

CHASING SHADOWS

In the zone: a drug dealer arrested on the streets of Leeds as part of Operation Fishley

Despite being armed with new powers, police and the courts are yet to convict a dealer of pushing drugs outside the school gates. Instead the law is just being used as an extra tool against dealers who sell in inner cities. **Max Daly** investigates the outlawing of an urban myth

It was announced with much fanfare before the last general election – the government's big idea to stem the scourge of drug dealers preying on vulnerable pupils outside school gates.

Championed by ministers as a vital part of the Drugs Act 2005, the law change made drug supply an 'aggravated' offence if it was carried out by an adult 'in the vicinity' of a school.

A take on the 'drug-free school zone' laws introduced across the US in the 80s, the amendment under Section 4A of the Misuse of Drugs Act, enabled

judges to hand heavier sentences to adults caught selling drugs near schools.

But a *Druglink* investigation has found the law change has remained virtually unused, for its original purpose, in more than three years across the UK.

Instead it has emerged that the measures are being used by one police force to hand out longer jail sentences to adult-to-adult dealers arrested in pubs up to 500 metres – the length of five football pitches – away from the nearest school.

The law change was accompanied by extensive media coverage, with the *Daily Mail* heralding a 'Purge on pushers at the school gate'. One local newspaper editorial grimly warned: 'Catch them young' seems to be motto of drug pushers, and all schools need to be aware that these suppliers of death are hanging around school gates looking for potential new customers.'

But these is no evidence that police, prosecutors or the courts have used the law change, which came into effect in January 2006, to convict and sentence an adult dealing to children outside a school.

When asked whether they had any records of Section 4A 'school gate' convictions, the Home Office, Ministry of Justice, Crown Prosecution Service, Magistrates' Association, the Office of Criminal Justice Reform and Judiciary admitted that they could not find an example in case law.

One drug squad detective told *Druglink*: "This law has the whiff of a media stunt. Adult dealers would not hang around school gates – one reason would be that they would attract the

attention of parents and be suspected of being a paedophile. Any dealing around schools would be done by the pupils themselves."

Nicola Stell, Chair of the Magistrates Association's sentencing, policy and practice committee, said although she swiftly refers supply cases up to crown court, she had never come across a case involving a school gate drug dealer. When she contacted 100 other magistrates, neither had they. "To me this sounds like cosmetic legislation," says Stell.

The lack of adult-to-child dealers convicted under the law provides further evidence that the school gate drug pusher is an urban myth driven by the perception that drug dealers are entities of evil rather than economics – and that the government is enacting laws to target something that does not exist.

Paul Turnbull, co-director of the Institute for Criminal Policy Research (ICPR), which has carried out a large body of research into drug markets, has seen no evidence to support the idea that dealers target school gates. He said most young people have no need to buy drugs from dealers.

"Most young people of school age are using cannabis, if they are using anything. And cannabis is bought and sold through social networks among friends. If there is any dealing going on in school premises or at the school gates it is pupil selling to pupil. Even so, why bother taking the risk of bringing drugs into school when you can do deals outside." Turnbull added that research among college age students also found that they bought cannabis through social networks rather than strangers.

When the law began its progress through the House of Commons, two senior police officers told *Druglink* that the government was targeting something that does not exist. One of them, a chief police officer, said: "A professional dealer is unlikely to target schoolchildren because the last thing they want to do is get caught."

One of the few police forces in England and Wales to use Section 4A with any frequency has been West Yorkshire. But the detectives admit the law is not being used to convict the people it was set up to.

Under Operation Fishley, 100 people were convicted of dealing drugs, mainly crack and heroin, in Leeds in 2007. Despite the fact many dealers were arrested in city centre pubs and clubs a sizeable distance from any school gates, police realised they could be charged under Section 4A because venues fell within the West Yorkshire force's definition of 'vicinity of a school' – of up to 500 metres.

As with many urban areas, the part of north east Leeds targeted by Operation Fishley, Chapeltown and Harehills, is heavily populated with primary and secondary schools. Police urged the courts convict 80 dealers for 'aggravated' supply under Section 4A. The courts ended up sentencing 25 of the dealers under Section 4A, which results in an average increased jail term of 12 months, for between three and seven years.

