HOUSE OF COMMONS

Home Affairs Committee

Oral evidence: Drugs, HC 1128

Wednesday 27 April 2022

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Watch the meeting

Members present: Dame Diana Johnson (Chair); Paula Barker; Simon Fell; Adam Holloway; Tim Loughton; Stuart C McDonald; Gary Sambrook.

Questions 1 to 34

Witnesses

I: Niamh Eastwood, Executive Director, Release; Rudi Fortson QC, Barrister, 25 Bedford Row Chambers; Chloe Hartnell, Partner, Hodge Jones & Allen LLP; Dr Kojo Koram, Lecturer in Law, Birkbeck School of Law, University of London; Dr Karenza Moore, Lecturer in the Sociology of Crime, Newcastle University; and Martin Powell, Head of Partnerships, Transform Drug Policy Foundation.

Written evidence from witnesses:

Release evidence:

https://committees.parliament.uk/writtenevidence/107437/pdf/

Transform evidence:

https://committees.parliament.uk/writtenevidence/107795/pdf/

Examination of witnesses

Witnesses: Niamh Eastwood, Rudi Fortson QC, Chloe Hartnell, Dr Kojo Koram, Dr Karenza Moore and Martin Powell.

Q1 **Chair:** This is the first hearing on the new inquiry that we are undertaking on drugs policy. We are very pleased today that we have a number of witnesses who have agreed to talk to the Committee. The purpose of this particular session is to look at where we are in terms of drug legislation and policy and to set the scene then for our further sessions as we go through, looking at what changes are needed, what is necessary and how things have been working so far.

We have interspersed our witnesses among the members of the Committee so we can have much more of a dialogue and a debate this morning. We will start off by looking at where we are with current drugs law. I will ask an opening question and then I am hoping that one of our witnesses will feel that they might want to take the lead on answering that, but there is then an opportunity for some to and fro around the Committee room.

My first question at the start of the inquiry is about the Misuse of Drugs Act 1971, which is now over 50 years old; is it still fit for purpose? That is my opening gambit. Who would like to start us off on that? Martin, could you say who you are? We are now public and I want everyone to know who we are.

Martin Powell: I work for the Transform Drug Policy Foundation. In terms of whether the MDA is still fit for purpose, I think we really have to ask what its purpose was in the first place. It was quite clear that the MDA was set up for the purpose of eliminating illegal drug use in society: through criminalising use, it would deter use. Through seizures and arrests, it would restrict supply and we would end up with a situation where we have a drug-free society with very low drug harms, very low criminal justice impacts and little economic cost to society. I should say that it was not just in 1971 that that was the purpose. As recently as when Theresa May was Home Secretary she was saying that the Home Office's purpose of this enforcement-led approach built on the MDA was to create a drug-free society.

With the danger of sounding sarcastic, I have to list some outcomes that we should compare with that ideal. In terms of drug use, we now have the highest of any country in western Europe. In England alone, heroin use has risen from under 10,000 people in 1971 to 260,000 today, an over 25-fold increase. We also have 19,000 people using heroin in Wales, another 57,000 in Scotland. Cannabis use has increased more than fivefold in that timescale to over 2.5 million people in England and Wales alone. Also in England and Wales, we have almost 1 million cocaine users. We have half a million people using MDMA. The range of different drugs used has also exploded, hence the Psychoactive Substances Act, which I imagine we will come back to at some point.

We now have a situation where two-thirds of 16 to 19-year-olds say it is easy to get drugs within 24 hours; I imagine that the other third would be able to find out how if they were interested in doing so. In terms of purity and price, purity is up, potency is up, and the price is down. As an example, cocaine prices fell by two-thirds to three-quarters between the mid-1970s and the mid-1990s, and purity hit the highest ever in 2018 at 63%. I should say that we have a briefing that we can circulate with all of these statistics. There were around 100 drug-related deaths in 1971 for England and Wales. In 2020, there were 2,996 drug-related deaths in England and Wales—a 30-fold increase and a record 4,335 UK wide, triple the 1994 figure.

One of the things that we as an organisation do is work with bereaved families who have lost their loved ones and the Anyone's Child project. Some of those parents are going to be coming here at the end of June—28 June if MPs want to meet them—to plant 4,335 of these handmade flowers, each for one of the people who lost their lives to an overdose in 2020.

This one has the name Kevin Lane on it. Kevin's mum, Pat, will be here. Her son died after he overdosed in the toilets at Marks & Spencer in Carmarthen. He had a cardiac arrest and brain damage and later died in hospital. He was adopted and early in life he was abused quite badly. He never got over that abuse, which was why he was self-medicating using heroin. His mum is convinced that if he had been able to use in a supervised drug consumption room or overdose prevention centre where he could have been treated with Naloxone, the heroin overdose antidote, he would be alive today. She, I think, would ask people to look her in the eye and say that criminalising this poor young man who had been abused as a child was the right approach rather than giving him the help and support that he needed. Sorry, I have digressed but I have spent a lot of time with Pat lately and it is something that is on my mind.

Anyway, to carry on on criminal justice, since 1986 alone over 3 million criminal records have been issued under the Misuse of Drugs Act, with people sentenced to more than 680,000 years in prison. Remember, there was supposed to be minimal criminal justice impact by this point if the MDA was delivering its purpose. In England and Wales, 38% of the prison population is there for drug offences or offending related to drug use. The HMP Featherstone governor said to me, "If you want to solve the prison drug problem, stop sending people with drug problems to prison". Again, this is something that we might look at later.

Since 2000, more than 9.5 million stops and searches have been carried out. The total cost of drugs to society is £20 billion a year from a £9 billion market; £6.9 billion is spent across the criminal justice system in England alone on dealing with drug offences and drug-related crime. I will not bore you with masses of stats on seizures. The bottom line is the Prime Minister's Strategy Unit back in 2003 said that we needed to seize 60% to 80% of drugs like heroin and cocaine if we wanted to squeeze the

organised crime groups out because profit margins are so high. That is something that Carol Black's recent review backed up, saying that organised crime groups could lose multiple shipments and still, as long as one got through, the profit margins were so high it would still be worth their while. Again, when we are thinking about how effective enforcement can be, I think that is really important.

In short: record numbers of drug deaths, millions of lives wrecked with criminal records, and drugs stronger, cheaper and more available than ever. The MDA is clearly not fit for purpose because criminalising people who use drugs has had a negligible deterrence effect. If I could just finish on a quote from the Home Office international comparators report; the Home Office compared what was happening around the world in different countries with a range of different regimes.

Q2 **Chair:** This was under the coalition Government?

Martin Powell: It was, and they concluded that looking across different countries there is no apparent correlation between the toughness of a country's approach and the prevalence of adult drug use.

Q3 **Chair:** That has given us a very comprehensive view of the Misuse of Drugs Act. Would anybody else like to comment on that?

Rudi Fortson: Yes. I am a barrister and visiting professor of law at Queen Mary University of London. I want to make it clear that I am speaking entirely in a personal capacity.

I have a slightly different perspective on this from Martin's and I am going to divide this into two. From a practitioner's point of view, bearing in mind that the Act has been with us for a very long time, the legal principles themselves are quite well established and settled. They have been quite carefully honed over many years. From an in-court experience, the Act is probably working as well as it ever will do. That is not to say that there is no room for improvement; there clearly is. I was a member of the Runciman inquiry into the Misuse of Drugs Act. We made a number of recommendations to improve the legislation, not all of which, unhappily, have been implemented.

On the wider question of whether the Act is fit for purpose, as Martin has pointed out it begs the question of what was its purpose. Unhappily, the Act does not tell us. I do not take the view, however, that the Act was designed to eliminate drug use or, for that matter, drug supply. It was calculated to regulate it and for my part, although the MDA has received a bad press, I think to some extent that has been unfair. I say that because the legislation was quite skilfully crafted at the time.

