

17 June 2016

Members
Justice and Electoral Select Committee
Youth Parliament 2016

**AT THE HEART
OF THE MATTER,
NZ DRUG
FOUNDATION.**
Te Tūāpapa Tarukino o Aotearoa

Justice and Electoral Select Committee - Youth Parliament 2016

The New Zealand Drug Foundation welcomes the opportunity to make a submission to the Justice and Electoral Select Committee Youth Parliament 2016 on the question of whether we should decriminalise recreational drugs.

The New Zealand Drug Foundation

The New Zealand Drug Foundation is an independent charitable trust established in 1990. We are led by the vision of an Aotearoa free from drug harm. We accept that drug use is always likely to occur in society, and believe that any response to issues of both legal and illegal drugs should prioritise reducing the risk of harm.

The Drug Foundation advocates evidence-based policy on these issues, provides reliable and credible information to organisations and individuals, and acts as a critical friend to government. We take a lead role in networking and building cooperation in the alcohol and drug sector. A list of the Drug Foundation's Board of Trustees is attached to this submission.

Should we decriminalise recreational drugs?

The question posed to the committee is timely. The Drug Foundation considers that personal use of all recreational drugs in New Zealand should be decriminalised. Our position is aligned with the evolving international consensus around the need to explore options beyond the status quo to better regulate drugs and reduce harm. This is informed by a broadening evidence base around the effectiveness of decriminalisation around the world, widespread public debate around medicinal cannabis, and shifts of public opinion in New Zealand with the latest *YourNZ* poll on cannabis legalisation being evenly split. It is an exciting time to explore these issues, 15 countries around the world have some form of decriminalisation, a few countries are experimenting with the legalisation of cannabis, and there is a stronger focus on addressing risks from inevitable drug use.

Drugs and harm in New Zealand

The 2012/13 New Zealand Health Survey showed nearly half of people older than 15 had used recreational drugs at some point in their life. Previous research suggests a quarter of those people who had ever used these drugs experience any harmful effects. However in a system dominated by a criminal justice response, people in possession of small amounts of drugs for personal use face disproportionate punishment with lifelong implications. Māori are also disproportionately affected by these laws and more likely to face punishment for their drug use.

This punishment might include criminal convictions, reduced access to treatment, and increased risk of harm from drug use. In 2014, 871 people were prosecuted, 661 were convicted, and 26 were imprisoned for possession or use of an illicit drug as their most serious offence under the Misuse of Drugs Act 1975. In effect, the decision to use cannabis rather than alcohol can result in arrest, prosecution and in some cases a prison sentence.

Getting a criminal record makes it difficult to secure employment and housing, travel, and participate fully in society. It is a very expensive approach for the government, involving police, court and prison costs. Further, there is little evidence that criminal sanctions are effective at discouraging use. New Zealand research arising from the Christchurch longitudinal study found that, of those convicted of possession or use of cannabis, 95 percent either maintained or increased their use. The threat of arrest is not an effective deterrent to using drugs.

From countries that have decriminalised personal use they have mostly found decreased drug harm and no resulting increase in drug use. As the UK Home Office recognised from a comparative international study it undertook:

“The disparity in drug use trends and criminal justice statistics between countries with similar approaches, and the lack of any clear correlation between the ‘toughness’ of an approach and levels of drug use demonstrates the complexity of the issue.”

Harmful patterns of use generally emerge not from ‘lifestyle decisions’, but disadvantage, poverty, trauma, co-existing mental health issues and other environmental factors. A high proportion of people who end up in prison have a substance use disorder. This is a diagnosable condition characterised by heavy sustained drug use where people continue to use despite negative impacts. Around 12 percent of people in New Zealand will experience this at some point in their life. It makes little sense to further victimise these people and compromise their life chances by subjecting them to criminal sanctions. It is far better to help them access treatment and social support.

In the existing black market, drugs are unregulated, are of inconsistent quality, have no age restrictions on purchasing, and tend to be higher potency products. As a result, drug use becomes more dangerous, increasing morbidity and mortality while benefiting criminals.

Legal frameworks and policy options

How recreational drugs are dealt with at a national legislative level within a society can be placed upon a continuum; prohibition is at one end and free market legalisation is at the other.

The extreme framework of prohibition is the most commonly used to address recreational drugs. This consists of an attempt to completely ban selected substances and achieve a ‘drug free world’ with harsh criminal sentences for users.

Moving along this continuum is decriminalisation and harm reduction where drug use is still illegal but the focus is on providing support for people who use drugs. While decriminalisation seems like a novel approach, in New Zealand we currently practice this in a de-facto manner already. Between 1994 and 2014 recorded offences for drug possession halved, despite drug use remaining relatively stable, particularly for cannabis. This indicates that the police already see benefit in not prosecuting people for minor drug offences. We argue this de-facto decriminalisation should be formalised so we remove a law that is not being consistently applied.

The next step along this continuum is legal regulation with strict to light conditions on sales that can apply to all or some drugs. The legal framework for alcohol and tobacco sales in New Zealand

can be characterised as medium level of regulation with age restrictions, packaging regulations and some restrictions on advertising. When psychoactive substances were available this was a further example of recreational drugs being legally available under strict regulation.

At the other extreme to prohibition is free market legalisation with minimum restrictions placed upon products. In this model the industry is driven by sales and profit maximisation as seen with cannabis legalisation in Colorado. This is the framework most consumer goods fall under, yet is rare for recreational drug regulations due to the potential these substance have to cause harm.

Details of a decriminalisation approach

The harms that emerge directly from the existing legal framework of prohibition for recreational drugs can begin to be mitigated by changing drug policy. Decriminalisation presents an opportunity for a tailored and flexible approach. It can provide further support to people who need it, reduce the risk of harm from drug use, save police resources and reduce the stigma that people who use drugs and their families' experience.

Based on the international evidence and the 2011 Law Commission report we recommend an initial decriminalisation for possession of small amounts of cannabis. This would involve a rising scale of non-criminal interventions. The proposed changes would not make drug use legal, just remove the criminal sanctions for personal use. If this contributes to reducing drug related harm, decriminalisation could be extended to all recreational drugs.

An effective and compassionate model is to require all people apprehended for drug use or possession to attend a Portugal-style drug use dissuasion committee. This process provides brief intervention counselling, offers people access to treatment if appropriate, connects them with any social services they may need, and educates them on safer use. The committee can be stricter around more harmful drugs, impose a fine, or require community service if the person is continuing to break the law. Ideally, however, the committee would be responsive to the underlying reasons why people were using the drugs in the first place.

Decriminalisation responds to the major harms that come directly from prohibition by removing criminal charges and increasing access to treatment and social support. While this policy option does not remove the black market and issues that come with it, it is a first step towards smarter evidence informed regulation.

Yours sincerely,



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Additional information

Further information about the foundation can be found on our website:

www.drugfoundation.org.nz

The speech that our Chairperson Tuari Potiki gave at the United National General Assembly Special Session on the world drug issue in May this year can be watched here:

<http://www.drugfoundation.org.nz/media/statement-to-UNGASS2016>

Our infographic on the breadth of legal frameworks implemented around cannabis in the United States can be found here: <http://www.drugfoundation.org.nz/sites/default/files/cannabis-usa-reform-info.pdf>