"Although none of the dealers were supplying pupils with drugs at the schools, there is something unforgivable about dealing drugs around schools," DI Ian Devey of West Yorkshire Police's Serious and Organised Crime Group told *Druglink*. "By using the legislation [Section 4A] we are maximising the benefits of local communities by ridding their streets of drug related crime. We want to show dealers and communities that this kind of behaviour will not be tolerated in West Yorkshire."

When Section 4A was first being debated in the House of Commons in 2005, it was branded a "media stunt" by opposition MPs. John Mann, Labour MP for Bassetlaw, added to the scepticism around his own party's proposal. He told MPs that a detailed investigation of 200 complaints from constituents about drug dealing outside school gates found none were based on concrete evidence. When he put the issue to school pupils he said the pupils "derided" him.

"The idea that that dealers would wait at the school gate was laughed out of court" Mann said. "They asked me, 'why do you think we'd be stupid

enough to buy or sell drugs in or just outside school? If we want drugs, we know where to get them and we'll get them'."

Mann told the Commons that not one case of an adult dealing outside school gates could be found on West Yorkshire police records and asked then Home Secretary Charles Clarke to come up with evidence to support the addition of Section 4A. Clarke replied that, while no incidents could be found



Making it up: two journalists at the *People* were sacked after staging story about schoolgate dealers

on record, "anecdotal evidence and comments from many of the agencies concerned suggest that this is an issue that we have to address. Indeed, it would be absolutely wrong of this House not to acknowledge that the supply of drugs in and around schools in some parts of the country is a serious issue."

A trawl through the newspaper and magazine archives in the years running up to the debate on the Drugs Act 2005 reveals only one example of a school gate drug dealer, published in the *People* newspaper in 2003. But the article, headlined 'On sale at school gates...kiddie coke at 50p a go' resulted in the sacking of its writer and photographer, after it was found the school gate 'dealer' was actually a plant – in this case the snapper's teenage son.

Mann warned the Commons: "We should not give a false impression to the population at large that drugs are a major problem in and around schools. My contention is that that is not the case. Drugs in the community are the problem, not drugs in schools. These measures give our schools a bad name, and if we do not analyse the real problems, the solutions that we as legislators introduce will be the wrong ones. I therefore strongly recommend that the government reconsider not the principle of what they are trying to

DRUG-FREE SCHOOL ZONES: THE US EXPERIENCE

In the 1980s many US states adopted 'drug free school zone' laws in a bid to stop what politicians and newspapers saw as the "the dope peddler lurking in the schoolyard shadows".

The law applied harsh mandatory minimum sentences to people caught selling drugs, in some states up to 1,000ft from schools or 500ft from parks, libraries, museums or public housing projects. In densely populated cities such as New York, virtually every square foot is covered by a drug-free school zone.

In line with many reviews into the impact of drug-free school zone laws across America, a report into the success of the drug free zone law in New Jersey, published by the state's Commission to Review Criminal Sentencing in 2005, found it had been ineffective in reducing drug offences outside schools while at the same time disproportionately affecting minority communities because most zones happened to be in dense urban areas.

A report by the Prison Policy Initiative, a US criminal justice reform group, found the law had effectively created a two-tiered system of drug sentencing, where poor, black and Hispanic populations were at risk of harsher penalties because they lived in urban areas.

Now, in many states, campaigners and politicians are calling for the zones to be dramatically shrunk, from 1000ft to 100-200ft.

achieve but whether their proposals will in fact achieve it. I do not think that they will."

Sebastian Saville, chief executive of Release, said: "With no evidence to support its implementation, this was never more than yet another piece of eye catching legislation driven by the insatiable political machine of appearing tough on drugs and crime. Like with so many similar initiatives it failed completely at its stated goal of protecting young people from drugs. What the legislation has achieved, however, is to create a deeply unfair system with different penalties for the same crime with the severity of sentencing being based on geography. Once again the poor come off worse, I imagine that dealing drugs in Peckham without being "in the vicinity" of a school must be almost impossible whereas doing so in Surrey is probably quite simple."