting, H. & Hunt, K. (2018) 'UK news media representations of smoking, smoking policies and tobacco bans in prisons', *Tobacco Control*, 27(6), pp. 1-9; O'Moore, É. (2018) 'Successfully delivering smoke free prisons across England and Wales', *Public Health Matters*, 18 July.

<sup>12</sup> Sweeting, H., Demou, E., Brown, A. & Hunt, K. (2020) 'Prisoners and prison staff express increased support for prison smoking bans following implementation across Scotland: results from the Tobacco In Prisons study'. *Tobacco Control*.

<sup>13</sup> Hammond, S.K. & Emmons, K.M. (2005) 'Inmate exposure to secondhand smoke in correctional facilities and the impact of smoking restrictions', *Journal of Exposure Science and Environmental Epidemiology*, 15(3), pp. 205-211; Proescholdbell, S.K., Foley, K.L., Johnson, J. & Malek, S.H. (2008) 'Indoor air quality in prisons before and after implementation of a smoking ban law', *Tobacco Control*, 17(2), pp. 123-127; Thornley, S., Dirks, K.N., Edwards, R., Woodward, A. & Marshall, R. (2012) 'Indoor air pollution levels were halved as a result of a national tobacco ban in a New Zealand prison', *Nicotine and Tobacco Research*, 15(2), pp. 343-347.

<sup>14</sup> Woodall, J. & Tattersfield, A. (2018) 'Perspectives on implementing smoke-free prison policies in England and Wales', *Health Promotion International*, 33, pp. 1066-1073.

<sup>15</sup> Dugdale, S., Semper, H., Povey, R., Elison-Davies, S., Davies, G. & Ward, J. (2019) 'Offenders' perceptions of the UK prison smoking ban', *International Journal of Prisoner Health*, <https://doi.org/10.1108/IJPH-06-2018-0034>

<sup>16</sup> Ethical approval for the project was granted by Manchester Metropolitan University's Faculty Research and Ethics Governance Committee (February 2018, reference A&H1718-44).

<sup>17</sup> The staff that were interviewed included operational staff, recovery workers, programme staff, offender management unit staff, gym staff, nurses from the Integrated Substance Misuse Service (ISMS), and visits staff.

five prisoners<sup>18</sup>. In total, 16 prisoners and 22 prison staff were included in the research. All the interviews were analysed in NVivo<sup>19</sup> using a template analysis approach<sup>20</sup> (Brooks and King, 2014).

### ***The impact of the smoking ban on prisoners' smoking behaviour***

As noted above, contrary to media reports of violence and unrest following the introduction of the smoking ban in English prisons<sup>21</sup>, there were no incidents in prisons in England and Wales that were a direct result of the smoking ban<sup>22</sup>. Indeed, as was the case in Scotland<sup>23</sup>, this study found support for the ban among both prisoners and staff.

*I think it [the smoking ban] is good because nobody should have to smell other people's smoke or inhale other people's smoke. If you don't smoke, you shouldn't have to breathe in somebody else's smoke. (Prisoner)*

*The smoking ban's a good thing. ... There's a lot of people that we're working with that say they want to stop smoking. ... I think that it [the ban] helps them with this. (Recovery Worker)*

Furthermore, while this qualitative study was not able to assess the impact of the smoking ban on SHS, bearing in mind the steep reduction in the levels of airborne particulate matter found in the US and New Zealand<sup>24</sup>, it is highly likely that the smoking ban will have reduced the problem of SHS within prisons in England and Wales. However, despite these positive outcomes, as was the case in the US<sup>25</sup>, prisoners in our study reported continuing to smoke following the implementation of the ban; albeit not tobacco. In line with the findings from Scotland<sup>26</sup>, our study found that the ban led to prisoners smoking alternatives, such as tea. Indeed in Australia, not only did prisoners start smoking 'teabacco', but they used it to smoke nicotine patches that had been made available as nicotine replacement therapy (NRT) following the introduction of a smoking ban<sup>27</sup>. The abuse of NRT had already been identified during the piloting phase of the smoking ban in England and Wales, with prisoners in HMP Cardiff found to be smoking NRT with tea leaves post-ban<sup>28</sup>.