The Act, it is true, does enact a number of prohibitions, but the regulations, which are substantial, are entirely permissive. The regulations combined with the prohibitions were intended to complement each other and the system was designed to be flexible. If I have an overarching criticism of the legislation, it is in the fact that it has not

been applied as flexibly as perhaps it should have been, and one can point to, for example, drug classification reviewing and provisions that ought to be repealed—section 9A, for example, in relation to drug kits, opium dens and other provisions as well.

It is also worth making the point, and I will do so briefly, that in 1971—let's put this into its context—Baroness Wootton, no less, said that she thought drug misuse was a craze or a fashion and others thought likewise. She said, "This is not something with which we are going to have to live for ever". She got that wrong. However, it is true, as Martin has pointed out, that in terms of the Act stemming drug use or the misuse of drugs or preventing drug trafficking, it has not been effective. On the other hand, the Act is designed to be reactive to events to some extent.

One also needs to consider what would replace it. If one were to repeal the Misuse of Drugs Act in its entirety—one could—then there would be other pieces of legislation that would come into play and cannot be overlooked. There would be the Psychoactive Substances Act. Every controlled drug would then become a psychoactive substance and be subject to a blanket ban on production, supply, importation and exportation. There is the Human Medicines Regulations 2012, which are quite prescriptive. There is a host of consumer protection legislation that would be engaged as well, some of which has not proved to be entirely effective in respect of so-called legal highs.

I do not want to be misunderstood here; I am not suggesting for a minute that one could not with a clean sheet establish an alternative regulatory framework, but one would need to be very clear about its shape and its structure and, indeed, its purpose as well. For my part, I would prefer to see the Misuse of Drugs Act retained with its regulations but brought up to date with greater use of regulations and a change of political culture within the Legislature and within the Executive.

For example, the regulations speak about licensing, as indeed does the Act. I think that is a matter of administrative policy as to how flexible the licensing regime could be made. There are many reforms that could be achieved by way of secondary legislation, Home Office policy, licensing administrative arrangements and a small amount of primary legislation.

Chair: That is very helpful as well. Stuart McDonald, would you like to come in at this point?

Q4 **Stuart C McDonald:** What I take from that answer is that reforms can be made but you are suggesting that you could do that by retaining the Misuse of Drugs Act and using subordinate legislation and some primary legislation. More fundamentally, though, what is it that you would be advocating for? Martin has not said yet what he would be in favour of and we can come to that now. I am less interested in the mechanisms of how you do it, whether it is through tweaks to the 1971 Act or sweeping it away and replacing it altogether, but what should replace it if you think it

is not doing what we want it to do just now?

Rudi Fortson: Traditionally, barristers fight cases rather than causes, but in terms of looking for outcomes and just to elaborate a little bit on this, the Act itself is quite clever in the way that it structures offences. For example, it adopts a twofold policy. It says that, for example, possession of a controlled drug is unlawful unless authorised, and then the next provision reads that a breach of that provision amounts to a criminal offence. One could, for example, in relation to, let's say, simple possession—let's take cannabis—by secondary legislation effectively decriminalise the simple possession but still make it unlawful to possess, if that is the will of Parliament, as a matter of civil law.

The Act is quite clever in the way it is structured to enable different levers to be pulled to achieve different outcomes. If the object, for example, is to decriminalise cannabis, that could be done, I think, not quite at a stroke but it could be achieved by way of secondary legislation. It does not require primary legislation.

If you are talking about enforcement, I am afraid one enters into problems of resources, but other pieces of legislation could be introduced that would enable, for example, cannabis, let's say, to be supplied under lawful authority issued by the Executive. I would have thought that could be done under secondary legislation as well. I think that a great deal could be achieved under the existing legislative framework but with a great deal of creative thinking in terms of parliamentary policy, Executive policy and the licensing regime, which could be achieved under the existing legislative framework.

Q5 **Stuart C McDonald:** Putting aside the question, then, of how we do it, what is it that we are trying to do? Niamh, do you want to come in?

Niamh Eastwood: Yes. I think it is really important that we look at the principles that we are trying to achieve here. When we look at the Act, I think that Martin and Rudi have outlined the effect that the Act has had, but I would just add to that that we know drug use is ubiquitous across society. It is across all social classes. It is across all ethnicities. Yet when we look at how the laws are enforced, it is disproportionately focused on targeting people of colour and those who live in deprivation. I am sure that Rudi and Chloe can attest to that, that the people they see going through the court system on a daily basis are the people who come from the poorest communities in our country.

When we look at what we want to achieve, the idea that we will have an equitable application of the law is a nonsense. If we start to see the middle classes being prosecuted in the same way that we see those living in deprivation, I think that we would see a collapse of the system very quickly.

What principles work in this? The first principle is: does the criminal law deter use? We know it does not. That evidence has been well established,

not least by the 30-plus countries across the world that have adopted some form of decriminalisation. What I mean by that is simply that possession, use and other personal activity—for example, growing cannabis for your own personal use—are not criminalised. They are either dealt with by way of a civil sanction or they are dealt with by way of no punishment at all. In fact, the no punishment model exists in three countries across the world: the Netherlands, Spain and—sorry, I have forgotten my third.

Tim Loughton: Portugal?

Niamh Eastwood: No, Portugal has sanctions, I am afraid.

Adam Holloway: The Czech Republic?

Niamh Eastwood: The Czech Republic does not. This is great fun. There are three countries; I will remember the third for you. A number of the US states have also decriminalised cannabis, and again there are no sanctions. You are permissively allowed to have a certain amount in your possession.

In fact, the UK has a form of a no sanction decriminalised model in the form of the Psychoactive Substances Act, which does not criminalise possession of those substances except in a custodial setting. The introduction of that Act did not lead to an explosion in the use of psychoactive substances. The law does not dictate whether someone uses drugs or not.

The first thing I would say is that we should look at decriminalisation. We also know that decriminalisation, when done well, when coupled with investment in harm reduction, treatment and prevention, can result in great outcomes. We just need to look at the drug-related deaths in this country, one of the highest if not the highest in Europe. We account for a third of all drug-related deaths. Our drug-related death rate is 76 per million of the population. That is 15 times higher than the Czech Republic, which has also decriminalised possession of drugs. It is nearly 10 times higher than Portugal, which has also decriminalised drugs.

We know that criminalisation can prevent people from accessing the help that they need. One example is a recent higher education report that showed that 30% of students were not willing to come forward about their drug use for fear of punishment either by the police or by their own institution; 16% of those students—and these are young people, this is who the Act is allegedly supposed to protect—describe being in a scary situation and they did not seek the help of emergency services because of that fear of prosecution.

The principle is we have to look first and foremost at treating this as a health issue and a social issue. Not everybody has a health problem with drug use, 90% do not, but the fact is the criminal law prevents us from meeting those objectives.

Chair: I am going to bring in Adam at this point and then I want us to move on to look at drug policy and some of the announcements that have been made by Dame Carol Black.

Q6 **Adam Holloway:** Professor Fortson, this is going to sound like an argument and it really is not because I honestly do not know where I am on this issue. What is wrong with an individual making the choice to drink a bottle of scotch or have half a gram of cocaine on a Friday night if those drugs are made by Merck Pharmaceuticals, if the criminal networks are taken out of it and if we spend the money that at the moment leaves junkies for years on the streets, completely unhelped, or that kid you referred to in the Marks & Spencer lavatory, untreated except when they collide with the criminal justice system and then they end up in prison?

Surely what we should be doing is allowing people to make their own choice as to what they do with their bodies? They will still have a criminal sanction if their behaviour as a result of taking drugs has an impact upon others. Then we stop spending this enormous amount of money that has catastrophically failed and we see it as a health, not a criminal justice issue. I used to be a TV reporter and I spent probably five months of my life living on the streets of various cities in Britain and the US. Certainly, here the street homeless are mentally ill or they are drug addicted. It is time we were a bit more grown up about this, I think.

