

The huff and puff surrounding the Home Secretary's decision to leave cannabis as a Class C drug clouded what may be a far more significant announcement – to review the whole classification system. **Harry Shapiro** investigates



Class politics

MYSTERY surrounds why Charles Clarke called for a review of the classification system for drugs under the Misuse of Drugs Act (MDA). He was under no external pressure to do this, but it was linked to the decision to retain cannabis as a Class C drug. Despite having received the Advisory Council on the Misuse of Drugs (ACMD) recommendations, apparently the Home Secretary thought long and hard before finally agreeing with the experts: the outcome was in doubt right up to the last moment. When the decision was finally announced in Parliament, it came with a rider that the Home Secretary wanted to look at the whole structure for classifying drugs.

WILFUL CONFUSION?

And there are good reasons for doing so. Confusion reigns about the Act, although wilful media constructs from all sides of the drugs debate have played their part. Writing in *The Guardian* last month, Simon Jenkins wrongly claimed the MDA banned heroin prescribing. 'Outlawing heroin supply under prescription...

boosted consumption from some 1,000 registered users before the act to an estimated 300,000 users today,' he wrote. Why there aren't more than the 500 or so people in the UK currently receiving heroin prescriptions is an entirely different matter and nothing to do with the Act. The Act does permit prescription through an often-forgotten legal instrument, the Misuse of Drugs Regulations – which govern the medical use of illicit drugs in certain circumstances.

In contrast the tabloid clamour for cannabis to be 're-graded' to B on the back of the horror stories they printed, misleads the public into thinking this will somehow protect young people. Of course, it won't: there is no evidence that where a drug sits in the system acts as a deterrent to use or supply – the drugs with the highest growth rates in the past twenty five years have all been Class A – heroin, cocaine and ecstasy. Instead it is all about 'sending the right message' and this underlies a key problem that the government faces with the MDA.

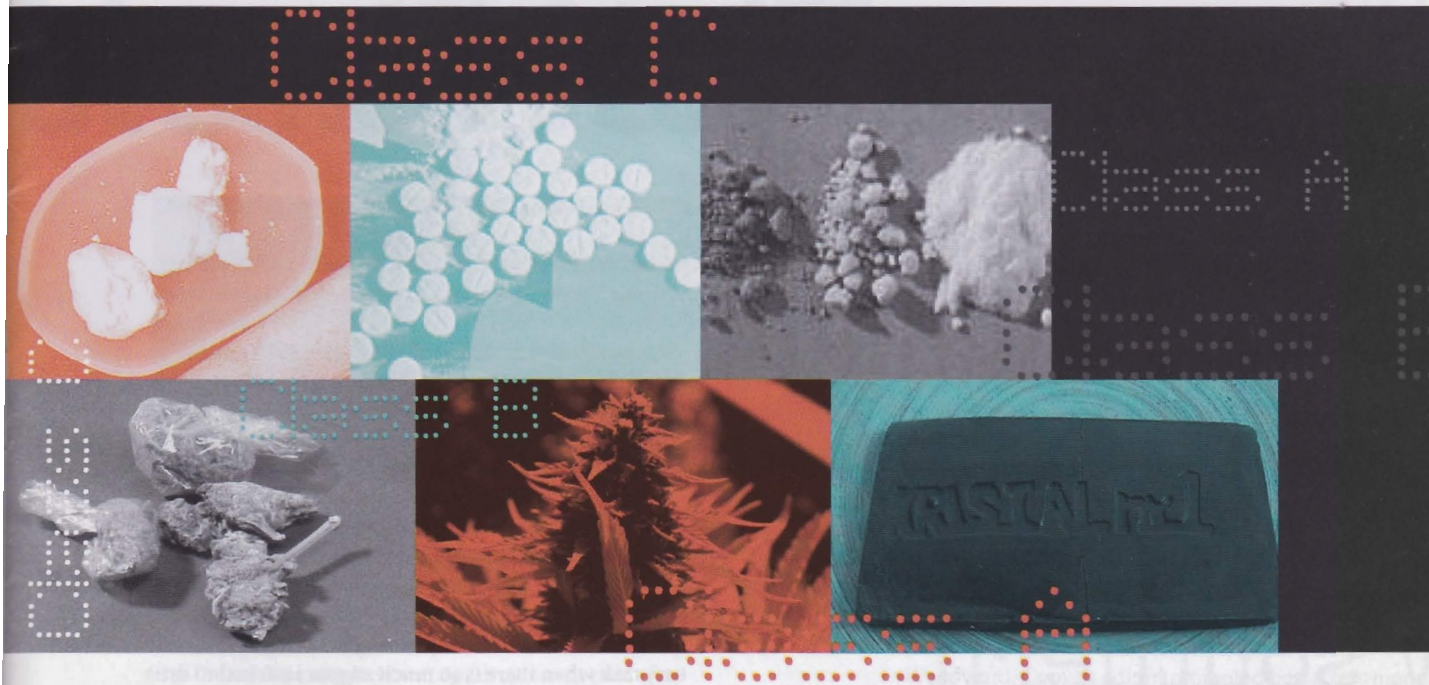
It is enshrined in the legislation that one function of the Act will be 'educating the public'. But the MDA has become almost iconic, a symbol for the whole drug strategy and

