

## Briefing for backbench drugs debate, 30 October 2014

### An evidence-based review of the Misuse of Drugs Act (MDA) 1971

#### Cross-party support for an evidence-based drug policy

**The Rt Hon David Cameron MP, 2002:** “I mean it’s like the elephant on our doorstep. When we started discussing, it was hard to think of a more pressing subject [drugs] that needed investigation. Are we not mad if we don’t pursue a policy, which cuts crime, saves lives and improves public health and safety?”<sup>1</sup>

**The Rt Hon Jack Straw MP, 2012:** “[drugs are] a really complicated, quite difficult area of public policy ...you ought to be ready to have it examined. So my view is yes ... you could set up a royal commission ...”<sup>2</sup>

**The Rt Hon Nick Clegg MP, 2014:** “We need to bring this issue out into the open and to be led by the evidence of what works. We owe it to our young people, to the families torn apart by addiction and to the states that look to us for leadership and advice.”<sup>3</sup>

**Caroline Lucas MP, 2014:** “A fresh look at our drug laws is the first step towards a sane, evidence-based policy ... Our drug laws are over 40 years old. We therefore have no idea whether current drug policy is an effective use of public money or whether money is simply being thrown down the drain.”<sup>4</sup>

Successive governments have expended considerable effort to keep evidence on drugs and drug policy out of the public domain. The suppression of the Prime Minister’s Strategy Unit drugs report in 2003,<sup>5</sup> the Home Office Drugs Value-for-Money Review in 2007,<sup>6</sup> and two Home Office drugs reports in 2014<sup>7</sup> illustrate the extent to which the drug policy debate is being actively stifled.

However, as demonstrated below, when UK drug policy *is* publicly scrutinised by independent, cross-party inquiries, the findings are invariably damning. We cannot ignore the facts any longer. It is time for a thorough impact assessment of current policy, to ensure that our response to drugs is based on evidence of what actually works.

#### The public, civil society, media and international community support a review

The closing down of the drugs debate at the highest political level is increasingly at odds with the views of the public. An IPSOS Mori poll conducted in 2013 showed that **two-thirds of the public** support a comprehensive review of all drug policy options. Civil society is also strongly in favour of a review, as demonstrated by Count the Costs, a global initiative supported by **more than 100 NGOs worldwide**, which calls on world leaders and UN agencies to quantify the unintended negative costs of the current approach to drugs, and explore alternative approaches. Its supporters include Human Rights Watch, the International Aids Society, Health Poverty Action, the UK Prison Governors Association, and several drug treatment organisations.

1 <http://usersvoice.org/interviews/interview-with-david-cameron-mp/>

2 <http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/161220121.pdf>

3 <http://www.theguardian.com/commentisfree/2014/feb/08/nick-clegg-latin-america-lessons-drugs-debate>

4 <http://www.carolinelucas.com/media.html/2014/02/11/caroline%E2%80%99s-campaign-for-review-of-drug-laws-gathers-pace/>

5 <http://www.theguardian.com/uk/2005/jul/05/drugsandalcohol.freedomofinformation>

6 <http://transform-drugs.blogspot.co.uk/2010/01/epic-three-year-foi-quest-to-release.html>

7 <http://www.independent.co.uk/news/uk/politics/theresa-may-attacked-over-claims-tories-buried-reports-into-drug-abuse-9788392.html>

The media, too, is ahead of politicians on this issue – and not just the broadsheet press. This year **The Sun newspaper** shifted its editorial position to support reform, saying: “Two years ago the PM rejected calls for a Royal Commission on drugs policy. It’s high time for a rethink.”

In 2013, the **Organization of American States**, the main political forum for all 35 independent states of the Americas, produced a report stating: “As the [drug policy debate] progresses, it is becoming clearer that, despite international interest in the subject and all the resources allocated to its analysis, little is actually known about what works or how to deploy best practices ...” And in 2016, the **UN General Assembly** will convene a special session on drugs, to review global drug policy in light of calls for reform from Latin America.

## The unintended consequences of enforcing the MDA 1971

The MDA is responsible for over half a million stop and searches each year<sup>8</sup> (only 7% of which result in arrest<sup>9</sup>) and has resulted in 1.5 million people being criminalised over the last 15 years.

The Act has also led to discriminatory and socially divisive law enforcement practices. Although black people use drugs at lower rates than white people, they are six times more likely to be stopped and searched for drugs. And across London, black people are charged for cannabis possession at five times the rate of white people – again, despite cannabis use being significantly higher among white people.<sup>10</sup>

This punitive approach has done nothing to prevent the most harmful forms of drug use: in 1971 there were 5,000 heroin users; by 2010 the number of heroin and crack cocaine users had reached 325,000.

There are further costs, too. The UN Office on Drugs and Crime has identified five major ‘unintended consequences’ of a criminal justice-led approach to drugs<sup>11</sup>:

- The creation of a vast criminal market with a global annual turnover of £200 billion (£6 billion in the UK alone)
- The displacement of resources from proven health measures to enforcement
- The balloon effect, whereby squeezing drug production in one area results in an increase in production somewhere else
- Substance displacement, whereby ‘successful’ enforcement against one drug results in users switching to other, often more risky substances (such as many so-called “legal highs”)
- The stigmatisation of people who use drugs

The UK government has never evaluated the scale of these negative consequences in the UK, nor whether the intended consequences outweigh the unintended ones.