*If you want to sit and still smoke, you will. People smoke [nicotine] patches. They put it [the patch] on a cup of hot water and peel it off - it takes the back of the strip off. They pull that part up, ... take the teabag and a bit of [paper from a] bible, roll that, smoke that. It [the smoking ban] has not stopped people smoking. OK, it stops them smoking tobacco [but] it's not stopped anyone smoking. (Prisoner)*

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<sup>18</sup> All of the interviews and focus groups were fully transcribed and analysed in NVivo (a qualitative data analysis software package) using a template analysis approach (see Brooks, J. & King, N. (2014) 'Doing template analysis: Evaluating an end-of-life care service', *SAGE Research Methods Cases*).

<sup>19</sup> NVivo is a qualitative data analysis software package.

<sup>20</sup> Brooks, J. & King, N. (2014) *Doing template analysis: Evaluating an end-of-life care service*. SAGE Research Methods Cases.

<sup>21</sup> Evans, M. (2017) op cit.; Gardner, A. & Warburton, D. (2017) op cit.

<sup>22</sup> ASH (2018) op cit.; European Organisation of Prison and Correctional Services (2018) op cit.; O'Moore (2018) op cit.; Robinson et al. (2018) op cit.

<sup>23</sup> Sweeting et al. (2020) op cit.

<sup>24</sup> Hammond & Emmons (2005) op cit. Proescholdbell et al. (2008) op cit.; Thornley et al. (2012) op cit.

<sup>25</sup> Cropsey & Kristeller (2005) op cit.

<sup>26</sup> Brown, A., Sweeting, H., Logan, G., Demou, E. & Hunt, K. (2018) 'Prison Staff and Prisoner Views on a Prison Smoking Ban: Evidence From the Tobacco in Prisons Study', *Nicotine & Tobacco Research*, 21(8), pp. 1027-1035.

<sup>27</sup> Puljević, C., Coomber, R., Kinner, S. A., de Andrade, D., Mitchell, C., White, A., Cresswell, S. L. & Bowman, J. (2018) 'Teabacco': Smoking of nicotine-infused tea as an unintended consequence of prison smoking bans', *Drug and Alcohol Review*, 37(7), pp. 912-921.

<sup>28</sup> Independent Monitoring Board (2018a) *Annual Report of the Independent Monitoring Board at HMP Cardiff: 1st September 2016 - 31st August 2017*. Cardiff: The Independent Monitoring Board.

### ***The impact of the smoking ban on the tobacco market in prisons***

For those prisoners still wanting to smoke tobacco, the smoking ban has resulted in the creation of a black market for tobacco; something that was foreseen in research undertaken prior to the implementation of the ban. For example, in Woodall and Tattersfield's study<sup>29</sup>, both staff and prisoners predicted that a black market for tobacco would be created as a result of the smoking ban, with the cost of tobacco expected to increase because of high demand and low supply; views that were echoed in Dugdale et al.'s larger study<sup>30</sup>. What was not anticipated, however, was the sheer size of the increase. Our study found a small 30g pouch of rolling tobacco to be worth around £500.

*Because of the tobacco thing [the smoking ban], it's £500 for an ounce of burn, which costs a tanner out there [in the community]. (Prisoner)*

*Tobacco's very expensive. You're probably talking around £25, £30 for just a single roll-up. A lot of people just can't afford it [tobacco]. (Recovery Worker)*

*It [the smoking ban] has pushed tobacco underground and now people are paying out of their fucking ears for a roll-up. (Prisoner)*

The current extortionate price of tobacco has implications for prisoners in terms of debt. As Woodall and Tattersfield found, both staff and prisoners forecast a ban resulting in increased loaning of tobacco with an expectation of 'paying back' with high interest<sup>31</sup>. Similarly, the prisoners in Dugdale et al.'s study<sup>32</sup> predicted that the high cost of tobacco following the ban would lead to increased prisoner debt. These concerns appear to have been realised with both prisoners and staff in our study reporting increased prisoner debt and an escalation in the problems associated with it.

