



House of Commons  
Home Affairs Committee

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**Khat**

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**Eleventh Report of Session 2013–14**

*Report, together with formal minutes*

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## Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

### Current membership

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Ian Austin MP (Labour, Dudley North)  
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Mark Reckless MP (Conservative, Rochester and Strood)  
Mr David Winnick MP (Labour, Walsall North)

The following Members were also members of the Committee during the Parliament.

Rt Hon Alun Michael (Labour & Co-operative, Cardiff South and Penarth)  
Karl Turner MP (Labour, Kingston upon Hull East)  
Steve McCabe MP (Labour, Birmingham Selly Oak)  
Bridget Phillipson MP (Labour, Houghton and Sunderland South)  
Chris Ruane MP (Labour, Vale of Clwyd)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/homeaffairscom](http://www.parliament.uk/homeaffairscom).

### Committee staff

The current staff of the Committee are Tom Healey (Clerk), Dr Richard Benwell and Robert Cope (Second Clerks), Eleanor Scarnell (Committee Specialist), Andy Boyd (Senior Committee Assistant), Michelle Garratty (Committee Assistant), Iwona Hankin (Committee Support Officer) and Alex Paterson (Select Committee Media Officer).

### Contacts

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# 1 The decision to control khat

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1. On 3 July 2013, the Home Secretary announced that the Government intended to control khat—the leaves, stems and shoots of the plant of the species *Catha edulis*—under the Misuse of Drugs Act 1971 as a Class C drug.<sup>1</sup> This would have the effect of making the importation, possession and supply of khat a criminal offence. On 31 October the Home Office laid the draft Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2013 to give effect to that decision. The draft Order is subject to approval by resolution of each House of Parliament.

2. Khat is chewed in a social setting, typically at home, at parties and in khat cafes. It produces a mild stimulant effect and users report increased levels of energy, alertness, self-esteem, and capacity to associate ideas.<sup>2</sup> The plant is native to Africa and the Middle East and is cultivated commercially in Ethiopia, Kenya and Yemen. An estimated 90,000 people use khat in the UK and its consumption is confined almost exclusively to the Somali, Yemeni and Ethiopian communities. The importation, distribution, sale, supply and consumption of khat are currently legal in the UK.

3. The Secretary of State has consulted the Advisory Council on the Misuse of Drugs (ACMD), as she is required to do under the Misuse of Drugs Act 1971. The ACMD considered both the medical and social harms associated with khat use and concluded:

- a) that the evidence shows that khat has no direct causal link to adverse medical effects, other than a small number of reports of an association between khat use and significant liver toxicity; and
- b) that it is often difficult to disentangle whether khat is the source of certain societal problems or whether, to some extent, its prevalence and use is symptomatic of the problems for some individuals and groups within the affected communities.<sup>3</sup>

The Council concluded that the evidence of harms associated with the use of khat was insufficient to justify control and that it would be inappropriate and disproportionate to classify khat under the 1971 Act.<sup>4</sup> The Council accordingly recommended that the status of khat should not be changed. The ACMD findings echoed those of earlier research, including a literature review commissioned by the Home Office in 2011.<sup>5</sup>

4. The Secretary of State acknowledged that the ACMD had come to a “reasonable conclusion” in its recommendation to Government but argued that, in the context of controls on khat in the majority of EU and G8 Member States, including the whole of northern Europe, failure to control khat in the UK would give rise to a serious risk of the

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<sup>1</sup> HC Deb (3 July 2013) col. 56WS.