## There is no evidence that the UK drug strategy offers value for money

“A policy might also result in other effects that are completely unanticipated, generally termed ‘unintended consequences’. These often result from perverse incentives which are established as a result of interaction between the way the policy works and existing processes.” – **The Magenta Book, HM Treasury**<sup>12</sup>

In 2010, after a three-year struggle using the Freedom of Information Act, the government published its only value-for-money study,<sup>13</sup> which concluded:

“There is no single, comprehensive, agreed overview of cross-departmental expenditure. Also evaluations of effectiveness are patchy and incomplete, making it difficult to assess value for money and to decide how to best allocate resources in the future.

<sup>8</sup> <https://www.gov.uk/government/publications/police-powers-and-procedures-in-england-and-wales-201112/police-powers-and-procedures-in-england-and-wales-2011-12>

<sup>9</sup> <http://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>

<sup>10</sup> <http://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-and-prosecution-drug-offences>

<sup>11</sup> [http://www.unodc.org/documents/wdr/WDR\\_2008/WDR\\_2008\\_eng\\_web.pdf](http://www.unodc.org/documents/wdr/WDR_2008/WDR_2008_eng_web.pdf)

<sup>12</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220542/magenta\\_book\\_combined.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220542/magenta_book_combined.pdf)

<sup>13</sup> <http://transform-drugs.blogspot.co.uk/2010/01/epic-three-year-foi-quest-to-release.html>

“... The recent fall in young people’s drug use is clearly encouraging but without such an understanding of influences on young people’s drug use, it is not clear whether the success may be attributed to current policies.

“Policies to reduce the availability of drugs produced the greatest analytical challenge. The absence of robust and recognised measures of success, combined with a limited base of research evidence makes it particularly difficult to draw conclusions about supply-side policies.”

Others have come to similar conclusions:

“Without an evaluative framework for the Strategy as a whole, the NAO is not able to conclude positively on value for money.” – **National Audit Office, 2010**<sup>14</sup>

“Given the amount of public money that is being spent, it is unacceptable that the Home Office does not know what overall effect this spending is having. It does not carry out enough evaluation of its work and does not know if its drug strategy is directly reducing the overall cost of drug-related crimes.” – **Edward Leigh, chair of the Public Accounts Committee, 2010**

## Cross-party inquiries have repeatedly criticised government drug policy and called for a review

“...we have expressed concern at the Government’s proclivity for using the classification system as a means of ‘sending out signals’ to potential users and society at large ... We have found no convincing evidence for the deterrent effect ... and have criticised the Government for failing to meet its commitments to evidence based policy making in this area.

“... Finally, we have concluded that the current classification system is not fit for purpose and should be replaced with a more scientifically based scale of harm ... In light of the serious failings of the ABC classification system that we have identified, we urge the Home Secretary to honour his predecessor’s commitment to review the current system, and to do so without further delay.” – **House of Commons Science and Technology Committee, Fifth Report of Session 2005-06**<sup>15</sup>

“We were very interested to learn that a Government review completed in 2007—the publication of which the Home Office had fought for three years—concluded that the effectiveness and value for money of the Government’s drugs spending could not be evaluated. We therefore support calls for a full and independent value-for-money assessment of the Misuse of Drugs Act 1971 and related legislation and policy.” – **Home Affairs Committee, The Cocaine Trade, 2010**<sup>16</sup>

“The law as it stands is not fit for purpose. The principal statute, the Misuse of Drugs Act 1971, is now more than thirty years old. It is unwieldy, inflexible and at some points addresses problems that no longer exist. Not least, the law as it stands embodies a classification of illegal drugs that is crude, ineffective, riddled with anomalies and open to political manipulation. We recommend that the Misuse of Drugs Act 1971 and the subsequent legislation associated with it be repealed ...” – **RSA Commission on Illegal Drugs, Communities and Public Policy**<sup>17</sup>

## Further information

- International Drug Policy Consortium, ‘Time for an Impact Assessment of Drug Policy’: [https://dl.dropboxusercontent.com/u/64663568/library/IDPC%20Briefing\\_Impact%20Assessment\\_March%202010\\_0.pdf](https://dl.dropboxusercontent.com/u/64663568/library/IDPC%20Briefing_Impact%20Assessment_March%202010_0.pdf)
- Transform Drug Policy Foundation, ‘Debating Drugs: How to Make the Case for Legal Regulation’: <http://www.tdpf.org.uk/blog/debating-drugs-how-make-case-legal-regulation>

<sup>14</sup> <http://www.nao.org.uk/press-releases/tackling-problem-drug-use-2/>

<sup>15</sup> <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1031/103103.htm>

<sup>16</sup> <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/74/7414.htm>

<sup>17</sup> [http://www.thersa.org/\\_data/assets/pdf\\_file/0006/2868/rsa-illegal-drugs-report-2007.pdf](http://www.thersa.org/_data/assets/pdf_file/0006/2868/rsa-illegal-drugs-report-2007.pdf)