*By taking tobacco away they've made things worse. It's another opening for cons to make money, another element of bullying coming in, and all the rest of it. (Prisoner)*

*The tobacco price is spiralling out of control. There are people getting so debted-up now just for a little bit of burn. (Recovery Worker)*

### ***The impact of the smoking ban on the use of 'Spice' in prisons***

In 2015, a thematic review by HM Inspectorate of Prisons identified how 'Spice' was becoming ever more prevalent in prisons<sup>33</sup>. Around the same time, reports from both the Centre for Social Justice<sup>34</sup> and HM Inspectorate of Prisons<sup>35</sup> concluded that a smoking ban would reduce the potential for the

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<sup>29</sup> Woodall & Tattersfield (2018) op cit.

<sup>30</sup> Dugdale et al. (2019) op cit.

<sup>31</sup> Woodall & Tattersfield (2018) op cit.

<sup>32</sup> Dugdale et al. (2019) op cit.

<sup>33</sup> HM Inspectorate of Prisons (2015) *Changing patterns of substance misuse in adult prisons and service responses. A thematic review*. London (UK): Her Majesty's Inspectorate of Prisons.

<sup>34</sup> The Centre for Social Justice (2015) *Drugs in Prison*. London: The Centre for Social Justice.

<sup>35</sup> HM Inspectorate of Prisons (2015) *Changing patterns of substance misuse in adult prisons and services responses: A thematic review*. London: HM Inspectorate of Prisons.

smoking of ‘Spice’, thereby decreasing its overall use. This does not appear to have been the case, with the HM Inspectorate of Prisons annual report for 2018-19 noting that the use of ‘Spice’ continues to remain a ‘major problem’<sup>36</sup>. While this qualitative study was not able to quantitatively measure the extent of the displacement from tobacco use to ‘Spice’ use, many of the staff and prisoners in our study reported that the smoking ban had led to an increase in the number of prisoners using ‘Spice’; something that had already been identified during the piloting phase of the smoking ban in England and Wales<sup>37</sup>.

*Since the smoking ban was introduced we have had quite a rise in NPS [Spice] usage. The price of tobacco has pushed it more towards NPS [Spice].* (Recovery Worker)

*It [tobacco] is more expensive than drugs. It [the smoking ban] has caused a bigger problem than what was already there. ... People are using more Spice because it’s cheaper than tobacco.* (Prisoner)

*You can’t be paying £500 for a pouch of tobacco. So, it just takes people to Spice.* (Prisoner)

At the time of our study, the dominant method of smuggling ‘Spice’ into the prison had shifted from ‘Spice’ being brought in on inert plant matter<sup>38</sup>, to ‘Spice’ entering the prison sprayed on or soaked into paper. The prisoners in our study frequently talked about paper-based ‘Spice’ and the resulting market. For example, it was described to us that an A4-sized piece of paper that had been soaked or sprayed with ‘Spice’ would then be cut into individual ID-card sized pieces that sold for around £25 each. Bearing in mind the cost of a single roll-up of tobacco post-ban being £25 to £30, it was evident that paper-based ‘Spice’ had become much better value for money than tobacco.

[INT: How many hits would you get out of an ID card size?] *You should get twenty something spliffs.* (Prisoner)

While the extortionate price of tobacco and the comparative low cost of paper-based ‘Spice’ are both significant drivers when it comes to accounting for the shift from tobacco to ‘Spice’, we would argue that another significant driver is the functional purpose served by ‘Spice’. Previous research found that smoking helped prisoners manage stress, de-escalate anxiety, and alleviate boredom; especially when locked in their cells for extended periods of time<sup>39</sup>. With tobacco now unaffordable to many prisoners, ‘Spice’ has become the obvious replacement. For example, in line with recent research investigating the use of ‘Spice’ in prisons<sup>40</sup>, the prisoners in our study identified the ability of ‘Spice’ to ‘release pressure’, ‘kill time’ and ‘reduce boredom’ as primary motivators for use.

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<sup>36</sup> HM Inspectorate of Prisons (2019) HM chief inspector of prisons for England and Wales: annual report 2018–19. London (UK): Her Majesty’s Inspectorate of Prisons, p.25.

<sup>37</sup> Independent Monitoring Board (2016) *HMP Dartmoor Annual Report 2016: 1 October 2015 - 30 September 2016*. London: The Independent Monitoring Board; Independent Monitoring Board (2018a) op cit.

<sup>38</sup> Ralphs, R., Williams, L., Askew, R. & Norton, A. (2017) ‘Adding Spice to the Porridge: The development of a synthetic cannabinoid market in an English prison’, *International Journal of Drug Policy*, 40(2017), pp. 57-69.