(largely because the point about *relative* harm has not been well communicated or understood) the first point of attack for critics from all sides. That being the case, it behoves government to make sure that there is absolute clarity within the MDA and on that basis there is much to do.

LEGAL CLARITY

At the very least, and assuming all you did was tinker with the Act, we need more clarity on the different penalties that attach to the different classes. With the exception of simple possession, in the period 1973–85, there was in practice little difference in the penalties between Class A and B drugs. Changes in 1985 saw a much clearer division between the three classes in terms of penalties, a division which then disappeared when cannabis was reclassified from B to C in 2004. As part of the political horse-trading which allowed the passage of the reclassification, the penalties for supply of Class C drugs were increased as to make them indistinguishable from those in Class B. Leaving these anomalies untouched can only add to the confusion.

At the other extreme, the one thing Charles Clarke cannot do (even if he wanted to) is tear the Act up. The UK has signed and ratified all three of the major international conventions which



Drug control: Home Secretary Charles Clarke could shake up the system

together mean that we are obliged to have in place a legal framework for the possession, manufacture and supply of a proscribed list of drugs. Beyond that, however, there is considerable flexibility, to the point where there is no obvious legal requirement to actually enforce the laws. This explains the situation in the Netherlands where cannabis possession has never been legalised or even decriminalised: the Dutch government simply took the decision not to enforce the law in certain circumstances. Nor do we have to have three classes of drugs. Barrister Rudi Fortson one of the country's leading experts on the MDA, told *Druglink* he thought we could get away with two. One for the really dangerous ones like heroin and crack and the other for everything else. Another legal expert, Leonard Jason-Lloyd believes we don't need classes at all. "You could just have one list of controlled drugs with a set of penalties against each," he says. But this begs the question, even if you had a single list (unless you really are going to say cannabis is as dangerous as heroin) how do you decide what your penalty tariff should be?

RELATIVE HARM

So it would be difficult to move away from the principle of relative

harm, however the Act was structured. But currently there are no clear guidelines or criteria for how you judge these harms. This is not defined in the Act, nor has the ACMD published anything which sets out the indicators against which harms are matched. This led the Independent Inquiry into the Misuse of Drugs Act (2000), chaired by Dame Ruth Runciman, to suggest a set of criteria against which to make an objective assessment of relative harm as part

“The evidence mantra could become drowned out by the wailing banshee of protest”

of the decision-making process for classifying drugs. These are: addiction potential, toxicity, risk of overdose, longer-term risk to life and health, potential for injecting, association with crime, association with problems for communities and public health costs.

A similar typology was adopted by the National Addiction Centre, authors of a Department of Health report *Dangerousness of Drugs* (2001). The NAC considered factors associated with acute

adverse effects, chronic adverse effects and a range of other facts which might mediate or moderate the dangers, for example sniffing a drug instead of injecting it.

THE POLITICS OF EVIDENCE

Once this index of harm has been established, it then follows that all the controlled drugs should be mapped against it. This is the only way that the MDA could be reborn as a piece of truly evidence-based legislation, but in turn the evidence mantra could become drowned out by the wailing banshee of protest. For example, ecstasy was controlled in 1977, at least eight years before the drug was in use in the UK, and simply because it was chemically-related to existing Class A substances. But how would that stand up to scientific scrutiny in 2006? Similarly with magic mushrooms. How strong would be the scientific evidence for stating these drugs were as dangerous as heroin or crack?

Which takes us back to the mystery we started with. At the time of writing, the government is planning an open consultation exercise on the MDA, rather than referring it solely for the consideration of the ACMD. As all Home Secretaries do, Mr Clarke will want to appear tough on drugs. But as has happened with cannabis, there is no guarantee that the expert evidence would deliver what he requires. ■