

# **Drugs and the Law**

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**REPORT OF THE  
INDEPENDENT INQUIRY INTO THE MISUSE OF DRUGS ACT 1971**

Chairman: Viscountess Runciman DBE

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## **Report of the Independent Inquiry into the Misuse of Drugs Act 1971**

Report of an independent inquiry established by The Police Foundation,  
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# **Preface**

## **Origin and remit of Inquiry**

We were set up in August 1997 by The Police Foundation, with the assistance of the Prince's Trust, to review the effectiveness of the Misuse of Drugs Act 1971. Our report follows. Our membership and terms of reference are set out at Appendices 1 and 2 respectively.

We were assisted in our work by many organisations and individuals and we gratefully acknowledge here our indebtedness to all those who helped and supported us. Further details of this and of our programme of work are given in Appendices 3,4 and 6.

## Overview

- 1 It is nearly 30 years since the main legislation controlling the misuse of drugs in the United Kingdom was enacted. Our task has been to consider the changes which have taken place in our society in that time and to assess whether the law as it currently stands needs to be revised in order to make it both more effective and more responsive to those changes. It has also been our duty to examine the implications of our proposals.
- 2 In the course of our Inquiry it has become inescapably clear to us that the eradication of drug use is not achievable and is not therefore either a realistic or a sensible goal of public policy. The main aim of the law must be to control and limit the demand for and the supply of illicit drugs in order to minimise the serious individual and social harms caused by their use. At the same time, the law must enable the United Kingdom to fulfil its international obligations.
- 3 The law should be based on the following principles and purposes:
  - (i) as a means of reducing demand, the law is only one aspect of a broader agenda of health, prevention and education. It should not undermine other elements of that agenda – indeed, it should be able to support them;
  - (ii) it should reflect the latest scientific understanding and the social and cultural attitudes of modern British society;
  - (iii) it should be realistically enforceable;
  - (iv) it should infringe personal freedom only to the degree necessary to restrain serious levels of harm to users or others;
  - (v) it should target the drugs that cause the most harm;
  - (vi) it should reflect the relative harmfulness of activities connected with each illicit drug or category of drugs, and provide for sanctions proportionate to that harm;
  - (vii) in its operation, the law should be accepted by the public as fair, consistent, enforceable, flexible and just. The proper exercise of discretion may be an important means of achieving this.
- 4 Throughout our Inquiry we have been forcibly struck by the lack of research and the weakness of the information base about drug use in the United Kingdom, including the lack of any ‘early warning systems’ to identify and monitor significant changes in drug use such as have been developed in the USA and the Netherlands. Equally striking is the anomaly that the largest part of the drugs budget is spent on enforcement without the necessary resources being applied to the proper evaluation of its success or failure. We welcome the new research programme of the latest national plan, but until it begins to yield significant results and embraces some of the issues raised in this Report, discussion of the policy options will continue to be hampered by the need for more research and better evaluations than we have at present. Nevertheless, whatever its deficiencies, such evidence as we have assembled about the current situation and the changes that have taken place in the last 30 years all point to the conclusion that the deterrent effect of the

law has been very limited. We have sought to assess effectiveness by the standard indicators of prevalence, public attitudes, and by trends in the availability, price and purity of controlled drugs.

- 5 In this report we use the terms 'problem' and 'casual' drug use in their now commonly accepted senses. By 'problem drug use' we mean use whose features include dependence, regular excessive use and serious health and other social consequences; it will typically involve the use of opiates, particularly heroin, cocaine or other stimulants, often as part of a pattern of polydrug use. We use 'casual' in its dictionary definition of 'not regular or permanent or calculable, varying with circumstances'. In distinguishing between problem and casual drug use, we do not imply that the latter is problem free or does not involve a variety of risks. We only consider that objective terminology is required to distinguish between those with serious drug problems and others who use drugs.
- 6 Taking the standard indicators in turn, the evidence shows that there has been a significant increase in the prevalence of both problem and casual drug use in the United Kingdom over the past 30 years. Although the data is poor, the trend of a substantial and steady increase in problem drug use is clear, producing estimates of up to 200,000 problem drug users of whom the majority are heroin users, often injectors. The largest increase in problem drug use over the last 5 years has been among those under 21. There is a high correlation with social deprivation and urban residence, but more recently there has been a wider social and geographical dispersal together with significant local variations. There has also been a large increase in this period in the numbers of casual drug users, especially of those who use cannabis. One of the features of casual drug use in the last decade has been the very substantial increase in the numbers of young people using a wide combination of drugs, particularly stimulants, in leisure settings.
- 7 We would emphasise that, although prevalence is often taken as the prime indicator of the drugs problem and the measure of success in controlling it, prevalence studies are largely estimating the number of occasional users, particularly of cannabis, who cause little harm either to themselves or to others; a much smaller number of heroin users inflict much greater harm on themselves and on others. The consequences of drug use are more important than the numbers of users.
- 8 The evidence that we have collected on public attitudes shows that the public sees the health-related dangers of drugs as much more of a deterrent to use than their illegality, the fear of being caught and punished, availability, or price. There are also significant differences in public attitudes to cannabis compared to other drugs.
- 9 Despite large increases in the number and quantity of seizures of all drugs, there is no strong evidence that drugs have become harder to obtain or more expensive. Nor has there been any decrease in purity. There has also been a growth in the range of synthetic drugs available.
- 10 All the evidence suggests to us that the law plays a minor part in deterring demand. It is of prime importance, therefore, that the law should accurately reflect relative harm in terms of current knowledge and experience. Only then can it support a public health agenda of education and prevention.