<sup>39</sup> Woodall & Tattersfield (2018) op cit.; Butler, T., Richmond, R., Belcher, J., Wilhelm, K. & Wodak, A. (2007) ‘Should smoking be banned in prisons?’, *Tobacco Control*, 16(5), pp. 291-293; Richmond, R., Butler, T., Wilhelm, K., Wodak, A., Cunningham, M. & Anderson, I. (2009) ‘Tobacco in prisons: a focus group study’, *Tobacco Control*, 18(3), pp. 176-182.

<sup>40</sup> McBride, G. (2016) *High Stakes: An Inquiry into the Drugs Crisis in English Prisons*. London: Volteface publications; User Voice (2016) Spice: The bird killer - what prisoners think about the use of spice and other legal highs in prison, <http://www.uservoice.org/wp-content/uploads/2016/05/User-Voice-Spice-The-Bird-Killer-Report-Low-Res.pdf>; Ralphs et al. (2017) op cit.

*Being banged up 23 hours a day, you're lucky if you get an hour here and there for association. You've got all these pressures ... and how are you going to release that pressure? Spice. (Prisoner)*

*It [Spice] makes time fly. It's a time killer. It can be a Monday morning ... [and] before you know what day of the week it is, it's Wednesday. (Prisoner)*

*It [Spice] takes you away from the boredom. ... We are constantly banged up, there is hardly any association [and] obviously we are missing our family. (Prisoner)*

### ***The impact of the smoking ban on prisoner health and prison regimes***

Following the implementation of the smoking ban in England and Wales, nicotine patches and e-cigarettes were made available to all prisoners as part of NRT. Indeed, the evaluation of the Scottish smoking ban identified e-cigarettes as being central to making the smoking ban a success<sup>41</sup>. While some of the prisoners in our study chose to smoke their nicotine patches with 'teabacco', smoking paper-based 'Spice' with 'teabacco' appeared to be less popular. Instead, and in line with recent research<sup>42</sup>, our study found that prisoners preferred to use their e-cigarettes to vape paper-based 'Spice'.

[INT: Following the smoking ban, how are people now smoking Spice?] *They've got the vapes. People snap the top off the capsules and then the element just heats up so they just put it [a piece of paper-based Spice] on that. (Prisoner)*

*The element [on the vape pens] is about that big [half a centimetre square]. So, all you need to do, you snap the top bit off that, put a tiny bit of paper [Spice] over that [and] that's one hit. (Recovery Worker)*

However, as a result of prisoners vaping paper-based 'Spice' rather than diluting it with tobacco in a 'joint', they are now getting a much more concentrated 'hit'. This shift towards taking 'Spice' on its own is contrary to clinical guidance provided by NEPTUNE<sup>43</sup> which clearly states that 'synthetic cannabinoids should not be taken on their own, but always with a 'mixer' (e.g. tobacco or dried herbs)'. In line with the HM Inspectorate of Prisons 2017-18 annual report<sup>44</sup>, and Independent Monitoring Board reports from HMP Dartmoor<sup>45</sup> and HMP Leicester<sup>46</sup>, both prisoners and staff in our study reported witnessing an increase in 'Spice'-related emergencies as a direct result of the smoking ban and the subsequent vaping of paper-based 'Spice'.

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<sup>41</sup> Brown et al. (2018) op cit.

<sup>42</sup> Norman, C., Walker, G., McKirdy, B., McDonald, C., Fletcher, D., Antonides, L.H., Sutcliffe, O.B., Nic Daéid, N. & McKenzie, C. (2020) 'Detection and quantitation of synthetic cannabinoid receptor agonists in infused papers from prisons in a constantly evolving illicit market', *Drug Testing and Analysis*, 2020(12), pp. 538–554.

<sup>43</sup> Abdulrahim, D. and Bowden-Jones, O. (2016) *Harms of Synthetic Cannabinoid Receptor Agonists (SCRAs) and Their Management*. NEPTUNE, Novel Psychoactive Treatment UK Network, p. 10.

<sup>44</sup> HM Inspectorate of Prisons (2018) *HM Chief Inspector of Prisons for England and Wales: Annual Report 2017-18*. London: HM Inspectorate of Prisons.