Rudi Fortson: I am all for personal autonomy. I do not talk about legalisation because that expression means different things to different people. I do talk about the intensity of legal control. You refer to alcohol. Alcohol is a drug. It is not a harmless drug. It can be very toxic. It can cause a lot of damage. It can kill. In relation to all products that we use for human consumption, all of them are regulated more or less. When one is talking about alcohol, that is a product that is regulated.

What is the difference between a person drinking a bottle of whisky on a Friday night and taking a gram of cocaine? Clearly, context matters. The answer depends on the age of the person concerned, who is taking it, the circumstances in which they are taking it, how it is going to be marketed, how it is going to be produced, safety issues, a range of issues, all of which will be subject to legal control of some sort or other.

What is often overlooked in this debate is that in every regulatory mechanism, whether it is electrical goods, foods, health and safety, regimes are backed up with some degree of coercive sanctions for breach. I am not advocating the criminalisation of use. I will declare it now. I have sat on the fence for a long time in respect of that particular issue. Given all that has happened in the last 50 years, I cannot see a case now for retaining the criminalisation of the possession or use of any controlled drug and I think the Government have been very sensible in relation to the Psychoactive Substances Act not to criminalise simple possession. Perhaps it did not even need to go as far as criminalising possession in a custodial institution.

Much of the debate is occupied with cannabis. Whether people would say the same thing about every drug I don't know. I have an open mind about that. Again, one could say, and I think I would take this position, that there is a case for decriminalising possession and use of every controlled drug, but that is not to say that I favour open, unrestricted access to drugs. I don't. I have reservations about the so-called Colorado experience, but there is a lot of good work being done in relation to a number of schemes, which have moved away from criminalisation.

Q7 **Adam Holloway:** Does that not leave the criminals still in charge of the supply?

Rudi Fortson: It may do. One has to consider whether or not a completely legalised regime would still leave open a black market for those who wish to use it.

Martin Powell: Rudi, I do not think anyone is calling for free access to drugs at all. My organisation has advised all the Governments so far at the national level that have regulated drug markets; not the US models, which are a little bit too commercial for our taste. The Canadians called this the regulation bible. It is the new edition that came out yesterday, which I can let everyone have.

The models we look at in terms of legally regulating drugs—and we are now advising Malta, the first EU country that has now legally regulated drugs through the law but is coming up with models—is to do exactly this, to keep the profit incentive out, to prevent promotion as much as possible, to ensure that you know what is in what you are getting, that the Government have control of both production and supply at least with licensing, and there are lots of different models that we can perhaps come back to.

Q8 **Chair:** Okay, that is helpful.

Martin Powell: Could I say one very last thing? What we would like to see is we have Carol Black's reviews, parts 1 and 2, looking at how things have gone horribly wrong—

Chair: We are going to come on to that, yes.

Martin Powell: We would call for a third part to that. She was excluded from examining the legislative framework. We would call for a third independent review looking at the legislative framework that also compared the current approach with decriminalisation models and models of legal regulation, to gather the evidence and then shape future legislation based on that.

Q9 **Chair:** Okay. We have had quite a good run around the track here on the legislative framework, but I do want to bring in Chloe, who works in this field as well. Could you say who you are, Chloe, and what your view is about the current law?

Chloe Hartnell: I am a criminal practitioner. I have been practising for over 20 years and I get to see a variety of drug issues, from teenage boys being arrested for the first time for cannabis through to entrenched drug addicts having closure orders for their homes to be shut down, all the way up to organised crime and multimillion-pound conspiracies and everything in between.

The original question was what the purpose of the Misuse of Drugs Act is. Surely its purpose is to reduce harm in whatever form that is. Clearly, it is failing. You cannot just look at the legislation in isolation. You have to look at the wider policy. Certainly, although flexibility was talked about, in practice the police are guided by things such as the ACPO gravity matrix, which talks about what they should do when they are arresting people for the first or subsequent occasion.

There is a very one-size-fits-all stance whereby class A drugs should always result in a charge and there is not that flexibility there. For cannabis, usually you would have a charge. There used to be something called the cannabis warning, which has now been replaced by community resolution, which may or may not have an impact on you in regards to the disclosure and barring service in due course. We have not really touched upon that in respect of how these convictions or cautions affect people later on with regard to their professions and travelling abroad. Even in some of the countries that have decriminalised it, there is still that barrier whereby someone with a caution for cannabis would have that on their police certificate for 10 years. Whereas, for example, grievous bodily harm with intent would only be on there for five years.

There is this overemphasis on drugs being the root evil of everything and it is very black and white. There are the drug dealers and the drug takers and they are evil and they are victims. There are the shades of grey and the lack of flexibility that has a huge impact and does not address the issues in regard to organised crime, health, and a policy that I think most people accept will follow suit of other jurisdictions abroad eventually, so why not now?

Chair: Thank you very much. I am going to move on to Tim Loughton. We are going to look at the drugs policy area.

Q10 **Tim Loughton:** It is all very depressing so far. I want to get away from legislation. Your point was quite interesting, Mr Powell, that Carol Black was not able to look at legislation. It strikes me that the tougher the legislation the less the impact on prevalence in any case. Perhaps legislation and what we can recommend in this place is the least important of it.

Looking at the holistic approach that the Black review did take and the 10-year review that the Government announced, it is all about how we do something about supply. We failed there. It is still coming into the country and even if only a fraction of it came into the country, it is still going to have a big impact and be very profitable. We failed to reduce

prevalence. People are still using it. Why are they using it? We are banging up lots of people but we are not then getting them off drugs when they are in jails, in some cases actually leading to greater usage of it so recidivism is worse.

In the spirit of the more conversational style of this morning's session, I have three questions about the whole holistic drugs policy. It will be particularly interesting for people who have not said anything yet. The first question is: who are the victims—who ultimately are the real victims that we need to do most about? Secondly, all those figures you gave, Mr Powell, which were interesting: at any point has there been any correlation between an intervention, be it a law, a new health strategy or whatever, and that usage and all the negative impacts declining or has it, as I suspect from the figures you gave us, been a straight line of varying proportions?

Thirdly, given trying to disrupt the supply, trying to educate people away from it, trying to incarcerate as many people who are involved in the trade as possible, what is the single most effective intervention that we could do now if the Government were to prioritise something in what is otherwise a huge great programme? Discuss. Who wants to take that?

Dr Moore: I don't mind speaking. I am from Newcastle University. You talk about the victims. The victims are basically victims of prohibition and the Misuse of Drugs Act. If we think about the age, for example, of most recreational drug users, they are between 16 and 24 years of age. When, for example, the drug strategy talks about cracking down on recreational drug users, it is basically stating that we are going to be cracking down on our young people, who we know coming out of the pandemic are in a very precarious position.

In response to I think your first question, it is victims of a drug trade and it is victims of not necessarily the drugs themselves, because a lot of the substances that people use are not inherently dangerous, but the way that they are produced with no regulation at all, which we have already spoken about, the way that they are distributed and then taken by young people, who often have no idea how strong they are and what else is in them, and that is related to our lack of control over the production process.

Q11 **Tim Loughton:** Why are they the victims?

Dr Moore: They are the victims, I think, because they are helpless in this situation. Young people will choose to use drugs and we have to accept that. We need to do something about it and to my mind we are not protecting. If the Misuse of Drugs Act was meant to reduce the harms of drugs, then we are not protecting the young people who are taking drugs.

Q12 **Tim Loughton:** Why are they the victims? Is it because most of them or more of them are more likely to have a very negative mental health impact and fatalities? Is it because they are more likely then to get

caught up in crime and become incarcerated or whatever? Why are they the victims, in contrast to, say, the middle class recreational occasional coke taker, who is disproportionately represented in being incarcerated, who appears to have little negative impact on them, on the face of it, but that is probably not the case? Where is the victim bit of it is what I am trying to get at.

Dr Moore: The victimhood is in the criminalisation and the stigmatisation of young people as well. We have spoken quite a bit about the language that we use. It is a very tough on drugs language and young people hear that and feel afraid, as Niamh was saying, to come forward and ask for help. To my mind, being a victim is the victim of something that is undermining your life chances and undermining your health.