- 11 The law is and must remain the principal means through which supply is curtailed. But we see no evidence that severe custodial penalties are deterring traffickers, or that enforcement, however vigorous, is having a significant effect on supply. The Misuse of Drugs Act 1971 was framed at a time before drugs had become the chief commodity of organised crime. We have come to the conclusion that the law and, more particularly, its implementation, need strengthening to make it more difficult both to derive huge profits from drug trafficking and to reinvest those profits in the drug trade and other criminal enterprises for further gain.
- 12 In considering possible changes to the law in the light of this evidence, we have been very conscious that the Misuse of Drugs Act 1971 reflects a long historical process of international agreements on drug control in which the United Kingdom has been a major participant. As such, one of its objectives is to implement this country's obligations under the three current international conventions. We have found a widespread belief that these obligations rule out the possibility of changes to the law. In fact, although they rule out the legalisation of any prohibited drug other than for medical, scientific or limited industrial purposes, the conventions allow more room for manoeuvre than is generally understood. All our recommendations fall within the requirements of this country's international commitments.
- 13 It is in the area of drug use, possession and related acts that the scope left by the international conventions for different approaches is widest. We have found that it is not well understood that for such offences there is express provision for imposing measures such as treatment, education, rehabilitation or social reintegration. These measures may be imposed either in addition or, more importantly, as an alternative to conviction or punishment.
- 14 The study conducted for us of other European countries' drug laws shows that use can be, and is being, made of this room for manoeuvre. It shows that while there is close harmonisation in response to trafficking offences, there is considerable divergence of approach towards drug use and possession and towards acts of minor supply. We have concluded that there are some useful European lessons for the United Kingdom.
- 15 We have found that the United Kingdom has a more severe regime of control over possession offences than most of the other European countries which we have studied. Although direct comparisons are difficult because of incompatibilities as well as deficiencies in both the quality and quantity of the data, we have seen no evidence which would warrant the conclusion that the United Kingdom has benefited from the more punitive provisions of its law on possession.
- 16 The United Kingdom is unique in Europe in having a three-tier classification system by which the law ranks drugs according to their relative harmfulness and attaches penalties to the class in which a drug is placed. We have concluded that this classification is useful and should be retained. It enables the relative risks of different drugs to be more accurately distinguished in terms of current scientific and sociological knowledge. It also allows sanctions to be applied which are proportionate to the harms of the drugs and the activities related to them.

- 17 However, the criteria by which drugs are classified have never been clearly described. We believe that they should be. We have undertaken this exercise as best we could within the time, resources, and expertise available to us, and we hope it will be built upon. It has led us to conclude that some drugs should be reclassified so that the classes provide a more accurate hierarchy of harm and commensurate sanctions. We recommend the following transfers between classes:
  - (i) cannabis from B to C (a recommendation first made in 1979 by the Advisory Council on the Misuse of Drugs);
  - (ii) cannabinal and its derivatives from A to C;
  - (iii) ecstasy from A to B (a recommendation made to us by the Association of Chief Police Officers among others);
  - (iv) LSD from A to B;
  - (v) buprenorphine from C to B.
- 18 We recognise that some of these changes may be thought to risk conveying potentially dangerous messages to drug users and prospective users. We believe, on the contrary, that the changes will enable the law to reflect more accurately the risks attached to different drugs. This will enhance the law's credibility and the support it can offer to education and prevention. We have concluded that the most dangerous message of all is the message that all drugs are equally dangerous. When young people know from their own experience that part of the message is either exaggerated or untrue, there is a serious risk that they will discount all of the rest. Recent evidence indicates that there is a pressing need to refocus education and attention on the pre-eminent harm of heroin and cocaine.
- 19 We next considered the offences stipulated and defined by the law. We see the need to strengthen the law's armoury against supply by creating a new offence of dealing which would allow the courts to sentence for a course of conduct rather than only for an isolated act of supply. We also found a need for change in the offences relating to premises, paraphernalia, the cultivation of cannabis and the regulations relating to the therapeutic use of cannabis. In each case our aim has been to enhance the law's capacity to reduce harm where those who use drugs are concerned, and to concentrate in line with the national strategy on those who produce, process, distribute and sell them.
- 20 With regard to all trafficking offences, we believe that much would be gained by statutory sentencing guidelines and we hope that the new Sentencing Advisory Panel will so advise the Court of Appeal. Such guidelines should incorporate the aggravating factors to which we believe the courts should have consistent regard in their sentencing. Key aggravating factors which should be included are: the involvement of an organised criminal group; the use of violence or firearms; the use of children or young persons in trafficking activities; supply to minors; the commission of the offence in the vicinity of schools, psychiatric facilities or prisons; and public nuisance elements in the offence.
- 21 We have concluded that the most serious deficiency in the law against drug trafficking is a pragmatic rather than a legislative one. It lies in the current ineffectiveness of the procedures by which the assets of drug traffickers are

confiscated under the Drug Trafficking Offences Act 1994. The facts speak for themselves: in 1997, the total amount ordered to be confiscated was £5.6 million, a fifth of the amount confiscated in 1994, while the average order of £3,800 was the lowest ever. We see a need to transfer responsibility for enforcing confiscation orders from the magistrates to the crown court; also for the establishment of a National Confiscation Agency, as recently proposed by the Home Office, tasked with ensuring that the confiscation process achieves full efficiency. We stress, however, that if this is to be achieved, considerable investment is needed in recruiting and training people with the requisite skills. These will be needed in most branches of the criminal justice system, in particular the police, prosecution and courts (including the judges). We believe that a radical shift to civil confiscation should not be considered before the ability of the current criminal system to function more effectively has been fully developed with the aid of these proposals.