<sup>45</sup> Independent Monitoring Board (2016) op cit.

<sup>46</sup> Independent Monitoring Board (2018b) *Annual Report of the Independent Monitoring Board at HMP Leicester: 1st February 2017-31st January 2018*. London: The Independent Monitoring Board.

*Since the smoking ban, people aren't putting little sprinkles [of Spice] in a joint. [Instead] you're getting an instant hit. It's destroying people. You're seeing a lot more Spice attacks. (Prisoner)*

*You're now getting a stronger dose in one big blast so it's a lot more dangerous. It's more risky now than it was before [the introduction of the smoking ban]. (Recovery Worker)*

*Because they're not mixing it [Spice] with tobacco ... it's sending them under a lot more than it used to [before the introduction of the smoking ban]. (Operational Staff)*

While 'Spice'-related medical emergencies are obviously detrimental to those directly involved, the increase in emergencies is also having a profound negative impact on both prison staff and the wider prison regime. For example, when the staff and prisoners in our study were asked whether they felt the smoking ban had made a difference to the prison's regime, respondents highlighted a range of issues, such as staff being occupied dealing with emergencies, staff safety, the drain on prison resources, and a lack of association for prisoners.

*The rise in NPS [Spice] has a massive impact on a daily basis because it ties so many staff up for hours on end. ... It can range from two or three to 16 or 17 incidents per day, which has a massive impact on the staff; dealing with situations and the related paperwork. (Recovery Worker)*

*It [the smoking ban] is having a major effect on staffing levels in the prison because, you know, you might have two or three ambulances going out because someone's gone under the influence of Spice. The knock-on effect is that could be two or three members of staff that are having to go with that person. So, for example, if you've got six members of staff going out, then you're six members of staff down in the prison, so then you might have to cut wings down from three staff to two staff which is affecting staff safety. (Programme Staff)*

*It [Spice-related emergencies] is not a one-off fucking thing anymore. It's continuous. The drain I've seen on resources. They haven't got the staff for it. They're having to pull them off everything else to go and fucking manage it. (Prisoner)*

*Because they haven't got the staff, they're banging us [up] a lot more. ... Last time I was here [serving a sentence in this prison], I don't ever recall being locked up on association night. Now it's every couple of nights a week, every weekend, doors locked. (Prisoner)*

## **Discussion**

This article has highlighted how the introduction of a smoking ban in England and Wales has impacted upon prisoners' smoking behaviours, but not necessarily in ways that reduce harm. While the ban will undoubtedly reduce the problem of SHS within prisons in England and Wales, there have been a number of unintended (but not unanticipated) negative consequences of the smoking ban. This research found that many prisoners have simply shifted from smoking tobacco to smoking 'teabacco' with 'deconstructed' nicotine patches. Alongside this, the ban has resulted in the creation of a black market with tobacco now unaffordable to the vast majority of prisoners. The increased price of tobacco has

resulted in increasing numbers of prisoners using paper-based ‘Spice’; partly because of its low price (when compared to tobacco), and partly because of its ability to serve the same functional purpose as tobacco (e.g. to ‘release pressure’, ‘kill time’ and ‘reduce boredom’). However, the use of e-cigarettes to vape paper-based ‘Spice’ has led to an increase in ‘Spice’-related medical emergencies, which have in turn had a detrimental impact on prison regimes; primarily in terms of the increased demand on staff and resources, and the resulting restrictions placed on prisoner association.

It is important to note that restrictions on association cannot be attributed solely to the smoking ban. For example, prior to the implementation of the ban, the Ministry of Justice identified that prisoners needed to ‘spend more time on purposeful activity and less time in their cells’<sup>47</sup>, and the Chief Inspector of Prisons found that ‘half of the prisons ... inspected had too few activity places for their populations’ and ‘in many cases’ prisoners were spending up to 22 hours a day locked in their cells<sup>48</sup>. The introduction of the ban and the resulting increase in ‘Spice’-related medical emergencies has, however, exacerbated this problem, making it increasingly difficult for an ‘already strained prison system’<sup>49</sup> to deliver what the Ministry of Justice term ‘full and purposeful regimes’<sup>50</sup>: an issue that has been intensified by the ongoing COVID-19 pandemic and the resulting restrictions<sup>51</sup>.