You mentioned the middle-class cocaine user. In a sense, that person is also a victim of the drug war and the drug laws. If that person then develops a problem with cocaine, and what we have seen over the pandemic is a huge rise in presentations around alcohol and cocaine use in combination, those people do not necessarily feel like they can come forward. Obviously, if you have a good job you do not want to admit that you are a cocaine user. I think that the people who are using drugs—but I am particularly concerned with young people—are victims of a system.

Q13 **Tim Loughton:** Okay. Do you want to take the other two points: correlation and the single intervention?

Dr Moore: I think that the single most important intervention we could do now is support a more harm reductionist approach. Rather than criminalising young people, stigmatising them, marginalising them, we should be going out to them, doing brief interventions with them, for example, drug safety checking at festivals, community testing of drugs. There are lots of harm reduction policies that we could put in place now without changing any legislation at all. I think that in the immediate term is probably the single most important thing.

Q14 **Tim Loughton:** Isn't that stigmatising? You have just said that they are victims of stigmatising. Isn't stigmatising a deterrent potentially?

Dr Moore: No, it is not a deterrent. I know that is one of the public health arguments that to stigmatise people will mean that they will not do something, but for young people, especially young recreational drug users, it is about them having fun with their friends. They do not necessarily see that as a stigmatising activity. They want to have fun but in a safe way, just as we all have a glass of alcohol after work or whatever. We want to have fun but in as safe a way as possible.

Tim Loughton: Hopefully not a bottle of scotch, though, on a Friday night.

Dr Moore: No.

Q15 **Tim Loughton:** Who else wants to take any of those points?

Niamh Eastwood: I am happy to pick up on the victim side of things as well. I completely concur with Karenza on this. Young people are again disproportionately impacted by this legal framework. They are overrepresented in the criminal justice system.

Beyond that, I have mentioned already that 90% of people who use drugs do so recreationally, but there is the 10% of people who have entrenched drug problems. When we look at the profile of those people, my organisation, Release, provides legal services in the community to people who have a history of heroin and crack cocaine use. Overwhelmingly, these people have experienced adverse childhood experiences. They have been victims of sexual abuse, physical abuse, abandonment and bereavement. What they are doing with their drug use is medicating that emotional suffering. I think the strategy recognises this, but the problem with it is that if we continue to treat this group as criminals they will not want to come forward and get access to treatment. When you are defined as a criminal first and foremost, it is hard for you to go and seek the support that you need, whatever that support may be. I think decriminalisation would relieve some of that pressure.

Martin has mentioned the horrific figures of drug-related deaths, which have increased by 131% in the last 10 years. Of those people who have died, 54% had not been in contact with treatment services for the last five years. That is more than half of those who have died. We have a treatment system that has been decimated but we do have good treatment in the UK. People are not coming forward for a myriad of reasons but criminalisation I would say is one of the major drivers to protecting people's lives.

When we think about victims, if we looked at these people when they were children and they were suffering, we would want to do everything to protect them, but as adults using drugs we define them as the other, as marginalised, unacceptable human beings, and that is fundamentally wrong. To me, that is a serious form of victimisation.

Q16 **Tim Loughton:** I think that is really interesting. I still want people to answer the bit about the correlation and as to whether there is anything, but in terms of your point, then, Niamh, some years ago I remember when my party was in opposition, Oliver Letwin, the Shadow Home Secretary, came up with quite a high-profile drugs policy, which was all about enforced treatment rather than incarceration. Do you think that if somebody is hauled up for drug use on whatever level where a prison sentence may be a possibility, an alternative should be a compulsory remediation treatment programme to get you clean?

Niamh Eastwood: Absolutely not.

Q17 **Tim Loughton:** Okay. Why?

Niamh Eastwood: Treatment has to be voluntary. It cannot be mandatory. People have to be ready. We treat no other health condition

in this way. We would never suggest that we force people into treatment for any other condition.

Q18 **Tim Loughton:** The choice is to go to jail? You do not have to have the treatment?

Niamh Eastwood: You mean the fact that we have drugs throughout the prison system—

Tim Loughton: I am not saying it is ideal but that is the choice.

Niamh Eastwood: —and 15% of people start drugs in prison? That kind of Hobson's choice is just not workable. We see the evidence from drug courts in the US where they mandate treatment, and what happens is that there is cherry-picking on those who will be deemed as being successful through treatment.

For many people, the most effective treatment that we can give is opiate substitution therapy in the community and a safe supply of other prescribed drugs. Those are the drugs that save lives. That is the treatment that saves lives. Often when we mandate, what we are doing is setting up people to fail. We will end up with people not being able to meet the conditions of a drug rehabilitation requirement, which we already have, and the risk of them being imprisoned for failure to adhere to that. We have to meet people where they are at. That is the most effective way.

If we look at Portugal again, decriminalised back in 2001, there was a 40% reduction in injecting drug use in the first 10 years—40%! That just shows you. The evidence shows us that decriminalisation is the enabler that allows people to address the health and social needs that they have.

Q19 **Chair:** I wonder at this point whether we might just bring in Dr Koram at the end because I think he has been trying to get in.

Dr Koram: No problem.

Chair: We are trying to make this a bit more of a conversation rather than an interrogation, so is that all right with you, Tim?

Tim Loughton: Yes, sure.

Dr Koram: I am a lecturer at the School of Law, Birkbeck College, University of London.

To echo what Niamh was saying, we have talked a lot about the criminal justice impacts upon the victims of the current legislation, but I think that we need to recognise that the criminal justice is just the final level of this system of punishment that a lot of these victims face.

We can think about school exclusions. From the Office for National Statistics we know that drug possession is the third most common reason for school exclusions in the UK at the moment. We can think of stop and

search. We know that 60% of stop and searches are justified on the grounds of suspicion of drugs and we can, of course, know the racial discrepancy that comes with the application of stop and search.

If we think about both of those two systems, the recent story of Child Q, which penetrated the national consciousness, shows how these two systems of the way that drugs are policed in school and education institutions and the way that they are used around policing and stop and search can impact upon people in a way that makes their experience horrific and that level of victimisation that I think we would all not wish to perpetuate within our society. Those are some of the stories that we need to keep in our minds when we are thinking about who the victims are of the current legislation.

Q20 **Tim Loughton:** Nobody has answered my correlation question yet, other than the Portugal reference. In the UK, has any of our—

Martin Powell: If I can just chip in as well, first of all in terms of the most effective thing they could do in looking at this new strategy—and I do not know whether we will come specifically on to the ADDER programme later—I rang around several areas, contacts in our networks, talking to police, PCC staff, treatment, health, local authorities, around what they think of the drug strategy and the ADDER part of it in particular.

The one thing, including the police, that unified them all was saying, "Please get rid of this tough consequences language and thread that runs through it". The moment you start calling it tough consequences you are saying that people who are using drugs are bad people who need punishment and they have done evil things. The consequence of that is that on the one hand it undermines support for treatment and compassion among the public when you are doing that because you are stigmatising people, and the message from these other people was specifically that people who have problems with drugs do not want to engage because they think they are going to be punished. It is to remove that language, remove that approach that runs through the new drug strategy as a single thing that you could do that would most improve engagement and support and that will allow us to bring in the more health-centred approach that we are talking about.

In terms of correlations through those statistics, things go up and down and they change quite variably. There has been a general drift towards things getting a lot worse, but the thing is that what drives drug use is not the criminalisation of people, or it does not deter them: it is not the criminal status; it is not whether it is Class A or anything else. There is a range of reasons why people take drugs—cultural reasons, peer pressure, what happens to be in favour at any given time, pleasure and the perception of it. Also the Home Office some years ago, and I should say the last two times that the Home Affairs Select Committee looked at this, they came out calling for a debate on legal regulation, which we would like to see, but what also was part of the Home Office response was an

acknowledgement that there is a forbidden fruit effect from making drug use criminal when it comes to young people.

