

PUBLIC CONSULTATION ON THE NOTES OF GUIDANCE FOR PART 1 OF THE ANTI-SOCIAL BEHAVIOUR ACT

Response from DrugScope The UK's leading centre of expertise on drugs

DrugScope is the UK's leading centre of expertise on drugs. Our aim is to inform policy and reduce drug-related risk. We provide quality information, promote effective responses to drug-taking, undertake research at local, national and international levels, advise on policy-making, encourage informed debate and provide a voice for our member bodies working on the ground. DrugScope is unique in the breadth of its 1,200 plus member bodies. They embrace those working in treatment, education and prevention, police, prisons and probation, as well as academics, researchers and trainers. DrugScope was formed by the merger, in April 2000, of the Institute for the Study of Drug Dependence (ISDD) and the Standing Conference on Drug Abuse (SCODA), each with 30 years of knowledge and experience.

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Informing policy, reducing risk

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DrugScope Response

DrugScope has publicly welcomed the Government's decision to introduce the new powers in Part 1 of the *Anti-Social Behaviour Act (ASBA)* to deal with 'crack houses' and other disorderly premises associated with Class A drugs.

We welcomed these provisions as an alternative to s. 8(d) of the *Misuse of Drugs Act 1971 (MDA)* amended by s. 38 *Criminal Justice and Police Act 2001 (CJPA)*. We were delighted when the Government responded to the concerns of the sector – including DrugScope's 1000 plus members - by postponing the implementation of the amended s. 8(d) for two years to evaluate the effectiveness of the *ASBA* powers. It is our view that the extension of s. 8(d) *MDA* was misconceived and that s. 38 *CJPA* should not be implemented.

DrugScope has publicly supported the *ASBA* powers for two key reasons.

First, nobody wants a 'crack house' on the corner. It is typically – but not exclusively – some of the most disadvantaged neighbourhoods and estates that have to cope with the nuisance, disorder and crime that can be associated with Class A drugs. They are entitled to action. As the Guidance says, the *ASBA* powers could be 'a genuine quick win for communities'. But, as is also acknowledged, a great deal will depend on how these powers are implemented, and, in particular, on ensuring that local services are in place to pick up the pieces when premises are closed down.

Second, these are *civil* powers that target *premises*, not *criminal* powers that can be used against *individuals*. The principal concern of DrugScope's members when they were asked about s. 8 *MDA* was that it could deter professionals from working with some of the most challenging client groups, and some of those most in need of help. The civil *ASBA* powers do not raise the same fears. However, DrugScope would expect its members to become concerned about the new *ASBA* powers if they were used *excessively* or *inappropriately*.

In finalising the Guidance, we therefore urge the Government to consider the following points.

First, while introduced explicitly to deal with the problem of 'crack houses', the scope of these powers is very wide ranging. 'Premises' could include drug treatment services, needle exchanges, bail hostels, services for the street homeless, services working with the mentally ill and refuges for victims of domestic violence. These services perform vital work of benefit not only to clients, but also to the wider community, and which is a core component in the Government's own crime reduction and drug strategies. DrugScope suggests, therefore, that the Guidance explicitly state that the use of the *ASBA* powers

is not envisaged against such services other than in exceptional circumstances – and that it provides some indication of any possible situations where it might be justifiable to use the *ASBA* powers against such services. This would reassure service deliverers.

Second, drug – and related – services are often regarded with suspicion and fear. The draft Guidance states that ‘the testimony of residents who *feel* terrorised, threatened and may *fear* to leave their houses’ can ‘provide an *objective* basis for an assessment of the gravity of the problem’. The disorder associated with Class A drugs can be frightening, and the fears of local residents should always be treated with the upmost seriousness. But these fears can be exaggerated, particularly in relation to stigmatised groups, including drug users. The Guidance could say more about the reasonableness of fears and other ways of dealing with local concerns. It may be, for example, that the solution is not to close premises down but to invest in explaining the service and its users to local people and involving the community.

Third, the draft Guidance recognises that people on premises when a closure order is served will often be vulnerable, and may have dependent children. Even where closure of premises is the best option *on balance*, a closure order will rarely be a cost free exercise. The Guidance could include a check list of possible costs to guide decision-making when deciding whether to issue a closure notice given a specific set of circumstances. It could also say more about alternatives to closure notices, that could deal with some forms of drug-related nuisance and disorder more effectively. For example, if the local community is concerned about discarded needles, the introduction of a needle exchange or sharp bins is likely to be a better option than closing down a service or excluding people with serious drug dependency problems from housing. Where an individual or a small group are a source of problems, the police should target them and not the whole residential community or project with which they are involved.

Fourth, DrugScope has strongly supported the Government’s principle of combining enforcement measures with investment in treatment and other services to enable people with serious drug problems to get the help they need to get their lives back on track. It is reassuring, therefore, that the draft Guidance stresses the importance of working to address the social care, housing and other needs of people who are affected by closure orders, including some who will have nowhere else to go and profound substance misuse needs. But DrugScope would like to see this commitment to a joined up holistic approach translated into concrete procedural requirements or good practice guidelines. For example, the guidance could explicitly require the police to liaise with local authorities and other relevant agencies to ensure that the best possible support mechanisms are in place before serving a closure order. There is also room for more detailed consideration of more specific issues. For example, where sex workers are evicted from flats, then this will tend to increase levels of street prostitution, potentially increasing the risk of violent victimisation of sex workers themselves and nuisance to the wider community.

Fifth, DrugScope welcomes the recognition that the person responsible for the property – where not the dealer – will often be vulnerable themselves and the recognition that ‘within the statutory framework the local authority may be unwilling to provide alternative accommodation to such persons due to arrears on debts as well as a history of neighbourhood problems. How they are accommodated, and with what support, are crucial. Support services may be available through the Supporting People programme or other appropriate schemes’. However, DrugScope is concerned to foreground a wider issue here. Housing providers – whether local authorities, housing associations or private landlords – may be discouraged from housing what are perceived as ‘high risk groups’ if they fear – rightly or wrongly - that there is a risk of them behaving in ways that will put the premises at risk of closure. What, for example, will be the impact of these powers on the willingness of housing providers to accommodate ex-prisoners, people with mental health problems and people with a history of Class A drug use? This is not an issue that can be dealt with adequately in this Guidance document, but DrugScope feels that it needs further thought in planning for implementation of these new powers.

Overall, while the Notes of Guidance are correct to say that these powers could be ‘a genuine quick win for communities’, they are equally right to recognise that this victory could be short-lived if services are not in place and the problem is simply displaced from one area to another. It is important that the final version of the Guidance places as much – and, ideally, still greater – emphasis on the limitations of a quick enforcement fix and the need for a mix of interventions at local level to minimise the need to resort to the *ASBA* powers in the first place and to pick up the pieces where they are used.

We look forward to working to ensure that the *ASBA* powers are implemented in such a way as to maximise the opportunities to intervene positively in the lives of hard drug users and minimise the harms that Class A drug use can inflict on local communities.

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