

Release

Drugs, The Law & Human Rights

Written Evidence to the Advisory Council on the Misuse of Drugs (ACMD)
as part of its review of the classification of Ecstasy
September 2008

Current classification system

As the Council is aware the Misuse of Drugs Act 1971 ('MDA 1971') (c.38), Schedule 2 classifies controlled drugs according to the harm associated with their use, with drugs belonging to either class A; B or C. Established in 1971 the list of substances controlled under the Act has increased expediently, changes to controlled drugs within the list, that is, the reclassification of a substance has been limited. The system of classifying controlled drugs as A, B or C has been the subject of mounting criticism over recent years.

The inflexibility of the classification system is one of its major flaws. Reclassifying a substance already contained within Schedule 2 of the Act can prove difficult. Certainly, where there is consideration given to the reclassification of a controlled drug into a lower class it is often met with public/ media responses of a Government being 'soft on drugs'. The recent debacle with cannabis demonstrates this all too well.

Furthermore, the class in which a controlled drug is placed has direct correlation to the punishment meted out through the Criminal Justice System, with maximum sentences differing depending on the class of the drug. This direct relationship between the class of drug and the punishment available acts as a barrier to a classification system which can respond flexibly to changing drug trends and new evidence related to the harms associated with a particular drug. Certainly in other legal jurisdictions, including many European countries, the classification/ schedule of a drug has no relationship to the sentencing powers available. Removing the relationship between these two elements would allow for the development of a more responsive, flexible model for classifying all drugs. In practice, the current arbitrary approach to drugs has resulted in a system lacking in credibility and which fails to fully and scientifically assess the harms associated with certain controlled drugs.

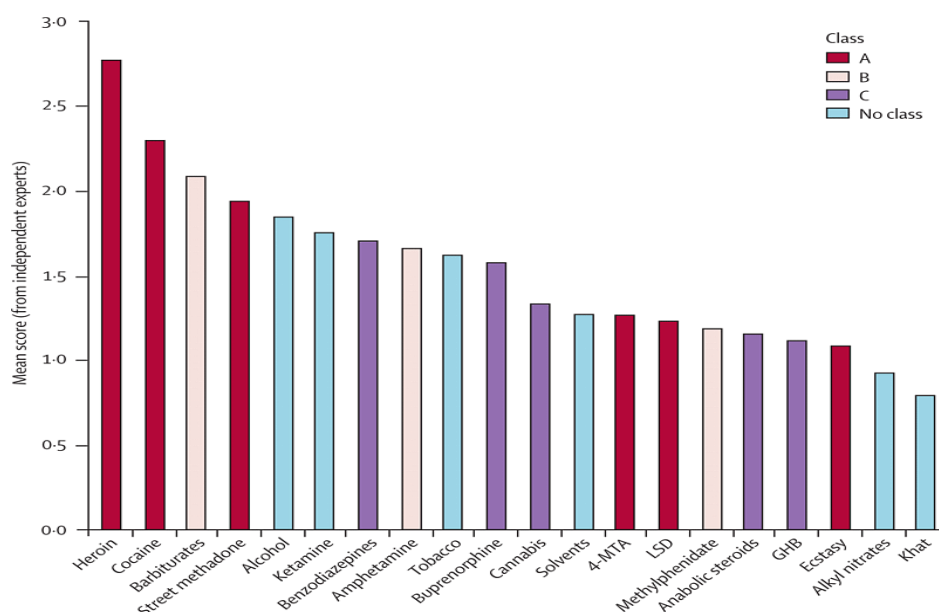
It is also important to note that there is no consistent set of harm indicators by which drugs are measured and thus categorised, resulting in a lack of transparency and clear understanding of the system. A recent study¹ involving the Chair of this Committee established a matrix of harm for drugs abuse. The study identified three main harm factors which were used to assess the harm associated with 20 drugs, those factors were:

1. the physical harm to the individual user caused by the drug

¹ Nutt. D., King L.A., Saulsbury W., Blakemore C., 'Development of a rational scale to assess the harm of drugs of potential misuse', The Lancet, Vol. 369, Issue 9566, 24 March 2007, Pages 1047-1053.

2. the tendency of the drug to induce dependence
3. the effect of drug use on families, communities, and society.

The outcome of this study (please see below) failed to reflect the current classification system and was in fact pointedly at odds in its assessment of certain drugs. Some of those drugs currently classified as Class A, such as ecstasy and LSD, were found to be much less harmful than heroin; cocaine and cannabis. Alcohol was found to be the sixth most dangerous drug out of a list of twenty, with nicotine reaching number nine. For the purposes of this review it is important to note ecstasy was considered the 18th most harmful drug out of a possible 20.



There have been a number of recent reports and studies identifying the systematic and serious problems with the current classification system. The UK Parliament Science & Technology Committee² commented in their report, published after an intensive review, that they were so concerned about the problems with the current system they urged the ACMD to review the current method of classifying controlled substances. The Committee as part of its review interviewed a wide spectrum of people involved in drug policy and health care, including many of this committee. Professor Colin Blakemore when questioned by the Committee submitted 'It [classification system] is antiquated and reflects the prejudice and misconceptions of an era in which drugs were placed in arbitrary categories with notable, often illogical, consequences'³.

