

Reforming systemic responses to controlled drugs: A joined up strategy

A CLRNN framework document

The project will focus on three severable, though inter-related, problematic areas in the practical regulation of people who use controlled drugs:¹ (1) pre-trial matters (i.e., depenalisation, diversion, or prosecution); (2) post-trial matters (i.e., sentencing); and (3) the ‘special case’ of medical cannabis exemptions. We recognise broader debates about the re-classification and legal regulation of all drugs, but that is not our concern here. Rather, our aim is to identify and explain a series of perceived problems within the current law, problems that appear to be resulting in tangible harms to those within the criminal justice system, and to offer recommendations for reform that can be implemented immediately.

This ‘framework document’ provides an initial structure for our research; we are yet to allocate authors/editors to relevant sections, and welcome expressions of interest.

Chapter 1: Introduction

The introduction will highlight key guiding principles and areas of concern in drug policy.

1.1 The purpose and rationale for the project: to examine the big criminal justice issues – “the policy headlines” as they relate to drug policy and to outline reform proposals.

The case for targeted reform of the current law, notwithstanding macro-level debates about drug legalisation.

1.2 Guiding principles and areas of concern to guide our thinking: fairness, equality, protection of the vulnerable, proportionality, effectiveness, net widening.

1.3 Framework for the project and outline of reform possibilities.

Chapter 2: Experiences of drug use and the Criminal justice system

Chapter 2 examines the experiences of ‘people who use drugs’ (PWUD), their interactions with the criminal justice system and the impact of this on themselves and the wider community. This discussion provides important social context for the chapters that follow.

2.1 PWUD experiences of receiving a criminal justice sanction for drug related activity. This includes

a) drug use;

¹ A controlled drug refers to a drug controlled by the Misuse of Drugs Act 1971 or the Psychoactive Substances Act 2016

- b) drug supply (including social supply);
- c) the importation, production, or cultivation of a controlled drug;
- d) county-lines operations.

2.2 The unintended consequences of drug prohibition on PWUD.

2.3 The impact of prohibition on the wider community.

Chapter 3: Diversion and/or Prosecution

Chapter 3 reviews the formation and the implementation of non-criminal responses to drug use via diversion and depenalisation strategies.

3.1 **Depenalisation strategies** – reviewing police stop and search practices, and where it is appropriate for police to take no action despite finding drugs (so-called ‘Outcome 22’).

3.2 **CPS policy reform** – reviewing CPS guidance in relation to charging decisions for drug offending.

3.3 **Diversion initiatives** – reviewing existing diversion schemes which offer treatment, education, social and mental health support, and housing support.

3.4 The efficacy of depenalisation/diversion for law enforcement (i.e. the economic argument) and for PWUD.

Summary of reform recommendations

Chapter 4: Sentencing and Probation

Chapter 4 considers the nature and scope of drug sentencing reform and the efficacy of drug desistence schemes in a probation context.

4.1 **Substantive law** – reviewing the maximum sentences attached to various drugs offences, comparing different categories of controlled drugs.

4.2 **Sentencing Guidelines** – reviewing the guidance for drug offending in relation to

- a) purity;
- b) weight;
- c) racial and gender disparities; and
- d) paying particular attention to issues concerning “social supply”.

4.3 **Desistence focused probation** – reviewing the impact of recent organisational changes and drug desistence schemes in a probation setting.

Summary of reform recommendations

Chapter 5: Medical exemptions: a cannabis case study

Chapter 5 draws the previous three chapters together through a cannabis case study. This chapter will focus on the implementation of potential legal exemptions (via sentencing reforms) and non-criminal responses (via diversion or depenalisation) to medical cannabis use.

5.1 The impact of the 2018 Cannabis Regulations in practice. Including a section on decriminalisation and the creation of a two-tiered system. What are the current problems?

5.2 Depenalisation strategies for medical cannabis patients (including Carly Barton's CanCard scheme and Outcome 22). We could also review the operation of activist led strategies such as cannabis social clubs which are designed (in part) to mitigate the worst effects of prohibition.

5.3 The efficacy of diversion initiatives for medical cannabis patients (emphasising the need for a drug specific/ context specific approach).

5.4 The implementation of legal exemptions (via sentencing guideline reforms) for medical cannabis use.

Summary of reform recommendations

Appendix: Summary of proposed reforms and methods of implementation