

Tackling 'Legal Highs'
Operation Nitrox
NOT FOR HUMAN CONSUMPTION

Leicestershire
Police

T: 101
W: www.leics.police.uk/legal-highs

Leicester City Council
Trading Standards

T: 0116 454 3200
E: trading_standards@leicester.gov.uk

Leicestershire County Council
Trading Standards

T: 0116 305 8000
E: tradingstandards@leics.gov.uk

Operation Nitrox – New Psychoactive Substances (NPS)

General Product (Safety) Regulations 2005 (GPSR)

Misuse of Drugs Act 1971

Intoxicating Substances (Supply) Act 1985

We are writing to you as we understand that you are a seller/distributor of New Psychoactive Substances (NPS). The packaged NPS that you sell may include products called 'Pink Panthers', 'Herbal Haze', 'Psyclone', 'Exodus damnation', 'Sensate', 'Pandoras Box', 'Clockwork Orange', and 'Herbal Incense' amongst many others that are available.

The purpose of this letter is to explain the legal position regarding the supply of these products and the action we may take.

As a distributor of NPS products you are required to comply with the legislation at the head of this letter.

Products sold as 'legal' alternatives to controlled drugs, which are designed to mimic established drugs are inaccurately being referred to as 'legal highs'. Even if the product you supply does not contain controlled drugs, the sale of them for use as alternatives to controlled drugs is illegal either under the General Product Safety Regulations (and/or Food Law).

Under the General Product (Safety) Regulations 2005 any product that you supply must be safe for its intended use **and any other reasonably foreseeable use.**

Despite statements on the products to the effect that they are 'herbal incense', 'research chemicals' and 'not for human consumption', it is reasonably foreseeable that the purchasers of these products will either consume, smoke or inhale them; generally to induce a psychoactive response. Indeed these products are primarily, if not exclusively, purchased to be consumed by the general public in a manner contrary to the directions on the packaging. The directions on the packaging are an attempt to circumvent the operation of the law.

Your activities make you a distributor under the General Product (Safety) Regulations 2005. As a distributor you must not **expose, possess for supply or offer or agree to supply**, or supply to any person, a product which you know, or should have presumed, on the basis of the information in your possession, is a dangerous product.

Any product that is not safe is a dangerous product. It is our view that the NPS that you are selling are dangerous products because;

1. The products appeal to young student party goers/ravers and children under 18 years old and/or,
2. You are aware that the products are being purchased to be used by customers as alternatives to controlled drugs and therefore ingested, smoked or inhaled.
3. The presentation of the product suggests a use contrary to the description on the packaging.
4. There are generally no instructions for the use of the product.
5. There is a lack of appropriate labelling; no full ingredients list, no full and proper details of the manufacturer/importer.
6. There is no indication of how these products will interact either with each other and/or other products, in particular alcohol.

Furthermore as a distributor you are, amongst other things, required to:

1. Produce and keep the documentation necessary for tracing the origin of the product.
2. Ensure that the products you supply are compliant with the **General Product (Safety) Regulations 2005**.

The manufacture of NPS is poorly controlled and the labelling deficient. As a consequence the chemical composition can vary greatly across and between batches. There is no evidence of any testing of the products by their manufacturers to establish the safety, potency or tolerance of users to the products. Consequently when victims present at A&E departments they are difficult to treat.

You cannot assume that any NPS you sell are legal or safe. By selling them you will expose yourself to both Criminal and Civil Law sanctions which can include a claim for damages for personal injury.

Independent tests have found that some NPS contain illegal substances already controlled under the **Misuse of Drugs Act 1971**. These products are illegal to sell or even possess.

Finally, under the **Intoxicating Substances (Supply) Act 1985**, it is an offence to sell to anyone under the age of 18 years substances which you as the seller have reason to believe may be **inhaled for the purposes of intoxication**.

Leicester City Council's Trading Standards Service and Leicestershire Police will visit and inspect your business to assess compliance with these Regulations. If we have reason to believe the products in your possession are unsafe or illegal they will be seized as evidence and where appropriate we will prosecute.

If you have any queries with regards to any of the matters raised in this letter please use the contact details at the head of this letter.

Roman Leszczyszyn
Head of Business Regulation
Leicester City Council

Superintendent Andy Lee
Leicestershire Police

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Confirmation of Receipt – Operation Nitrox Information Letter

Business Name:.....

Proprietor(s)/Director(s)*:.....

Date of birth:..... **Date of birth:**

Premises Address:.....

.....

..... **Postcode:**.....

WARNING:

The information in the attached letter is being brought to your attention in the spirit of crime prevention and compliance with the law. It is not intended to be a comprehensive guide to all of the provisions that you should comply with and you are responsible for researching this area before sale or supply of any products to ensure that they comply with the law. Leicestershire Police and Leicester City Trading standards will be happy to assist and advise you.

The New Psychoactive Substances (so called 'legal highs') being sold are currently being used for human consumption and pose a safety risk, other articles being sold may also constitute an offence. A copy of this notice will be retained by the Police and Trading Standards as a record of providing you with the information in the letter.

As the owner/director of this and/or similar businesses, you are vicariously liable for the sale of any offending products by any member of your staff in the course of these businesses.

I have read the above and understand that if I commit any act or acts highlighted in the letter either directly or indirectly, I may be liable to arrest and prosecution. I accept that a copy of this notice could be produced, if necessary in any Court proceedings against me.

Signed:..... **Position in Business Owner/director (Please Detail)**

Signed:..... **Issuing Officer: (Rank, surname, collar number and Division).**

Witnessing Officer:.....