If you do look at some of the interventions that have worked, the gold standard is getting opioid substitution treatment out there, if you want to do something that reduces harms and maximises that. Another thing that is depressing about the new strategy is that the Government are avoiding acknowledging the benefits of giving people methadone, because they are trying to shift back towards a more abstinence-based approach.

OST is the gold standard, with massive amounts of evidence for it, and it is the only approach that has been shown to reduce drug-related deaths. Getting people into residential care for abstinence when they are ready is absolutely fine and there are other good reasons to do that, but it does not reduce deaths and there is a lot of detail we can send you as to why that is.

Again, in terms of the compulsion element, it is a terrible idea. People will stop using drugs while you are compelling them not to, but the vast majority unless you address the reasons they were taking drugs in the first place will go back to taking drugs afterwards. All you will have done is waste a lot of money, alienate people and drive them away from the very people who should be able to help them, and they will resent these people because they have been forced to see them.

Q21 **Adam Holloway:** On the forbidden fruit point, I was in Canada last summer where you can buy cannabis in the liquor store, and we bought some and I had some and I had forgotten just how boring it is. You can barely speak and you cannot get a sentence out. On heroin, I had a back problem a few years ago and I had liquid morphine and I now completely get how you could end up with no teeth begging at Victoria Station.

A question for Dr Koram: how do I square the circle? On the one hand, in my head, I know plenty of people who take drugs recreationally, obviously illegally but they take them recreationally, they go to work on Monday morning, and they have no issue whatsoever, including Class A drugs. But then I have constituents whose lives have been completely destroyed by smoking skunk. How do we square that circle?

Dr Koram: Advocating for different forms of regulation and moving away from the current system is not a dismissal of the negative harms that can be the consequence of long-term substance abuse issues. People recognise that, a lot of people in this room work at the very front-line with people who are like your constituents, who have had negative impacts because of substance abuse issues.

What we are trying to do is to create the space to address the underlying issues that might lead to those constituents using these, rather than thinking, "Oh, it is simply the drugs, it is simply the skunk that is causing all these problems." I think that by changing our approach we open up a lot more resources that can be applied towards addressing these root

issues, rather than simply putting all these resources into a system of criminalisation that is simply not having the effect that it promised.

Q22 **Adam Holloway:** So you are with Mr Powell?

Dr Koram: I am with Mr Powell.

Chair: At this point is it worth us looking at trends and what is happening? We have had some quite stark statistics about how things have become worse over the years. When I was looking at the evidence I had particular concerns about parts of the country and, Stuart, I do not know if this is where you want to come in and talk about trends and patterns in drug policy?

Q23 **Stuart C McDonald:** Can I ask one follow-up question on the policy? Martin gave his detailed views on the 10-year strategy, pros and cons. Does anyone want to say anything slightly different from that?

Dr Moore: Maybe not different, but focusing on the new drug strategy one of my main concerns and it does link back to what everyone has been saying, is a focus on possession offences. The new drug strategy talks about a crackdown on recreational drug users, and as Niamh said, recreational drug users are the majority.

A crackdown on recreational drug users is a crackdown on young people. If you think about some of the numbers that we have here, for example 10% 16 to 24 year-olds had used any drug in the past month, that is 622,000 young people, so when the strategy talks about bringing in curfews, temporary removal of passports, increased fines, what we are talking about is the vast majority of people who do go to work on a Monday morning or are students and are studying. These are people who do not necessarily have problems with substances, but they could have problems with substances if they encounter the criminal justice system and that goes back to the harm.

I wanted to say that there is quite a focus in the new drug strategy on recreational drug users and that is on young people, and that is a real concern.

Stuart C McDonald: Does anyone else want to chip in on that or add on specifically?

Q24 **Chair:** Sorry, just to interrupt: are we saying that young people go through this experience of taking recreational drugs and then just move on?

Dr Moore: They do. It is what we call phasic. That age group, 11 to 15-year-olds captured by the School Survey, so we do have data on that age group. That is one in 10 11 to 15 year-olds report using an illegal drug in the last month, so that is 2019 data because we do not have post-pandemic data. For most young people, their recreational drug use occurs

in recreational settings, so the festivals, the nightclubs and all those that have been shut, and parties as well, parties in their own homes.

What happens, and there has been some fantastic work done, how young people come out of that drug use is that they get married or they meet their life partner or they start saving for a house or they finish their degree and they are doing a Master's and they need to concentrate a bit more. Young people's drug use is incredibly phasic, so what happens is if they are then captured by the criminal justice system in that key part of their life, that can then have a terrible impact on them as they move out of something that they would almost certainly have moved out of anyway.

Q25 **Chair:** Were you saying that it was 10% of drug users who have the real addiction problems, who are going to have lifelong problems?

Dr Moore: Yes, and a lot of that emergence of problems is related to poverty, social exclusion and racism. That 10% are the people who we need to support and help. Also, for recreational drug users, we need to put harm reduction measures in place. I have mentioned drug safety checking as well. There are different measures for the different groups of drug users.

Niamh Eastwood: To add to Karenza's point about criminalising young people, criminalisation is a gateway to the criminal justice system, and we have evidence of this from Australian states, for example, where they did a comparative study between a state that had decriminalised cannabis possession against a state that had civil sanctions, so had criminalised. They found that 32% of those who had been criminalised came back into contact with the criminal justice system within 12 months, whereas those who had been decriminalised it was 0%. It is a gateway. Criminalisation creates further criminalisation and that is the real risk of this approach proposed within the strategy.

Martin Powell: May I give one concrete example of this? I know his parents would almost certainly be happy to come to talk to you about this. A guy called James Humphreys was a student doing a Master's at Manchester University. The police broke into his flat to search with a warrant for someone who had previously lived there. They found a container on the kitchen table with drugs in it, including some Ecstasy, I think. A group of students would go out clubbing together and it had been James's turn to buy the drugs and he admitted that, so he was convicted of supplying Class A drugs. He ended up in Strangeways Prison with a cellmate who cut people's fingers off as punishment; that was the kind of person he was in there with.

His life since then, as you can imagine with a conviction for Class A drugs—and it could have been any of those others in there—has been completely ruined in terms of his opportunities in life afterwards. That is the kind of example I am talking about. Was that the best outcome for a

lad who just went out partying with his friends? Half a million people take MDMA. Do we want that outcome for all of them?

Q26 **Stuart C McDonald:** That is absolutely appalling and there is something there that I want to ask about that is even more appalling. We have touched upon it already: deaths and the rate of drug deaths across the UK, particularly where it is horrendous in Scotland in particular. We have touched on the fact that one reason provided for this so far is criminalisation and the fact that disincentivises people from seeking the assistance and support that they need.

As well as that, can I ask if there are other reasons why it is just so bad in the United Kingdom and Scotland, for example? Are there particular drugs and combinations of drugs that we are seeing used here? Are there other reasons related to health and poverty, for example? Does anyone want to come in on those issues?

Niamh Eastwood: I am happy to contribute to that, Stuart. We have laid out quite clearly that the drug-related death situation in the UK is a crisis. The drivers for that are—as you said, poverty is a big contributing factor. That is evidenced by Scottish figures and the areas in Scotland that have the high rates of drug-related deaths are the areas with the highest rates of deprivation.

Similarly, in England it is the same story, so the north-east has the highest rates of drug-related deaths. We also have a lot of polydrug use. I think Scotland particularly suffers from the combination of the opiates, the benzos and pregabalin, which is another drug that has been prescribed but has shifted to the illicit market. That is what always happens. People are prescribed the benzos and the pregabalin and then there are concerns about them becoming dependent, so those prescriptions are taken away from them and the illicit market steps in. Often what they step in with are much stronger versions, more potent versions of these drugs; the street benzos that we see have higher purity rates than the prescribed benzos.

Also, drug treatment funding has been decimated in the last 10 years, so we saw a 26% reduction in funding between 2013 and 2018. The funding announced in the strategy is very welcome, but we also now have a sector that has been absolutely decimated. The workforce has been continuously reducing.

