

Consultation Response

The misuse of drugs act (amended)

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Shelter

Shelter recognises the need to tackle the problem of 'crack' houses but believes that the Notes of Guidance for section 8(d) of the Misuse of Drugs Act 71 will create barriers to providing the necessary support to enable drug users to tackle their dependency. The guidance does not provide enough safeguards to allow those working with drug users to exempt them from prosecution. Our view is that the legislation should be amended to provide safeguards for agencies providing services that reduce the harm caused by drug use. Organisations and individuals working with drug users will be construed as working illegally if they are aware of drug use on their premises irrespective of police discretion regarding prosecution. We believe that this will:

- Create barriers to providing accommodation, advice and linked support to drug users either through support agencies or within the home.
 - General housing providers will change tenancy agreements to protect themselves against prosecution.
 - Supported accommodation providers will alter admission criteria to protect themselves against prosecution.
 - Housing advice centre staff could be at risk of prosecution as the use of the term premises within the guidance is so broad. This could limit the extent of advice that could be given to drug users.
 - People may not seek help if they think every incident of drug use will be reported to the police.
- Increase homelessness as:
 - Landlords will evict to avoid prosecution even if tenants are making efforts to tackle their drug misuse.
 - Parents will no longer accommodate and support their children if they are under threat of prosecution for attempting to address their children's drug misuse within the home.
 - Those providing supported accommodation will limit their support to ensure they are not liable for prosecution.
- Create disparity in terms of how the police tackle the misuse of drugs and how they use their discretionary powers.

In addition we believe that the guidance will work against other Government initiatives to:

- Provide support for those attempting to tackle their drug misuse through Supporting People for example.
- Sustain the two-thirds reduction in the number of rough sleepers and in particular efforts to prevent a new generation of rough sleepers.

- Reduce re-offending by addressing the needs of vulnerable ex-offenders through the provision of stable accommodation and support on release.
- Reduce street crime by reducing the number of people sleeping rough and assisting those who may commit crimes to support a drug habit to access specialist services to tackle their drug misuse.
- Create safer public places by ensuring the provision of supported accommodation which removes drug users and drug paraphernalia from the streets.

Barriers to provide support

The role of parents

The parental home offers a safe environment in which children can attempt to combat their drug use with parental support. However, under the guidance parents may well decide not to accommodate children if they are liable for prosecution for their children's drug use. In our experience of giving advice in this area, the first question that parents ask relates to their legal position in allowing drug use within the home. Young people could end up sleeping on friends' floors, staying with relatives or end up on the streets, increasing their vulnerability and creating a new generation of rough sleepers.

The role of general housing providers and supported accommodation

The guidance is counter productive to attempts to reduce the level of drug use through the provision of supported accommodation and outreach support services. It will lead to an increase in evictions from general housing and limit access to supported accommodation and services.

Case Study 1 - Drug use, vulnerability and multi-agency support

Rob, a single man with a secure council tenancy, was referred to Shelter by Probation Services. Unfortunately, partly due to a long term drug and alcohol dependency and a mental health condition, rent arrears of £700 built up. He was served a Notice Seeking Possession Order and received a summons to attend possession proceedings at County Court. He was not receiving Housing Benefit as he had not received the relevant medical certificates from his GP. With referral to the Community Justice Mental Health Team by the Probation Service and referral to the Alcohol and Drugs Advisory Service, Shelter was able to establish what information was needed from the Local Authority (LA) to enable them to process his Housing Benefit. With financial help from his mother to pay off an amount of his arrears and agreement to pay off the remaining balance each week, Shelter was able to negotiate with the LA to stop the Possession Order. The County Court

issued a Suspended Possession Order instead, with terms negotiated with the LA. With the support of the agencies outlined above, Rob has been able to maintain his secure tenancy.

Effects of homelessness

The guidance as it stands may well increase homelessness with people unable to access accommodation, support services and advice. This will increase the number of vulnerable people either living in overcrowded conditions with friends or relatives, or sleeping rough on the streets. The knock on effect may be an upsurge in illegal squats, people using drugs in public places and potentially an increase in street crime known to be associated with drug misuse.

The use of police discretion

The guidance puts far too much onus on the police to make value judgements on the type of work carried out with drug users. It is our understanding that police have not always had training in harm reduction and it is unfair to make such demands of them. We believe that the discretionary powers will lead to different interpretations and implementation, creating a regional inconsistency.

Working against other Government initiatives

The Rough Sleepers Unit (RSU) report 'Coming in from the Cold' (2001) includes strategies particularly targeted at vulnerable rough sleepers with drug, alcohol and mental health problems and young people, especially those leaving care and those leaving prison and the armed forces. In April 2000 the RSU set up Contact and Assessment Teams (CATs) to help those living on the streets to access advice, specialist services and accommodation. The guidance may limit the type of provision that specialist services can offer.

In addition research has found that addressing the housing and support needs of ex-offenders is crucial in reducing repeat offending and social exclusion. 'Reducing re-offending by ex-prisoners', a report by the Social Exclusion Unit (SEU), based on Home Office research, found that stable accommodation reduced the risk of re-offending by around 20 per cent. With over 60% of male sentenced prisoners and 55% female sentenced prisoners having used drugs in the previous year to imprisonment the potential for them to access stable accommodation again could be limited by the guidance. With potentially more drug users being forced back into unstable accommodation or sleeping rough, without support to control or reduce their drug taking, it is plausible to assume that street crime associated with drug use could increase.

Case Study 2 - The links between drug use, offending and homelessness

John, a young man in his early thirties, had been released from prison and had nowhere to live. While in prison he had been able to abstain from drugs and alcohol with the benefit of a regular routine and occupation. However on release he found it difficult to cope with daily life and returned to using drugs, a situation exacerbated by living in a squat with other drug users. He expressed concern that he was at risk of becoming involved in criminal activities to support his drug habit. Although advised to do so, the client did not wish to make a homeless application at the time but was offered advice on his homelessness rights and how to access support regarding drug issues. Unfortunately John's health deteriorated and before further assistance could be given he was arrested and imprisoned. With agreement from John, contact has been made with an ex-offender organisation in order to arrange prison visits and give further advice on housing.

The creation of safer public places was the focus of a recent DEFRA report, 'Living Places, Powers, Rights Responsibilities', launched at the Urban Summit. However if the provision of supported accommodation, which removes drug users from the streets, is limited as a circumstance of the guidance, this will not be achieved.

In addition the Home Office has highlighted a strong emphasis on drug treatment and harm minimisation which can only be provided if those working with drug users are safeguarded against prosecution to allow them to carry out their work.

Conclusion

The guidance does not provide adequate exemptions or safeguards for advice and support agencies, landlords or individuals to work with or accommodate drug users. This may well affect the willingness of those individuals or organisations to work with drug users and therefore the guidance is unworkable. We believe that current legislation, which includes the misuse of cannabis and opiates, will need to be amended. Such amendments will need to provide clear assurances that where 'harm reduction' services are being provided, which may include a relapse as part of the recovery process, that the occupier or persons concerned in the management of the premises are not liable for prosecution.

Exemption from prosecution should be provided by agencies complying with a code of practice developed by the Home Office in consultation with relevant bodies. These should include the Communities and Law Enforcement Drugs Unit, the Office of the Deputy Prime Minister through the Homelessness Directorate, Local Authorities, Housing Associations and the voluntary sector. In addition parents should not be liable for the drug use of dependant children within the home.