<sup>2</sup> *Khat: A review of its potential harms to the individual and communities in the UK*, Advisory Council on the Misuse of Drugs, 23 January 2013 (hereafter, “the ACMD Report”), paragraph 34

<sup>3</sup> ACMD Report, pp. 3–4

<sup>4</sup> *Ibid.*

<sup>5</sup> Anderson D & Carrier N, *Khat: Social harms and legislation: a literature review* (Home Office, July 2011)

UK becoming a single, regional hub for the illegal onward trafficking of khat to these countries.<sup>6</sup>

5. We took evidence from the Association of Chief Police Officers, and from Mahamud Ahmed Mohammed, the proprietor of Mam Ever Fresh Ltd, a company which imports and distributes khat in the UK and his counsel, Paul Garlick QC. Mr Mohammed, along with the Kenyan Government and a number of others, is seeking a judicial review of the Home Secretary's decision.<sup>7</sup> Members of the Committee also held a meeting with visiting colleagues from the Kenyan Parliament, including members of the National Assembly's *ad hoc* Select Committee on Miraa (the Kenyan name for khat), and Members representing constituencies in Meru County, the major centre of khat growing in Kenya. In the meeting the Kenyan representatives urged the Committee to investigate the implications of prohibition of Khat further and to delay a decision until further scrutiny had been undertaken.<sup>8</sup>

## 2 Impact in the UK

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6. The Home Secretary's decision to control khat would place it in the same category as other Class C drugs, which include anabolic steroids, benzodiazepines, GHB and GBL, and ketamine. Simple possession of these drugs is a criminal offence with a starting point for sentencing of a Band A fine, although many of those caught with Class C drugs will be subject to out-of-court disposals. There are other, more serious offences relating to the importation and supply of these drugs, with those convicted of a leading role in supplying large quantities facing between four and eight years' imprisonment.<sup>9</sup> The evidence suggests that the level of social harms connected to the use of Khat is significantly lower than others in its proposed classification category.

### Creation of a black market

7. As we noted in our 2012 Report on *Drugs: Breaking the Cycle*, one of the unintended consequences of prohibiting drugs is the creation of a highly profitable, criminal black market, in which hundredfold increases in price from production to retail are not uncommon.<sup>10</sup> Paul Garlick QC told us that a kilo of khat, which might retail legally for £3 or £4 in the UK, could fetch as much as \$500 in the USA, where it was prohibited.<sup>11</sup> The involvement of organised crime, attracted by these high profit-margins and the absence of legitimate competitors, in turn leads to policy displacement, whereby public funds that could have been used to address the social and medical harms associated with drug consumption are diverted to law enforcement.<sup>12</sup>

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<sup>6</sup> HC Deb (3 July 2013) col. 56WS

<sup>7</sup> Home Affairs Committee, *Drugs: follow-up*, 19 November 2013, HC 819-i, Qq 129 & 138

<sup>8</sup> The informal meeting with the Kenyan delegation took place on 20 November 2013, and was facilitated by the UK Branch of the Commonwealth Parliamentary Association. Members of the delegation also observed our evidence session on 19 November.

<sup>9</sup> *Possession of a Controlled Drug*, Crown Prosecution Service Sentencing Manual, February 2012

<sup>10</sup> Ninth Report from the Home Affairs Committee of Session 2012–13, *Drugs: Breaking the Cycle* (HC 184), paragraph 18.

<sup>11</sup> Home Affairs Committee, *Drugs: follow-up*, 19 November 2013, HC 819-i, Q 129

<sup>12</sup> Ninth Report from the Home Affairs Committee of Session 2012–13, *Drugs: Breaking the Cycle* (HC 184), paragraph 18.

8. The ACMD found no evidence of any current association between organised crime and the supply of khat in the UK. However, it described the “potential for exploitation by organised criminal gangs already involved in the illegal drug trade” if the retail price of khat were to rise as a result of it becoming a controlled drug.<sup>13</sup> The proposed prohibition of khat would drastically increase the likelihood of its distribution as a commodity for organised criminals.