The quality of treatment that can be provided with those diminishing budgets is not something that is easily resolved in a short period, with lots more money flowing through. The treatment sector will need time to fix itself. Three years will not be enough, considering the damage that has been done. Poverty, polydrug use, and also the impact of the funding cuts.

Scotland and some parts of the north-east have high rates of drug-related deaths that are comparable to North America's, where there is a

crisis there as well. That crisis is being driven by fentanyl, the synthetic opioid. We do not have that yet, but if that arrives, and we have had an announcement by the Taliban in recent weeks that they are banning the production of opium—if that happens, if we have the synthetic opioids in this country, it will be catastrophic. We need to have a strategy in place now to be prepared for that. We have one example last summer where synthetic opioids entered the heroin market for a brief period in July last year in the south-east of England. We had dozens of overdoses and approximately 20 deaths over a very short period.

Q27 **Adam Holloway:** What should the strategy be?

Niamh Eastwood: It should be a number of things, first supporting drug checking across the country, so where people can bring their substances to centres in the city and get their substances tested, to make sure that they can use as safely as possible. There are also testing strips that people could use at home to test their substances.

Most important are heroin-assisted treatment and opiate substitute therapy, making sure that we expand the medications that are available for folks. If we had heroin-assisted treatment in every part of this country it would destroy the heroin trade very quickly, but at the moment we do not even have a stable supply of diamorphine in this country, so the very few patients, of whom there are about 150 across the UK, who receive take-home diamorphine currently do not have their medication.

I have one client for example who was on take-home diamorphine for 15 years. She is a care worker who has worked in a care home throughout the crisis. She is a Covid hero. She has no medication now. She has been transitioned onto a different medication but is arguably underdosed and she relapsed at the weekend. She took heroin for the first time in 15 years, and it devastated her. She felt nothing but shame, and that is not right. There are ways that we can respond to this.

Martin Powell: Can I chip in on heroin-assisted treatment, which is of course legally-regulated diamorphine supply? I have taken Police and Crime Commissioners and police over to see this. It is now operating in Middlesborough and Glasgow but at very low levels. The ACMD called for funding of it from central government, which we would like to see.

As I say, I took police and Police and Crime Commissioners over to see this in Switzerland where it has been rolled out to the 10% or so of people who have tried other treatments and who it has not worked for. They found that that 10% also takes a disproportionately large amount of the illegal heroin market, anything between 30% and 60% of all the illegal heroin that is consumed by that high-using cohort. If you get that group into heroin-assisted treatment you are taking away perhaps half of the money going to organised crime groups at the same time as massively reducing acquisitive crime, because people do not have to commit crimes to pay for their own use, as well as saving lives, stabilising people and allowing them to move on.

It also has an important benefit that they have measured in Switzerland where low-level dealing is by people who supply because they feel they have to, to pay for their own use so you take out a huge tranche of low-level supply and you reduce the availability of heroin. They determined in Switzerland this has disrupted the workings of the heroin market and in Zurich, year-on-year use fell by 4% a year, rather than rising as we have seen.

When combined with overdose prevention centres, supervised drug consumption rooms and a more generally health-based approach, Switzerland reduced its drug deaths by two-thirds very rapidly after introducing that approach. It does cost more for your diamorphine-assisted treatment, but by God, it is a good investment. It is worth every penny in terms of the payback, in terms of reduced crime, health benefits and so on and that would be something that we would support being supported, along with the supervised drug consumption rooms, which are a very good route to guide people into treatment including heroin-assisted treatment.

Rudi Fortson: I am bound to say I spent the last 16 years trying to encourage this country to at least pilot a drug consumption room to no avail—for no good reason. I have studied this quite carefully over a number of years. I was part of the Joseph Rowntree Foundation working group that examined drug consumption rooms. We visited a number of sites. They were by and large run responsibly, and they were effective. Since that time, I have been to Toronto and seen two drug consumption rooms working there, again operating in a very skilful manner. Admittedly, the scheme runs on the basis of persons attending the sites with illicitly obtained heroin, but using the drug under medically supervised conditions, and to my mind the scheme works.

Different countries operate the sites differently. In Hamburg, the drug consumption rooms are run in quite a strict manner, with the co-operation of the local police. There is a joint agency approach, which is incredibly constructive, and the results are very encouraging.

In other jurisdictions, in Spain for example, they have set up drug consumption rooms that provide other services as well as a medically supervised injection of heroin. They will provide clothing for those who need it, food for those who need it and the upshot is that their drug use is being controlled and monitored. A number of individuals may desist from using the drug completely, but it takes usage away from parks where children are present, and it cleans up the streets, literally, of drug paraphernalia and litter. Why this country has decided to not even pilot one such room is, I am afraid to say, beyond me.

Chloe Hartnell: One of the main things to think about is disrupting supply. I do not know if we are coming on to it on Dame Carol Black's report, but the way that it works in practice is that there is a wealth of potentially young men, sometimes women, who are trafficked to sell the

drugs. It takes the risk away from organised crime and the low-hanging fruit of these young men who are often arrested by the police. It constantly turns over and drug addicts' contact details are a resource that is sold on; the phone number of 100 drug users passes hands between people and they are targeted daily. Day and night they receive text messages saying, "Come and buy my drugs. Best of both, 10 out of 10."

These boys ultimately get arrested very quickly, but there are more boys to replace them. Unless you address that by way of what should be in place via the Modern Slavery Act of 2015 and the statutory guidance that talks about the support that should be there, about these teenage boys that are either forced or groomed, often sent from London across the country in county lines as it is more familiarly known is not being addressed and they are asking for help. It often takes quite a lot for them to even get that far, but once they get that far and they ask for help the fact that help is not available, and that could be by way of counselling, the years of grooming that has taken place from organised crime, has to be unravelled somehow and if they are in danger in a particular area they need to then be placed in a different area, but you have local authorities saying, "Well, our stock is only available in this area and it will not make them any safer so we are not going to do anything."

Hopefully, what Dame Carol Black's report is trying to address is there needs to be more joined up thinking about how housing, poverty, mental health, naivety and exploitation, all come together to make the drug business effective. If you are a drug addict who is constantly bombarded with messages saying, "Buy my drugs" the deterrent of it being criminalised or not needs to be addressed for them to stop.

Q28 **Simon Fell:** Can I just pick up on something that follows on from that point? Niamh, you have raised this a couple of times as well. Looking at international comparisons where either legalisation or liberalisation has taken place, I am interested to know what the impact on crime is there and how dramatic and quick it is if it occurs.

Essentially, what does that transition period look like and what other levers need to be put in place aside from changing the framework of the legislation to enable that transition, whether it is a public health response or something else? What has worked and what has not?

Niamh Eastwood: If we start with decriminalisation, which is addressing the issue of possession and use in the main, we have approximately 35 countries across the globe that have taken this approach, and additionally about another 20 US states and a handful of Australian states in relation to cannabis only. In terms of how it impacts the wider criminal landscape, certainly one thing we see immediately is a reduction in possession cases, so that is the first thing, the criminal justice statistics fall around people prosecuted for possession.

In Portugal, they saw a significant fall in the prison population over the first 10 years of the policy. I can get you the specific statistics, but from

memory it was about a 15% fall in the prison population. Portugal was not sending lots of people to prison for possession, but people were able to access treatment and get the wider social support that Chloe has just referred to around housing and making sure their economic needs were met. That crime fell, that kind of low-level petty crime fell, that low-level supply.

Martin Powell: Can I just chip in with the specific statistics on that one? We did a report that was fact-checked by the Portuguese drug agency on this. The proportion of prisoners for drug offences fell from 40% in 2001 to 15.7% in 2019, just to give you an idea of that kind of dramatic fall that is possible with all the beneficial implications.