While the 2019 *Prison Drugs Strategy* acknowledges that the demand for ‘Spice’ in prison could be reduced through the provision of ‘positive and productive activities’<sup>52</sup>, the challenge facing many prisons is finding the staff and/or resources to deliver such activities. Yet this is a challenge that needs to be tackled. For example, the prisoners in a 2009 Australian study wanted substitute behavioural activities to reduce the stress and boredom of not smoking<sup>53</sup>, while prisoners in Dugdale et al.’s 2019 English study stated that more exercise equipment and options for additional television channels would reduce the boredom which triggered their smoking behaviour<sup>54</sup>. It is telling that the successful implementation of a prison smoking ban in New Zealand in 2011 was attributed to, not only comprehensive smoking cessation services, but also an increase in available activities for prisoners, including exercise initiatives, cultural activities and art classes<sup>55</sup>.

Although an increase in positive and productive activities is desirable, the lack of available staff and/or resources to deliver such activities - combined with the ongoing COVID-19 restrictions<sup>56</sup> - means that (in the short-term at least) these activities are unlikely to be deliverable. Bearing in mind these constraints in relation to reducing the demand for ‘Spice’, we propose the focus should be on the remaining two aims of the 2019 *Prison Drugs Strategy*: restricting supply and supporting prisoners’ recovery<sup>57</sup>. In relation to the former, despite the recent HM Chief Inspector of Prisons annual report

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<sup>47</sup> Ministry of Justice (2016) *Prison Safety and Reform*. London: Ministry of Justice. p7.

<sup>48</sup> HM Inspectorate of Prisons (2018) op cit. p.8.

<sup>49</sup> Vandam, L., Borle, P., Montanari, L., Surmont, T., Pirona, A., Hedrich, D., Gallegos, A., Singleton, N., Mounteney, J. & Griffiths, P. (2018) *New psychoactive substances in prison*. Luxembourg: European Monitoring Centre for Drugs and Drug Addiction. p12.

<sup>50</sup> Ministry of Justice (2016) op cit. p.41.

<sup>51</sup> UK Parliament (2020) *Coronavirus (Covid-19): The impact on prisons*.

[https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/299/29905.htm#\\_idTextAnchor006](https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/299/29905.htm#_idTextAnchor006); HM Inspectorate of Prisons (2020) HM chief inspector of prisons for England and Wales: annual report 2019–20. London (UK): Her Majesty’s Inspectorate of Prisons.

<sup>52</sup> HM Prison & Probation Service (2019) *Prison Drugs Strategy*. London: Ministry of Justice and Her Majesty’s Prison and Probation Service. p.3.

<sup>53</sup> Richmond et al. (2009) op cit.

<sup>54</sup> Dugdale et al. (2019) op cit.

<sup>55</sup> Collinson, L., Wilson, N., Edwards, R., Thomson, G. & Thornley, S. (2012) ‘New Zealand’s smokefree prison policy appears to be working well: One year on’, *Journal of the New Zealand Medical Association*, 125, pp. 164-168.

<sup>56</sup> HM Inspectorate of Prisons (2020) op cit.

<sup>57</sup> HM Prison & Probation Service (2019) op cit.

identifying frequent ‘failings in the strategic management of security and drug supply reduction’, a number of prisons are making effective use of technology to identify and prevent the trafficking of ‘Spice’ and other drugs (including machines that scan mail, and the introduction of body scanners)<sup>58</sup>. It is clear that there is best practice to be shared when it comes to reducing the supply of ‘Spice’. In relation to the latter, bearing in mind the ‘obvious linkage between excessive time locked in cells and mental health issues, self-harm and drug abuse’<sup>59</sup>, it is unsurprising that there is a ‘high demand’ for mental health and substance use treatment services<sup>60</sup>. For those prisons facing the challenges related to the use of ‘Spice’, it is imperative that prisoners have adequate access to mental health assessments and treatment. Furthermore, it is crucial that prison drug strategies include a tailored treatment response to ‘Spice’.

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<sup>58</sup> HM Inspectorate of Prisons (2020) op cit. p.37.

<sup>59</sup> Ibid. p.15.

<sup>60</sup> Ibid. p.46.