## Substance displacement

9. Where prohibition and law enforcement activities are successful in reducing the supply of a given drug, a “substance displacement” effect may also be observed, whereby users turn to other drugs—legally or illegally—as a replacement for the banned substance. Chief Constable Andy Bliss, the Association of Chief Police Officers Lead on Drugs, told us that when the supply of khat to the UK was disrupted by the eruption of Eyjafjallajökull in Iceland in 2010, some khat users turned instead to valium.<sup>14</sup> In this context, the lack of evidence of significant medical or social harm caused by the consumption of khat is important since it implies that, if substance displacement were to occur, it would be likely to be towards drugs with greater proven levels of harm such as benzodiazepines, cannabis or alcohol.

## Tax revenues

10. Since February 1998 khat has been classified as a stimulant drug by HMRC and so is standard-rated for VAT at 20%. The volume of khat imported into the UK has remained stable for the past eight years, at between 2,500 and 2,800 tonnes, although over the same period, the relevant BME population of the UK increased by 18.4%. This, according to the ACMD, strongly indicates that population prevalence of khat use has decreased.<sup>15</sup> In 2012/13, HMRC collected £2.5m of an import value of £12.4m. This revenue would obviously be lost to the Exchequer if khat were banned.

## Community relations

11. Unlike any of the drugs which are currently controlled under the Misuse of Drugs Act, the consumption of khat in the UK is confined to very specific communities: those from Somalia, Ethiopia, Yemen and Kenya. Patterns of use within these communities are disputed, but the available evidence appears to suggest that it is more popular among first-generation immigrants, the younger generation having turned to other recreational intoxicants.<sup>16</sup> Mahamud Ahmed Mohammed in his evidence to us said that khat consumption was not as popular among younger people as among the older generation.<sup>17</sup> The level of khat imports from 2005 to 2011 have decreased by 8.5%. This suggests that with further integration into society the usage of khat will lessen.

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<sup>13</sup> ACMD Report, p. 55

<sup>14</sup> Home Affairs Committee, *Drugs: follow-up*, 19 November 2013, HC 819-i, Q 36

<sup>15</sup> ACMD Report, paragraph 57

<sup>16</sup> *Minimising the harms of khat*, POST Note No. 449, Parliamentary Office of Science and Technology, November 2013

<sup>17</sup> Home Affairs Committee, *Drugs: follow-up*, 19 November 2013, HC 819-i, Qq 159–166

12. The British Crime Survey recorded that only one in 500 of the general population aged 16 to 59 had used khat in 2011/12. The ACMD notes that this figure may also have been an over-estimate as there is some evidence that respondents may have confused “khat” with “kat”, a street name for mephedrone.<sup>18</sup>

13. Controlling khat will create a crime which is only likely to be committed by members of certain specific communities, who already experience a degree of marginalisation within the UK. Enforcing that control will involve policing an activity that is carried out by a very small proportion of the population, all of whom belong to two or three diaspora communities, and a disproportionate number of whom are first-generation immigrants. To do this sensitively, in a way that does not create antagonism or friction between the police and the communities concerned, will present a very significant policing challenge. There is a high risk of alienating those who have until now pursued a perfectly lawful social activity, which could have a consequential impact on a wide range of police and law-enforcement activity.

### 3 Impact on international law-enforcement

14. The Home Secretary acknowledges that the evidence of medical and social harm caused by khat consumption is weak. Her principal reason for controlling khat is to provide consistency with the regimes in other neighbouring and comparator countries:

The whole of northern Europe—most recently the Netherlands—and the majority of other EU member states have controlled khat, as well as most of the G8 countries including Canada and the USA. In all these cases khat’s exportation, importation, supply and its possession or use has been banned. Failure to take decisive action and change the UK’s legislative position on khat would place the UK at a serious risk of becoming a single, regional hub for the illegal onward trafficking of khat to these countries. Seizures of khat transiting the UK en route to the Netherlands have already been increasing in size and frequency since the Dutch ban earlier this year. The ACMD report recognised the likelihood that some khat is being re-exported to countries where it is illegal. The ACMD could not determine the scale of this activity based on the available evidence and acknowledged that this concern forms part of Government consideration of the matter.<sup>19</sup>