Niamh Eastwood: Thank you. In addition to that what we have seen is in the regulated market there is work in the US, and we must recognise the scale of what is happening here; the last time this Committee met in 2011 on drugs there was not a legal market for cannabis in the world. We now have Uruguay and Canada and Malta has just come online. Several countries around Europe have committed to it as well as Mexico and 18 US states. You can travel from the top of North America right the way down to Mexico on the west coast and find a legal cannabis market the whole way down.

This market will come to the UK. I have no doubt about that. The market will win. It is how that market works that matters, and it is important for the Committee to think about this. We are seeing examples in the US of models that aim to bring people who were involved in the illicit market or those who have been over-criminalised because of prohibition into the legal market, so a transition from illegal activities into lawful activities. That is something we see in all US states that are currently legislating for a legal cannabis market.

New York has a very detailed proposal to ensure that criminal records are expunged to allow people to participate in the legal economy beyond just cannabis. We have licences that are being prioritised for people who were overpoliced or overincarcerated for drug offences. We have loans going out. There is a fora of interesting economic models that seek to support people not just in traditional markets but people who live in deprived economies, to get them involved in the markets or to participate in other opportunities.

Dr Koram: I think the international context that you mentioned, Simon, is so important. Not to dial back, but when we think about the question of what the purpose of the Misuse of Drugs Act in the first place was, one of the main purposes was to be the realisation of the UK's international obligations under the Single Convention on Narcotic Drugs, 1961.

What is interesting about that Act is that at that time it was a 13-year drafting process to get the Single Convention ratified at the UN, and a lot of the resistance and frustration was from the UK Government and other European Governments resisting the American imposition of this blanket

criminalisation and prohibition. Once the Single Convention was signed in 1961 the UK then realises its commitments through the 1971 Misuse of Drugs Act.

Now, in 2022, when we look at the international context and what Niamh just mentioned about what is going on in the United States, it is a completely different environment that led to the Misuse of Drugs Act being implemented in the first place: 18 US states with legal cannabis markets.

The consequences of the social equity provisions that Niamh mentioned go far beyond simply moving people outside of the criminal drug market.

When we think about things like the commuting of sentences or the removal of criminal records, we are talking about allowing people who have been excluded from society in so many ways, from being able to access public housing, to being able to travel abroad, to being able to get certain jobs, the removal of their cannabis convictions is allowing huge amounts of people to re-enter society in so many ways, in New York, California and Illinois. This is what we need to think about when we think about the UK's drug strategy in 2022. The context that led to the current system is no longer supported even by those who encouraged the UK to commit to this approach.

Chair: I do want us to move on to discuss drugs and race. Simon, did you have another follow-up?

Q29 **Simon Fell:** I just had one, if that is okay. It goes back to Chloe's point around county lines and that trade in young people, being driven by criminal gangs. When we look at these international comparators, I am assuming that kills that market altogether and those gangs just go away, because there is nothing for them to do. Am I right in that assumption, or does the market shift?

Chloe Hartnell: I have no experience of how it works abroad, unfortunately.

Martin Powell: You are talking about what proportion of the market shifts into the legal, away from the illegal. I would be very happy to submit a detailed paper on what has happened. A lot of this—I feel as if I am selling a book—is laid out in there with comparisons of all the different models around the world, as updated as we can make it, looking at some of those things.

The answer is that it depends on the model you use. In California, they have taken about one-third of the market away from the criminal market, and there are very specific reasons for that. Most cities in California do not have cannabis outlets, because the municipalities there do not want them, so inevitably you do not get as much of the market shifting.

In Canada, it is over half and rising fast, in a much lower amount. We would expect long term these to settle around the kind of levels that we

do with alcohol and tobacco, which is 80% to 90% legal and the remainder not. I am very happy to submit some detail on that.

Chair: Yes, that would be good.

Martin Powell: We would be very happy also to bring in some experts if you did want to look at cannabis specifically. Some of the international experiences, colleagues of mine were in New York just two or three weeks ago talking to people there with our allyship with Black Socks, which is a community network here in London, and we would be happy to support that.

Dr Koram: To make a quick addition to what Martin just said, because the legal regulation process particularly in the United States is such an ongoing situation it is difficult to get final, detailed statistics on what the ultimate shift away from the illegal market to the legal market is. The fact that they do not have federal legalisation at the moment means that things such as finance and banking are very difficult to access through legal routes, and so that complicates the transition.

We probably want to wait a few more years before we could be definitive on how much that has moved into the legal market.

Q30 **Chair:** I wanted to clear up a couple of things before we move on to looking at drugs and race because we do need to address this before we finish. On the point about the safe consumption rooms and that there has been no pilot, is what the Government have said correct—that the Misuse of Drugs Act prohibits the use of those safe consumption rooms?

Rudi Fortson: Let us deal with that point because it is often raised. There is no single law that prohibits the setting up of a drug consumption room. The two areas that potentially cause difficulties, one more contrived than the other, is that when a person brings illicitly obtained heroin, for example, into a drug consumption room they remain in possession and possession is a continuing state of affairs, therefore the person providing the facility may be assisting or encouraging the person to remain in unlawful possession. That is the argument.

The other line of thought is if a person is then injecting the heroin within a drug consumption room, using citric acid, for example, a flame is being provided, there is an act of production taking place within the facility and therefore those who provide the facility are assisting or encouraging the production of a controlled drug. That is the contrived argument.

Both those issues could be dealt with quite simply by way of regulation or licensing. Beyond that, there is no single law that says it is illegal to set up a drug consumption room and section 8, which deals with permitting or suffering certain activities to take place on premises, does not even apply.

Q31 **Chair:** That is very helpful. Perhaps we want to question the Minister when we see the Minister later on in the inquiry. Has there been any

modelling done around savings to our criminal justice system if we reformed the law around drugs so that we would know? We have talked about the prison population reducing down for people with drug problems. Does anybody know of any modelling on that, of any savings that might be identified?

Martin Powell: Some years ago we did a cost-benefit analysis of what would happen if you legally regulated certain drugs. There has been quite a lot of work on cannabis in particular and what would happen if that was legally regulated in terms of savings to the criminal justice system. There are also various evaluations done and ongoing around heroin-assisted treatment. There are a complete set of things that again we can look at pulling together for you.

Chair: That would be great. Thank you very much.

Dr Moore: Can I add that there is a similar thing around MDMA and legal regulation of MDMA? A couple of years ago we wrote a report, a roadmap to the legal regulation of MDMA. It is similar to what Martin was saying there about some of the costs and benefits and how it would work.

Q32 **Chair:** That would be very helpful if we could see that. Thank you. I do want us to spend a little bit of time looking at how the policy and law on drugs have disproportionately affected parts of our community. Who would like to start us off on that? I am looking to you, Dr Koram. Would you like to comment on that?

Dr Koram: Absolutely. It has been a consequence from the origin of the transition of drugs into prohibition that they have been connected with, not just particular stigmatisation but also the criminalisation and policing of particular communities, especially when we think about racial minority communities.

This is not just seen in the United Kingdom. We see this in the United States, in Colombia, Brazil, and a number of jurisdictions around the world. This impacts not just the higher rates of conviction, and higher rates of imprisonment but also things like stop and search, and school exclusion, which have racially disproportionate impacts and impact people throughout their lives when we think about access to opportunities and the ability to travel abroad. This needs to be a central tenet of any conversation around the reform of drug policy.

We need to think about the history of it, which has been tied to racial discrimination right from the early stories around the danger of drugs that were reported in the early 20th century, all the way up to the way we might see the policing of a primarily Afro Caribbean festival like Notting Hill Carnival and the way that has been policed around drugs in comparison to festivals of celebrations that are not associated with the Afro Caribbean community, something like a Glastonbury festival. We are not going to get the section 60 mass stop and searches that we see in Notting Hill Carnival and other festivals. That history has very real

impacts today and I think must be at the heart of any conversation around drug policy reform.