- 22 Possession offences dominate the operation of the law against drugs. They constitute around 90% of the total of MDA offences and they take up a very large amount of the time and resources of the criminal justice system. After careful consideration of the evidence presented to us on the operation of the law, here and elsewhere, we have concluded that imprisonment is neither a proportionate response to the vast majority of possession offences nor an effective response where the offence is related to problem drug use. A prison sentence should be abolished as a penalty for most possession offences.
- 23 There is one, and only one, respect in which we believe that the power to impose a custodial penalty should be retained. We have in mind those cases of possession of a Class A drug where the harm represented by the offence is such that the courts must have available to them powers currently dependent on a liability to imprisonment. These include the powers to impose certain community sentences with a full range of sanctions for breach. We have accordingly recommended that there should be no custodial penalty for the possession of Class B and C drugs, but that a shorter maximum prison sentence than at present should continue to be available for the possession of a Class A drug.
- 24 Our recommendation is already accepted, at least tacitly, by the courts. Although the maximum prison sentences for possession under United Kingdom law, from 2 to 7 years, are among the severest in Europe, they are not, in fact, imposed. Current sentences for possession are very much shorter at an average of less than 4 months and the evidence suggests that it is unlikely that many of the 4,852 people given custodial sentences for possession offences in 1997 were in prison for the offence of possession alone. Under our recommendations, we would expect prison sentences for possession to be rare, and imposed only where community and treatment sentences had failed or been rejected.
- 25 The law's viability where possession offences are involved has depended on the massive increase in the use of cautioning by the police. It is now used in over half of all such cases. We think the police have been right in their approach, but we consider that discretion needs a proper framework within which to operate. Like

the Royal Commission on Criminal Justice in England and Wales, we think that cautioning should become a statutory sanction, with guidelines set down in regulations. This would bring with it the important option for conditions attached to a caution to be enforced, which is not possible at present. Recently the Government has published proposals to bring cautions, along with reprimands and warnings, within the ambit of the Rehabilitation of Offenders Act 1974 and to make them immediately spent for the purposes of the duty of disclosure by the offender in most cases. We welcome this proposal. We would go further and we recommend that a caution, like a fiscal fine in Scotland, should not bring with it a criminal record. Regulations should spell out where and how a caution is to be recorded and disclosed to answer the needs of the police and of the courts. Either way, it has clearly become necessary for cautioning itself to become a statutory procedure.

- 26 We fully support the national strategy's aim to protect communities from drug-related crime: the violence of turf wars; the degradation of neighbourhoods from drug markets; and the crimes linked to problem drug use. We recognize that the courts need to have available a wide range of powers to tackle the link between drugs and crime. In the case of drug users, our view that prison sentences should be abolished for most possession offences will not interfere with those powers. Those offenders for whom such powers are appropriate will almost invariably be charged with acquisitive offences whether or not they are also before the courts for possession offences. It is important to remember that even though their cost to society is great due to the scale of their offending, it is a minority of problem drug users who commit crime and they are not usually involved in serious or violent crime but rather in small scale acquisitive crime, particularly shoplifting.
- 27 We are aware that a practical consequence of our recommendations would be to deprive the police of their power of arrest for a possession offence which comes to light following a stop and search. Currently Class A or B possession offences are arrestable offences by virtue of the fact that they attract a prison sentence of 5 years or more. We agree with the police that the objectives of the law as we have defined them would be undermined if this power was abolished. We wish to see the power of arrest continue to apply, as at present, to the possession of Class A and B but not Class C drugs.
- 28 The major change which would follow, therefore, from our recommendation that cannabis should be reclassified as a Class C drug is that the power of arrest would no longer apply to offences of possession of cannabis, except in certain prescribed circumstances such as when an offender's identity is in doubt. Cannabis possession offences are by far the largest category of all drugs offences – 78,000 out of a total of 113,000 in 1997. The police have argued to us that this could reduce their operational effectiveness against the drug problem across a broader front. Their fear is that they would be hampered in their ability to disrupt local markets and to obtain intelligence about suppliers. They also point out that they would be deprived of the consequential PACE power to search the premises of those arrested, which may bring to light Class A drugs and weapons. The evidence we have seen does not, however, persuade us that more would be lost than gained

by the removal of the police power of arrest for cannabis possession. We think that the power to stop and search for drugs which we accept must be retained, together with arrest powers for Class A and B drugs, will be enough to ensure that intelligence-led and street-level policing is not undermined.