There is good evidence to suggest that this argument is correct. When Norway banned khat in January 1989, Gothenburg became a hub for the illicit import of khat into the country, until Sweden banned it later the same year. Denmark then became a major destination for Swedish consumers of khat until the Danish ban was introduced in 1993.<sup>20</sup> The decision by the Netherlands Government to ban khat last year was also taken largely in response to concerns that the country was becoming a hub for the illicit trade in khat to its neighbours, rather than on evidence of medical or social harm.<sup>21</sup> Though the UK’s

<sup>18</sup> ACMD Report, paragraph 65. Mephedrone is a synthetic stimulant known by a variety of street names such as *m-cat* and *meow*. In 2011–12 it was the third most commonly used drug among young people: see *Drugs, Breaking the Cycle*, paragraph 166.

<sup>19</sup> HC Deb (3 July 2013) col. 56WS

<sup>20</sup> *Minimising the harms of khat*, POST Note No. 449, Parliamentary Office of Science and Technology, November 2013

<sup>21</sup> ACMD Report, p. 63

membership of the EU results in certain obligations, currently the control of khat is not governed by EU law and hence there is no legal compulsion on the UK to follow decision of other Member States.

15. Fresh khat has a lifespan of only 36 to 48 hours for use as a chewable stimulant and must therefore be transported and distributed quickly after harvesting.<sup>22</sup> The psychoactive ingredients, cathinone and cathine, have been controlled under the 1971 Act since 1986,<sup>23</sup> but it is easier and cheaper to manufacture synthetic versions than to extract them from fresh khat. This means that attempts to interdict the supply of khat are more likely to be successful than attempts to interdict the supply of drugs with a longer useable lifespan, such as cannabis, heroin or cocaine. There is no evidence of khat being cultivated successfully in the UK. The short lifespan of khat could mean either that the potential supply of illegal khat would be driven further underground and result in a harder task for law enforcement authorities, or that current users would turn to more damaging, longer life drugs.

## 4 Impact on supplier countries

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16. Much of the khat supplied in the UK is grown in Meru County, Kenya. We were told that around 500,000 people in Kenya depend on khat cultivation for their livelihood,<sup>24</sup> though members of the Kenyan delegation suggested that many of those made their living from domestic supply and consumption, which presumably would be unaffected by controls in the UK. It is nonetheless feared that the control of khat in the UK could have a significant detrimental effect on the economy of Meru and the current judicial review application is being funded by both the Kenyan Government and the local government in Meru. The Home Secretary's decision has already attracted a degree of negative comment in the Kenyan press, including calls for the British Army Training Unit Kenya (BATUK) to be closed.<sup>25</sup>

17. The Kenyan delegation told us that khat is exported to 24 countries and accounts for just over 1% of the country's exports. The UK is one of the top four importers of khat, along with Somalia, New Zealand and Japan. Many countries have already banned the importation and supply of khat (though possession and consumption remain technically legal in Canada) and Australia has introduced a licensing system for importers. In Victoria, Australia, there are no restrictions on the consumption of khat, although importers must hold a licence and permit issued by the Office of Chemical Safety which allows for the importation of 5 kg of khat per month for personal use.<sup>26</sup> It is clear that the regulation of the khat trade is an option that other countries have used and is something that could be implemented in the UK.

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<sup>22</sup> ACMD Report, p. 28

<sup>23</sup> The Misuse of Drugs Act 1971 (Modification) Order 1986 (S.I., 1986, No. 2230)

<sup>24</sup> Home Affairs Committee, *Drugs: follow-up*, 19 November 2013, HC 819-i, Q 138

<sup>25</sup> *Meru farmers want British troops out of country over miraa ban*, The People (Kenya), 9 July 2013; *Meru women ask UK to bring their women to miraa-chewing men to prove it's good*, The Standard (Kenya), 31 August 2013.