The Committee also '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—it is at odds with the stated objective of classifying drugs on the basis of harm and the Government has not made any attempt to develop an evidence base on

² Science and Technology Ctte, 'Drug Classification: Making a Hash of It?', 5th Report, HC1031

³ Science and Technology Ctte, 'Drug Classification: Making a Hash of It?', 5th Report, HC1031 at paragraph 95.

which to draw in determining the 'signal' being sent out'⁴. Almost prophetic when we consider two years later the Government has ignored the advice of the ACMD in respect of cannabis reclassification, with the Prime Minister citing the need to 'send out a signal that cannabis is not only illegal but it is unacceptable'⁵. The politicising of the classification system is a major failure and there is no doubt that despite the best efforts of the ACMD and the evidence based decision it takes in respect of ecstasy, any decision regarding the status of this drug will undoubtedly be a political one.

In this regard, where classification is now being used as a tool for sending a message to the public, ecstasy's classification as a Class A drug is wholly irresponsible. Where relatively large numbers of people take ecstasy with little or no harmful effect despite it being classed in the highest category of harm, the logical conclusion would be that the harm associated with heroin for example is also grossly exaggerated. There can be no benefit with sending out this type of misleading message.

Other studies have also supported the overhaul of the current classification system including the Royal Society Arts⁶ and more recently the UK Drug Policy Consortium⁷. These reports, and others, will be well known to the Committee and will have certainly been referred to in other submissions.

In light of the above, and the submissions put before the Committee, Release would urge the ACMD to review the current system of classification as soon possible.

Review of Ecstasy

It is unclear whether the current review before the ACMD in respect of Ecstasy is expected to include MDMA⁸; MDA⁹; MDEA¹⁰ and other phenethylamines – as the ACMD is aware powder and tablets sold as 'ecstasy' often are made up of various compounds. Release believes the current review should encompass all of the substances listed.

Release is not in a position to comment on the pharmacological aspects of MDMA et al., there is no doubt that the Committee will receive significant evidence in this area and that their own expertise will ensure a thorough investigation. However, we believe it is important to highlight some of the salient points related to ecstasy use:

- More than 250,000 people use ecstasy every month¹¹ - ecstasy is widely accepted as a recreational drug, with many users consuming the drug at the weekend with it having little impact on their daily lives. Certainly the kinds of

⁴ Science and Technology Ctte, 'Drug Classification: Making a Hash of It?', 5th Report, HC1031, summary.

⁵ <http://www.guardian.co.uk/politics/2008/apr/03/drugspolicy>

⁶ RSA, 'Drugs – Facing the facts', March 2007

⁷ UKDPC, 'An Analysis of UK Drug Policy', April 2007.

⁸ 3,4 Methylene-dioxy-N-methylamphetamine

⁹ 3,4 Methylene-Dioxy- Amphetamine

¹⁰ 3,4 Methylene-Dioxy-Ethyl-Amphetamine

¹¹ British Crime Survey, Drug Misuse Declared: Findings from the 2006/07 British Crime Survey, England and Wales, HOSB 18/07

health risks or risks of dependency that exist in relation to other drugs in Class A are not applicable to ecstasy.

- A large majority of ecstasy users are young people, who use the drug for a relatively short period of time that often coincides with their frequenting of nightclubs. Labelling this group as Class A drug users, serves only to dilute the seriousness of becoming involved in (more harmful) class A drugs.
- Ecstasy-related deaths have been reported in the UK. However, these cases more relate to water intoxication or dehydration rather than the ecstasy use per se. The number of deaths is extremely low compared to other Class A drugs such as heroin. One of the major problems in assessing deaths related to ecstasy use is that the drug consumed by the user will often have other substances present.
- The Office for National Statistics Mortality Rates (2006/07) recorded 2640 drug related deaths, of this number 97 deaths were related to amphetamines, in half of these deaths ecstasy was mentioned¹². This means ecstasy accounts for approximately 2.5% of drug related deaths per year.
- Despite the statistics, ecstasy related deaths receive a disproportionate amount of media coverage. It is without a doubt that the media's attitude to ecstasy and ecstasy users will have an overriding influence on any Government decision regarding the classification of ecstasy. As with cannabis, if the Committee recommends that ecstasy (and its other associated compounds) should be reclassified, it is by no means clear that the Government will adopt this recommendation. This underpins some of the fundamental problems with the current classification system.

Conclusions

We would urge the ACMD to encourage the Government to review the entirety of the Misuse of Drugs Act 1971, including the classification system. It is clear that any drug policy and strategy should be based on current up to date research. An independent review of the legislation and of national drugs strategy should be carried out in order to ascertain a more effective way forward. The review should consider all international experiences and all potential methods of controlling drugs within our society including de-penalisation, decriminalisation and regulation.

¹² <http://www.statistics.gov.uk/pdfdir/dgdths0808.pdf>