- 29 It will be apparent that our recommendations about cannabis are those that would bring about the greatest change. That is our intention. While we have encountered no sense that the legislation on drugs overall needs radical change, we have encountered much unease and scepticism about the law and its operation in relation to cannabis. Cannabis is not a harmless drug: there are physical and psychological risks to the individual from regular, long-term cannabis use, and there are dangers to others from the impairment to motor and cognitive functioning from intoxication. But by any of the main criteria of harm – mortality, morbidity, toxicity, addictiveness, and relationship with crime – it is less harmful to the individual and society than any of the other major illicit drugs, or than alcohol and tobacco.
- 30 Our conclusion is that the present law on cannabis produces more harm than it prevents. It is very expensive of the time and resources of the criminal justice system and especially of the police. It inevitably bears more heavily on young people in the streets of inner cities, who are also more likely to be from minority ethnic communities, and as such is inimical to police-community relations. It criminalises large numbers of otherwise law-abiding, mainly young, people to the detriment of their futures. It has become a proxy for the control of public order; and it inhibits accurate education about the relative risks of different drugs including the risks of cannabis itself. Weighing these costs against the harms of cannabis, we are convinced that a better balance is needed and would be achieved if our recommendations were implemented.
- 31 Under our proposals, the normal sanctions for offences of cannabis possession and cultivation for personal use would be out-of-court disposals, including informal warnings, statutory cautions or a fixed fine on the model of the Scottish fiscal fine. Prosecution would be the exception, and only then would a conviction result in a criminal record. We recognise that if the sanctions for cannabis possession and cultivation, both in the law and its enforcement, were to be substantially reduced there would be a risk that more people would use it. But the international evidence does not suggest that this is inevitable or even likely. Given the current widespread availability and use of cannabis, we judge that more would be gained in terms of credibility, respect for the law and the police, and accurate education messages than would be lost in potential damage to public and individual health by the control regime which we recommend. We also believe that our proposed regime would promote the targeting of enforcement on those drugs and activities which cause the greatest harm, in line with the objectives of the national strategy. It would also accord with public perceptions of where policing priorities should lie.
- 32 In our consideration of cannabis, we have looked carefully at the Dutch experience and taken evidence from both proponents and opponents of their present policy. The Dutch are widely and wrongly believed to have legalised cannabis. While

## Summary of Recommendations

<b>Recommendation Number</b>	<b>The Present Situation</b>	<b>Chapter Two: Paragraph</b>
1	The information and research base should be given renewed attention. In particular: i) routine statistics should be improved to ensure that gaps in our understanding of the scale, nature and extent of drug use are reduced; and ii) enforcement and treatment policies should be evaluated thoroughly.	77
	<b>Classes and Schedules</b>	<b>Chapter Three: Paragraph</b>
2	The present classification of drugs in the MDA should be reviewed to take account of modern developments in medical, sociological and scientific knowledge.	7
3	The main classification criterion should continue to be that of dangerousness.	7
4	The chronic health risks from each drug should be kept under continuous review.	11
5	The model of three classes offered by the MDA should be retained.	26
6	There should be clear criteria for the future to govern additions to, and transfers between, the classes.	27 & 38
7	Ecstasy and related compounds should be transferred from Class A to Class B.	30 & 36 i)
8	LSD should be transferred from Class A to Class B.	36 ii)
9	Cannabinols such as d-9 THC should be transferred from Class A to Class C.	31 & 36 iii)
10	The Government should encourage the development and manufacture of benzodiazepines in combination with an antagonist, such as flumazenil, that would block the 'high' when used intravenously but would not affect the therapeutic response when used orally.	32

<b>Recommendation</b>	<b>Classes and Schedules</b>	<b>Chapter Three: Paragraph</b>
11	Doctors should be encouraged to prescribe the less abused benzodiazepines and non-benzodiazepine alternatives.	32
12	Buprenorphine (except when in combination with naloxone) should be transferred from Class C to Class B.	33 & 36 iv)
13	Herbal cannabis and cannabis resin should be transferred from Class B to Class C.	36 v)
14	The Advisory Council for the Misuse of Drugs should continue to be the body that has the statutory responsibility for considering and making recommendations to Ministers on the classification of new drugs and for keeping the existing classes under review.	46
15	Future reports from the Council should clearly state its methods and findings on such matters.	46
16	The Government should study the United States and the Netherlands systems with a view to establishing an effective early warning system in this country.	49
	<b>Trafficking Offences</b>	<b>Chapter Four: Paragraph</b>
17	The Government should set up a detailed and in-depth examination of the relationship between the Misuse of Drugs Act 1971 and the Customs and Excise Management Act 1979.	15
18	There should be a separate offence of dealing, the main ingredient of which would be the pattern of activity of illicitly transacting business in drugs. It should be capable of being charged as a continuing offence.	27
19	The new offence of dealing should be designated a trafficking offence for the purposes of the Drug Trafficking Act 1994.	28
20	It should be a defence for a person accused of supply or possession with intent to supply to prove that he was a member of a small social group who supplied or intended to supply a controlled drug (other than a drug of Class A) to another member or other members of that group believing that he was acting, or had acted, on behalf of the group, which shared a common intention to use the drug for personal consumption. This defence would only	30 & 35

<b>Recommendation Number</b>	<b>Trafficking Offences</b>	<b>Chapter Four: Paragraph</b>
<i>20 continued</i>	apply where the court was satisfied that the amount or value of the controlled drug was consistent with personal use within the group concerned.	
21	Maximum penalties for trafficking offences under the MDA and CEMA should be amended as shown in Table 4.3 on page 67.	39
22	The penalties for other trafficking offences, such as money laundering and illicit traffic in precursor chemicals, should be separately considered and, if necessary in order to achieve consistency, brought into line.	39
23	Drugs offences should be designated as a relevant category of offence for the purposes of sections 80 and 81 of the Crime and Disorder Act 1998 and guidelines proposed by the Sentencing Advisory Panel for consideration by the Court of Appeal.	41
24	The factors set out in Chapter Four, paragraph 43, should be taken account of in such guidelines.	43
25	Before further consideration is given to confiscation of assets under civil law, steps should be taken to strengthen and make maximum use of the existing criminal law procedures.	51 and 52
26	The responsibility for enforcement of confiscation orders should lie with the crown court not with the magistrates' courts.	53
27	The time limit set for payment of the amount named in a confiscation order should be that which seems reasonable to the court having looked into the circumstances and heard and tested the arguments of prosecution and defence.	54
28	The recommendations in the Home Office consultation paper for improving the effectiveness of the present criminal law system of confiscation should be followed up except where they are overtaken by our recommendations, particularly number 26.	55
29	The new national confiscation agency proposed by the Home Office should be set up with the overriding remit of ensuring that the present criminal confiscation machinery, reformed as we propose, achieves full efficiency.	56