<sup>26</sup> The application form and guidance are available on-line:  
<http://www.health.gov.au/internet/main/publishing.nsf/Content/ocs-tc-guidance-imp-khat.htm>

18. There is the clear potential for the introduction of controls on khat in the UK to have a detrimental impact on the economy of Kenya, particularly in Meru, where khat cultivation is a major industry. This would not, in and of itself, be a good reason for rejecting a ban on a drug which was proven to be harmful, but in this case there is no good evidence of medical or social harm. The Kenyan delegation told us that the policy has the potential to damage UK-Kenya relations and, although the UK is only one of a number of countries placing restrictions on khat, it will be more likely be seen as a betrayal given the longstanding social, cultural, economic and military links between the two countries. Considering the importance and investment in our partnership with Kenya as a means to combat terrorism, and the links between poverty and radicalisation, this lack of consultation is particularly concerning.

19. The delegation argued that the resentment and disaffection that would arise from a growth in unemployment due to a reduced demand for khat from the UK could potentially lead to more young men formerly employed within the trade joining al-Shabaab. Considering Kenya's importance as a partner in the fight against international terrorism, and the well-established links between poverty and radicalisation, the lack of consultation on this issue is particularly concerning.

## 5 Conclusions

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20. The decision to control khat was based not on any evidence of medical or social harm caused by its consumption, but by a desire to avoid the UK becoming a hub for the illegal importation of khat into other EU countries. It is clearly not in the UK's national interests for the country to be used as a base of operations by international organised crime however, the Government must acknowledge that the ban itself has the potential to do harm to some of the most marginalised communities in the UK. A balance of the two scenarios is, therefore, the best alternative.

21. The ACMD concluded that the social problems within the UK's Somali community that were sometimes attributed to khat—primarily unemployment and low-level public disorder—were likely to be attributable to a range of socio-economic variables, including potential lack of support in integration, the damaging effects of civil war, family fragmentation, displacement in seeking settlement outside home countries and evolving gender relations through the diaspora.<sup>27</sup> **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.**

22. The classification of khat has the potential to create tensions between the police and the communities in which khat is consumed. This has the potential to affect a wide range of policing areas, from neighbourhood policing to counter-terrorism operations. **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,**

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<sup>27</sup> ACMD Report, p. 57

out-of-court disposals and convictions for khat-related offences; and community attitudes to the police. Data should be published annually.

23. 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, 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.

24. There is a risk that the UK Government's decision to ban the supply and consumption of a natural, comparatively harmless and hitherto perfectly legal stimulant, could have a disproportionate impact on Meru County in Kenya. **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.**

### **An alternative approach**

25. The challenge for the Home Secretary is to reconcile the best available evidence, which suggests that no medical or social harm arises from the consumption of khat, with the need to ensure that the UK's approach to khat does not lead to us becoming a hub for an illicit trade in khat in neighbouring countries. For the UK to allow free trade in a substance which is banned throughout northern Europe could create serious law enforcement problems. On the other hand, to ban the possession and consumption of khat completely is a disproportionate move which also has the potential to do harm: causing friction between the police and the relevant ethnic-minority communities and potentially leading users to switch to more harmful intoxicants. A licensing system for imports, such as the one operated in Australia, would provide a means for regulating the international trade in khat without penalising consumers or introducing any of the various undesirable consequences which flow from prohibition. **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.**

## Conclusions and recommendations

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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)
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 222)
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, 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 233)
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 244)
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 255)

# Formal Minutes

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**Tuesday 26 November 2013**

Members present:

Keith Vaz, in the Chair

Ian Austin  
Paul Flynn  
Dr Julian Huppert

Yasmin Qureshi  
Mark Reckless  
Mr David Winnick

Draft Report (*Khat*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 25 read and agreed to.

*Resolved*, That the Report be the Eleventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 3 December at 2.30 pm

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