Niamh Eastwood: Our organisation has produced the main evidence in this area. We produced our first report in 2014 and like all the research that we release it comes from the experience of the clients that we support. Our offices at the time were in east London and we would have kids come up from the local estates, young, black men, boys, children, who would come up to our offices with stop search forms like a door wedge, who would say that they had been stopped and searched or were evidencing that they had been stopped and searched three or four times in a week, all of it driven by drug searches.

Kojo has already clearly outlined that 60% of all stop and searches are for drugs. That sometimes even goes as high as 70%. When we look at the analysis of this, and this is research that has come from Her Majesty's Inspectorate of Constabulary those stop searches are nothing to do with the supply side. It is all about possession, so they estimate that about 70% of those drug searches are for possession only and the vast majority for cannabis.

We started to delve into the statistics to shine a light on the problems that existed and we found in 2014 that black people were six times more likely to be stopped and searched for drugs, despite using drugs at a lower rate than the white population, based on government statistics. The HMIC has also found that the find rate, so the incidents where drugs are found after a stop search, which we must remember is only in one out of five stop searches, in most cases nothing is found, but when something is found it is more likely to be found in the possession of a white person than a black person.

These powers are used in an aggressive way against communities, black communities, Asian communities and communities who are living in deprivation, so we did a follow-up report in 2018 that mapped out policing across the London boroughs. What we could see was an intensity of stop and search in areas of deprivation and then an increase in racial disparity in the more affluent areas.

There was racial disparity across the piece, so in poorer areas, you were three times more likely to be stopped and searched if you were black, but in the affluent areas that could rise to 11 times more likely. That spoke directly to a policing policy of geographical profiling, so trying to control populations who are considered a risk to the establishment, and then also to the idea of individual profiling, "What are you doing in this area?"

The damage of that to those young boys who come to our office, and I know Chloe has probably seen similar things, but just the damage of being stop searched every few days or even twice a month, you are being detained, you are being held. You cannot move; your community sees you. Even if you have done nothing wrong, why are the police stopping

you? You have no trust in the police. The trust and the legitimacy disappear.

Our research highlighted some work that had been done in America that showed that where people lose that trust they are much more likely to engage in what is called "self-help violence" so they are more likely to take things into their own hands. They will not go to the state if they are a victim of a crime, a witness to a crime and often then will engage in interactions with other people. We would say this interaction would contribute to violent crime as well.

We looked at after stop searching when someone is found in possession of drugs. Our research showed that black people were 12 times more likely to be prosecuted for cannabis possession—12 times—and that white people were much more likely to get out of court disposals such as straight fines or the cannabis warning scheme that was referred to earlier. It causes so much damage to these communities.

Chloe Hartnell: I see that every day. I think it is not just the ones where you have the piece of paper with the stop and search and GOWISELY. Most of the time those are not issues because then the statistics would be even worse. Often even if cannabis is not found there will be other offences that are suddenly generated, such as obstructing a drug search, assaulting a police officer, obstructing or resisting arrest, things that have come about by a situation that did not need to happen, and it alienates young people and communities.

One of the things put in place to address that was body-worn videos. There have been some horrendous videos, as you can imagine. There have been lots of good ones as well—I am not going to make blanket assertions—but there should be more enforcement of that whereby the whole interaction is shown.

If you truly want to see what is happening on a street level, how black people in particular are being targeted, young black people disproportionately, you need to see how that interaction takes place on a street level and there needs to be some consequence when it is disproportionately or wrongly used. I have never seen that consequence happen.

Q33 **Chair:** Is there anything in Dame Carol Black's policy that is going to address some of these issues? Do people feel confident?

Martin Powell: I do not feel confident about it. The Independent Office for Police Conduct produced a report a couple of weeks ago that condemned stops for being based on stereotypes and racial bias and quoted an example of a teenager who was stopped 60 times, starting when he was 14, including multiple times in the same day, who has been genuinely traumatised by that, as you can imagine. I do not know if any of you have been stop searched. It is not a pleasant experience even if

you are not suffering all the other pressures and prejudices of not being white.

A couple of statistics here, stop and search rose by 24% to 695,000 in the year to March 2021 fuelled by searches for drugs, which rose by 36% to 478,000.

In terms of the Carol Black review, I am not confident that what stems from it will deal with this. One thing that could help is that it does support drug offence diversion schemes, but again it calls it "tough consequences" and we have already been over why that is a very bad idea.

Drug offence diversion was something that the Lammy Review called for and if there are racist police officers or structural racism it does not get rid of that, but it does help or could help a little bit in terms of reducing the negative impacts of that, if people are diverted away from the criminal justice system. Obviously, that needs monitoring very carefully to ensure that it is applied fairly.

Niamh Eastwood: The diversion schemes are positive for people who are caught in possession of drugs, but it does not reduce the level of policing in this area. There is a broader conversation to be had about stop and search and the effectiveness of stop and search, but if we have 60% to 70% of stop searches being for drugs, we could start to reduce that number quite significantly. Again, with the international evidence, we look to the US. States that have decriminalised found there was a significant fall in the number of people encountering the criminal justice system and with regulation that was even more pronounced. We can send you the statistics on that.

Rudi Fortson: Stop and search has been a burning sore for many years and the Police Foundation's Independent Inquiry did look at it and chapter 6 deals with it. One must dissect the issues somewhat. Should the power exist at all is one question. If the answer is in the affirmative, the next question is one of implementation, and that is the biggest problem.

Code A of the Police and Criminal Evidence Act was intended to assist in that regard by ensuring that people were not stopped on a whim and that the person should not be stereotyped or judged by their personal characteristics, including their clothing. It seems to me that much of the discussion this morning in relation to stop and search has been about the implementation of the power, rather than the fact that the power should or should not exist and it is important to bear that in mind.

I do not like it personally when the police refer to stop and search as a tactic. Indeed, even in the Runciman Report the word "tactic" appears. I think that is unfortunate. It is a power that should be used appropriately and not as a device.

Q34 **Chair:** I am going to have to call the Committee to order shortly. I think this has been a fascinating discussion and I have certainly learned a lot today. Because this is the first session, and we will have a number of these over the coming months, could I ask the people who have joined us today, if they could say one thing that they think this Committee should look at and focus on in the months ahead what would it be? I am conscious that Prime Minister's Question Time will start quite soon, so we must be brief. Chloe, what is the key thing that we should look out for?

Chloe Hartnell: Diverting away from the criminal justice system. Entangling young people, especially in a system that is not built for them is not good.

Rudi Fortson: Reread the Runciman Report and see what has been implemented and what has not. There is a strong case now for decriminalising possession because we have not criminalised use apart from opium, to decriminalise possession of any controlled drug.

Dr Moore: I would talk about the stigma, the language that is used: using the word "tough" does not help anyone, including young people. That is one of the things I would look at.

Martin Powell: With Germany now committed to legally regulating cannabis it is going to happen. I think the Committee should look at what is happening around the world on this. Make recommendations around what a model in the UK should look like that avoids corporate capture and profit-driven expansion of use and ensures that the public health approach is at the heart of that legal regulation, especially because 53% of the UK population has backed legalising drugs, legalising cannabis versus 32% or 38% opposed. It is going to happen—let us get ahead of the curve on it.

Dr Koram: Looking at other jurisdictions around the world the UK is becoming an anomaly in not engaging with drug policy reform, when we think about Germany, Canada and a lot of other places. There is an opportunity to be at the forefront of global shifts around this. Over the past 10 years, since the last time this Committee met, a lot of the world has changed and that should be reflected in the conclusions that come at the end of this process.

Niamh Eastwood: Rather than duplicating everything that I agree with that has just been said, I will add that we should have a significant look at heroin-assisted treatment, how we scale it up, how we ensure that there is a secure supply of the medication in the UK.

Secondly, drug consumption rooms. It has been looked at a number of times, but it is time the UK did it. The one thing that I would ask that we do not have is a Royal Commission to look at all of these things. We have lots of evidence from across the world. It is a very different space from 10 years ago.

Chair: That has been incredibly helpful. Thank you so much for your time this morning. We have very much appreciated it and we will be producing a report, but that will be later in the year.