<b>Recommendation Number</b>	<b>Trafficking Offences</b>	<b>Chapter Four: Paragraph</b>
30	A considerable investment in recruitment and training of people with the requisite skills should be made in most branches of the criminal justice system, in particular the police, prosecution, and courts (including the judges).	57
31	It should be possible for the courts to order the forfeiture of property other than land seized by the police which was clearly about to be used in the commission of a further offence.	59
	<b>Non-Trafficking Offences</b>	<b>Chapter Five: Paragraph</b>
32	The law should take full advantage of the leeway left by the United Nations conventions to deal with the less serious situations in a non-punitive way.	11
33	A maximum penalty of imprisonment albeit on a lower scale should be retained for Class A drugs.	13
34	In the case of Class B and Class C drugs, the present custodial penalties should be removed and the courts should develop further the non-custodial responses already available to them.	14
35	As soon as legislative opportunity permits, the progressive repeal of the ability of the courts to attach treatment conditions to probation orders in drugs cases should be reversed.	18
36	The maximum penalties for possession offences should be as set out in Table 5.2 on page 79.	19
37	Arrestability under section 24 of PACE should be retained for possession offences involving Class A and Class B drugs.	32
38	Possession of Class C drugs is not an arrestable offence at present. This situation would not change when cannabis is transferred to Class C.	32
39	In Scotland the present powers of detention should be retained for possession of Class A and Class B drugs but should not be extended to Class C drugs when cannabis is transferred there.	33
40	The police should develop procedures for properly recording and documenting drug seizures that take place on the streets.	34

<b>Recommendation Number</b>	<b>Non-Trafficking Offences</b>	<b>Chapter Five: Paragraph</b>
41	Paragraphs (a) and (b) of section 8 (knowingly permitting or suffering supply and production) should be retained subject to redrafting designed to make it clear that the main aim is to deter those who wilfully allow others to produce or supply controlled drugs.	41 and 42
42	'Wilfully' should be defined as meaning 'not caring whether the unlawful production or supply takes place or not'.	41
43	A person should not be regarded as acting wilfully merely by reason of his failure to disclose confidential records or material in respect of the persons in his care.	41
44	Section 8 should be extended to include the new offence of dealing recommended at 18 above.	42
45	The maximum custodial penalty on indictment for premises offences involving Class B drugs should be reduced from 14 years to 7.	42
46	Paragraphs (c) and (d) of section 8 (knowingly permitting or suffering premises to be used for preparing opium or for smoking cannabis or opium) should be repealed.	44
47	It should be a condition of their licences that owners and managers of places of entertainment take measures for the safety of drug-takers.	45
48	Educational material about the main drugs and their risks, including the risks of driving, should be widely available at entertainment venues.	45
49	Section 9 of the MDA (offences relating to opium) should be repealed.	48
50	Section 9A of the MDA (paraphernalia) should be repealed.	53
51	The exemption for hypodermic syringes currently contained in section 9A should for the avoidance of doubt be inserted into section 19. It should be extended to other products.	53

<b>Recommendation Number</b>	<b>Enforcement</b>	<b>Chapter Six: Paragraph</b>
52	We welcome the recent amendments to Code A on strip searches.	8
53	The main need is for quality control and close monitoring of the outcomes of stop and search. The aim should be to have fewer stops and searches but a higher proportion of them with successful outcomes.	13
54	We support the Government's proposal that cautions, reprimands and warnings should become spent immediately, with the result that there would be no rehabilitation period for the purposes of the Rehabilitation of Offenders Act 1974.	20 and 24
55	Cautioning should become a statutory sanction, with guidelines laid down in regulations.	31
56	The fiscal fine system should be introduced in England and Wales for operation by the Crown Prosecution Service.	34
57	Out-of-court fines should only be used for cases that would otherwise be prosecuted and should not replace the caution in the kind of case for which cautions are used now. That might be ensured under statutory cautioning guidelines.	35
58	It should be made clear in legislation that cautions, reprimands, warnings, compounds and out-of-court fines should not be capable of being cited in court as evidence of the character either of the defendant or of a witness. Section 66(5) of the Crime and Disorder Act would need to be amended accordingly. A similar change is needed to CEMA's provisions on compounding.	36
59	Records of cautions, reprimands and warnings for drug possession offences should continue to be kept on the Police National Computer.	37
60	The Secretary of State should include information on drugs cautions, reprimands or warnings in criminal record certificates only in the most exceptional cases.	38

<b>Recommendation Number</b>	<b>Cannabis</b>	<b>Chapter Seven: Paragraph</b>
61	Cannabis should be transferred from Class B to Class C of Schedule 2 of the MDA and cannabinol and its derivatives should be transferred from Class A to Class C.	77 i)
62	The possession of cannabis should not be an imprisonable offence. As a consequence, it will no longer be an arrestable offence in England and Wales under section 24 of PACE, and arrests will only be possible under section 25 of PACE where there are identification or preventative grounds.	77 ii)
63	Prosecution of offences of cannabis possession should be the exception and only then should an offence, if it results in a conviction, incur a criminal record. An informal warning, a formal caution, a reprimand or warning in the case of those aged 17 or under, or a fixed out-of-court fine should be the normal range of sanctions.	77 iii)
64	The cultivation of small numbers of cannabis plants for personal use should be a separate offence from production and should be treated in the same way as possession of cannabis, being neither arrestable nor imprisonable and attracting the same range of sanctions. Cultivation of cannabis for personal use under section 6 and production under section 4 should be mutually exclusive offences.	41 and 77 iv)
65	The maximum penalty for trafficking offences for Class C drugs, including cannabis, should be 7 years imprisonment and/or an unlimited fine. Cannabis trafficking offences would, like all such offences, continue to attract the confiscation powers of the Drug Trafficking Act.	77 v)
66	Permitting or suffering people to smoke cannabis on premises which one owns or manages should no longer be an offence under section 8 of the MDA.	77 vi)
67	Statutory sentencing guidelines should include vicinity to schools, psychiatric services and prisons as aggravating factors for the purposes of sentencing for trafficking offences.	77 vii)
68	Cannabis and cannabis resin should be moved from Schedule 1 to Schedule 2 of the MDA Regulations thereby permitting supply and possession for medical purposes. If there is to be any delay in	79 viii)

Recommendation Number	Cannabis	Chapter Seven: Paragraph
<i>68 continued</i>	adopting this recommendation pending the development of a plant with consistent dosage, we recommend a defence of duress of circumstances on medical grounds for those accused of the possession, cultivation or supply of cannabis.	
	<b>Treatment and the Law</b>	<b>Chapter Eight: Paragraph</b>
69	We welcome the emphasis on treatment in the national strategy and accept the rationale for using the criminal justice system to channel drug misusing offenders into treatment.	8
70	There should be a very substantial reallocation of resources and particularly an increase in the provision of services for adolescents, women, people from minority ethnic communities and people with mental health problems.	11
71	Where a response is sought to problem drug use, as opposed to the crime related to it, treatment in prison should always be considered a second-best option, and sentencers should not be attracted to it as a solution.	13
72	More far-reaching research is needed to provide a better understanding of the precise dynamics and causal links in the drugs-crime relationship and better evidence about the factors that influence treatment effects. There is a particular need to evaluate the cost-effectiveness of different interventions, in order to inform future decisions on distribution of overall drugs expenditure.	14
73	A statutory framework and guidelines governing the conditions that may be attached to a caution should be part of the legislation that would put cautioning of those over 17 on a statutory basis. In particular: (i) the police should be given statutory powers to attach conditions to a caution, including the power to charge the offender with the original offence if the conditions are not met; (ii) the power to attach conditions should be supported by statutory guidelines making it clear what sort of conditions are permissible and how compliance should be assessed;	19  21 iii)  21 iv)

Recommendation Number	Treatment and the Law	Chapter Eight: Paragraph
73 <i>continued</i>	(iii) the police should be given powers to release offenders on police bail while arrangements for treatment are made; if such arrangements are not made the offender would be charged for the offence.	21 v)
74	It should be made clear (by amending PACE if necessary) that further questioning to establish willingness to undergo treatment is permissible after the evidence to support a charge has been obtained but that it should take place only with the suspect's agreement.	21 i)
75	The relevant PACE Code should be redrafted so as to draw a clear distinction between questions designed to establish guilt and questions designed to establish an offender's willingness to undergo treatment. The Code could then go on to lay down at which point each type of questioning could take place.	21 iii)
76	Urgent consideration should be given to extending the licensing system under the MDA so that doctors in private practice and NHS doctors who prescribe privately have to be licensed if they wish to prescribe any Class A drug to an addict. Such licences should be based on criteria which include the doctor's training and links to specialist support.	36
77	A national register of private prescriptions should be set up and arrangements made to scrutinise and monitor them.	36
78	The existing tribunal system should be abolished.	36
79	The licensing system and rights of appeal should be under the control of Directors of Public Health.	36
80	We support the recommendation by the British Medical Association in 1997 for 'a national comprehensive, confidential information system... to provide up-to-date prescribing information on individuals, accessible to general practitioners and other prescribers, available out-of-hours, including weekends.'	37
81	We urge the government to give urgent and sympathetic consideration to the report of the Royal Pharmaceutical Society on services to drug misusers and in particular to the recommendations listed in paragraph 39 of chapter eight.	38

# Appendix I

## The Members of the Inquiry

VISCOUNTESS RUNCIMAN D.B.E (Chairman)

Member of the Advisory Council on the Misuse of Drugs (1974-95) and Chairman of the Council's Criminal Justice Working Group; Chairman Mental Health Act Commission.

MRS ALISON CHESNEY\*

Chief Executive, Cranstoun Drug Services (1992-1998)

MR RUDI FORTSON

Barrister at Law, Middle Temple and author of Misuse of Drugs and Drug Trafficking Offences.

MR JOHN HAMILTON QPM

Chief Constable, Fife Constabulary

MR SIMON JENKINS

Former Editor – The Times

PROFESSOR ALAN MAYNARD

Professor of Economics, University of York, Department of Economics and Related Studies.

MR LEONARD G. MURRAY\*\*

Consultant, Levy and McRae Solicitors, Glasgow

PROFESSOR DAVID NUTT

Head, Mental Health and Psychopharmacology Unit, University of Bristol.

MR DENIS O'CONNOR QPM

Assistant Commissioner, Metropolitan Police Service

PROFESSOR GEOFFREY PEARSON

Wates Professor of Social Work, Goldsmiths' College.

MR IAN WARDLE

Chief Executive, Lifeline Project Limited.

PROFESSOR SIR BERNARD WILLIAMS

White's Professor of Moral Philosophy, University of Oxford (until 1996); Monroe Deutsch Professor of Philosophy, University of California – Berkeley.

MS ANNETTE ZERA

Principal, Tower Hamlets College, London.

\* resigned 18 September 1998

\*\* resigned 12 March 1998

## Appendix 2

### Terms of Reference

#### 1 Objectives

- 1.1 To carry out an independent inquiry into the effectiveness of the relevant laws in order to assess options for legislative change and to provide the best informed possible revisions.
- 1.2 To encourage informed discussion among those who have a particular interest in the legislation, policy and practice addressing the misuse of drugs including legislators, policy-makers, the police, the medical and legal professions, statutory and voluntary service providers, teachers and academics.
- 1.3 More generally, to raise the level of public understanding and debate about the effectiveness of the relevant legislation, and the efficiency of its enforcement in achieving the aim of curbing the misuse of controlled drugs.

#### 2 Terms of Reference

##### 2.1 The Inquiry is asked to:

- a. describe the purpose and intention behind the existing relevant legislation and place them in their historical context including the U.K. obligations under the United Nations drug conventions and to the European Union.
- b. review and assess the current goals of drug misuse control.
- c. assess the adequacy of the existing relevant legislation in meeting current needs.
- d. compile a list of possible revisions to the existing relevant legislation pointing out agreement, conflicts and possible compromises if current legislation is found to be inadequate for some or all of the needs identified.
- e. select the most cogent proposals for revision of the existing relevant legislation and examine the implications of their implementation.

##### 2.2 The Inquiry is expected to decide its own mode of working, which may in particular include:

- a. inviting written and/or oral testimony from individuals and organisations with particular experience of the issues under discussion;
- b. determining the topics for the briefing and research papers to inform its deliberations;
- c. commissioning those briefing and research papers necessary for its discussions;
- d. convening seminars of experts in the field for discussion of the issues;
- e. publishing briefing papers, research papers and reports as may be thought appropriate; and
- f. devising a coordinated plan for the dissemination of the findings of the Inquiry.

**3 Operation of the Inquiry**

- 3.1 The Inquiry has been established by the Police Foundation as an independent body and as such is not expected to represent the views of the Trustees or staff of the Foundation.
- 3.2 The Police Foundation will provide the Inquiry with the resources essential to carrying out its work.
- 3.3 The Police Foundation will serve as Secretariat of the Committee and take responsibility for:
  - a. administrative coordination
  - b. financial support
  - c. commissioning the background papers or external studies required by the Committee.
  - d. implementing the coordinated plan for disseminating the findings of the Inquiry.
- 3.4 The Inquiry is expected to work in partnership with the Police Foundation in the overall administration of its work.

## Appendix 3

### Witnesses Who Provided Oral Evidence

Mr Peter Clay	Assistant Chief Constable and Director of Intelligence, National Criminal Intelligence Service
Mr Paul Cook	Consultant, European Monitoring Centre for Drugs and Drug Addiction
Ms Penny Cottan	Legal Advisor, Release
Mr Justice Peter Crane	Peterborough Crown Court
Mr Nicholas Dorn	Director of Research, Institute for the Study of Drug Dependence
Mr. Barry Dougal	Detective Superintendent, Strathclyde Police, Force Drugs Coordinator
Dr Michael Farrell	Senior Lecturer & Consultant Psychiatrist, National Addiction Centre
Mr Mike Franklin	Chair, Borough of Lambeth Community-Police Consultative Group
Mrs Christine Glover	Vice President, Royal Pharmaceutical Society of Great Britain; Chairman, Working Party on Pharmaceutical Services for Drug Misuse
Dr Michael Gossop	Project Director, , National Treatment Outcome Research Study, National Addiction Centre
Mr John Grieve	Deputy Assistant Commissioner, Metropolitan Police Service
Professor Michael Hough	South Bank University
Mr Michael Jay	Chairman, Drugs Policy Review Group
Mr A.D.J. Keizer	Head, Addiction Policy Division, Directorate of Mental Health and Addiction Policy, Ministry of Health, Welfare and Sport, The Netherlands.
Mr M Keybets	Brigadier, Police Department of Limburg Zuid, Maastricht, The Netherlands
Mr Simon Kirkham	Legal Advisor, Release
Mr Frans Koopmans	Director, Stichting “De Hoop”, Dordrecht, The Netherlands

Mr Danny Kushlick	Director, Transform
Professor Malcolm Lader	Professor of Psychopharmacology and Chairman National Addiction Centre; Chairman, Technical Sub-Committee, Advisory Council on the Misuse of Drugs
Drs. Ed Leuw	Research and Documentation Centre, Ministry of Justice, The Netherlands
Mr Alan MacFarlane	Chief Inspector, Drugs Inspectorate, Home Office Action Against Drugs Unit
Professor Neil McKeganey	Chair, Centre for Drug Misuse Research, University of Glasgow
Mr Geoffrey Monaghan	Detective Sergeant, Intelligence Directorate, Drugs Unit, Metropolitan Police Service
Ms Arlene Mundle	Head , Race Harassment sub-Committee, Borough of Lambeth Community Police Consultative Group
Mr Roger Odd	Head, Practice Division, Royal Pharmaceutical Society of Great Britain
Professor Howard Parker	University of Manchester, Department of Social Work
Mr Colin Phillips	Chief Constable, Cumbria Constabulary and Chairman, Drugs Sub-Committee, Association of Chief Police Officers'
Mr Gregory Poulter	Deputy Director, Release
Professor John Strang	Director, National Addiction Centre
Mr Matthew Sutton	University of York, Centre for Health Economics
Mr Barry Taylor	Detective Superintendent, West Mercia Constabulary, Force Crime Manager
Dr David Thomas QC	Reader in Criminology, Institute of Criminology, Cambridge
Mr David Warren	Assistant Chief Constable, Avon and Somerset Constabulary and Secretary, Drugs Sub- Committee, Association of Chief Police Officers

## **Appendix 4**

### **Individuals and Organisations Submitting Written Evidence**

#### **Individuals**

Mr Neil N Ashton  
Professor Mark R Baker  
Dr A J Blowers  
Mrs Mary Brett  
Bro. Michael Carmichael OGS  
Mr David R Copestake  
Mr Roger Creasey  
Mr Quentin England  
Professor P B Fellgett FRS  
Mr Paul Flynn MP  
Mr Andy Francis  
Mr J J Fraser  
Ms Helen L Heathand  
Anon. of Holywell, Flintshire  
Mrs Hope Humphreys  
Mr James Humphreys  
Mr Mick Humphreys  
Mr Richard Ives  
Mr Kazim Khan  
Rev. Kenneth Leach  
Dr Alan John Lyons  
Lord Mancroft  
Dr John Marks  
Mr Peter G B McNeill  
Mr W M Peacock CBE  
Mr Dennis Ramshaw  
Mr K G Rickard  
Mr I Robinson  
Mr Al Sabbah  
Mr Jonathon Sayers  
Mr John N Wates  
Mr David L Williams FRCGP  
Mrs Joan Wollard

**Organisations**

Agapay  
Association of Scottish Police Superintendents  
Association of Chief Police Officers (Scotland)  
Association of Chief Police Officers of England, Wales and Northern Ireland  
Bedfordshire Drug Action Team  
Birmingham Drug Action Team  
Black Drug Workers Forum (North West)  
BLWA (Association of Laboratory Supply Industry)  
Bradford Drug and Alcohol Action Team  
British Medical Association  
Bury Drug Action Team  
Cardiff Street Drugs Project  
Cardinal Hume Centre  
Catholic Bishops Conference of England and Wales  
Church of England, Board of Social Responsibility  
Committee of Vice Chancellors and Principals of the Universities of England and Wales  
Coroners Society of England and Wales  
Crown Prosecution Service  
D.I.D (Drugs in Deptford)  
Daybreak Drug Abuse project  
Diocese of Newcastle  
Drugs Policy Review Group  
Dudley Drug Action Team  
Greater Manchester Drug Action Partnership  
HM Customs and Excise  
HM Inspector of Constabulary  
Justices' Clerks' Society, England and Wales  
Kaleidoscope Project  
Kingston & Richmond Drug Action Team  
Langley House Trust  
Law Society  
Liverpool Drug Action Team  
Local Government Association  
London Borough of Hillingdon Drug Education Team  
Medical Research Council  
Ministry of Sound  
National Crime Squad (Eastern Area)

National Drug Prevention Alliance  
National Pharmaceutical Association  
National Union of Teachers  
National Youth Agency  
New Horizon Youth Centre  
Northamptonshire Drug Action Team  
Northumbria Police  
Nottingham Drug Action Team  
Police Federation of England and Wales  
Rainbow Project  
Re-Solv  
Road Peace  
Rotherham Drug Action Team  
Royal College of Physicians  
Royal Pharmaceutical Society of Great Britain  
Scottish Police Federation  
Shropshire Drug Action Team  
South East London Probation Service  
St Thomas Fund for the Homeless  
Standing Conference on Drug Abuse  
Stockport Drug Action Team  
T.H.O.M.A.S. (Those on the Margins of Society)  
The Depaul Trust  
The Irish Bishops Conference  
The Matthew Project  
The Passage  
The Stapleford Centre  
THI and THI Macedon  
Transform  
Uxbridge Drug Action Team  
Wakefield Drug Action Team  
West Yorkshire Drug Prevention Team  
Wirral Christian Drug Action  
York Peace Centre  
Yorkshire Television

## Appendix 5

### Main Events in Twentieth Century Drug Control

Sale of cocaine regulated under Poisons and Pharmacy Act 1908.

International Opium Convention 1912 (the Hague Convention) requires states party to it to limit the manufacture, trade and use of opiates to medical purposes; to close opium dens; to penalise unauthorised possession of opiates; and to prohibit their sale to unauthorised persons.

Defence of the Realm Act 1916 controls possession of cocaine.

Dangerous Drugs Act 1920 implements Hague Convention. Although principally concerned with opium, the Act also places controls on the importation, exportation and manufacture of tincture of cannabis and preparations containing dihydrocodeine. It also creates an offence of being an occupier of premises permitting the smoking of prepared opium (compare section 8 of the MDA) and introduces the offence of performing acts in this country resulting in the commission of an offence contrary to a corresponding law abroad (compare section 20 of the MDA).

Second Opium Conference and Geneva Convention 1925. Discusses cannabis as well as opium. Introduces independent body to monitor and advise on matters relating to opiate distribution and control. Also sets up a system of annual reporting of drug stocks, manufacture and shipments.

Dangerous Drugs Act 1925 amends 1920 Act so as to restrict importation and exportation of coca leaf and cannabis.

Report of the Interdepartmental Committee on Morphine and Heroin Addiction (the Rolleston Committee) 1926 recommends that prescription of heroin and morphine be permitted for the cure of addiction by gradual withdrawal and to incurable addicts.

International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs 1931 introduces requirement for countries to produce estimates of drug consumption and other statistics. Limits manufacture of narcotic drugs to medical and scientific purposes.

Dangerous Drugs Act 1932 extends range of controlled drugs following 1931 convention and prohibits trade in and manufacture of opium and cocaine for other than medical and scientific purposes.

Convention for the Suppression of Illicit Traffic in Dangerous Drugs 1936.

Geneva Protocol 1946 transfers functions of League of Nations, of which the United States was not a member, to the United Nations.