

The jailing of Ruth Wyner and John Brock in 1999 under Section 8 of the Misuse of Drugs Act for failing to take 'reasonable steps' to prevent heroin dealing at their drop-in centre sent shivers down the spines of drug workers across the country.

Kevin Flemen sifts through the aftermath of the 'Cambridge Two' case

Gimme shelter

Wintercomfort five years on

THE trial of Ruth Wyner and John Brock, who worked for the Wintercomfort homeless charity in Cambridge, stands as testimony to what can happen when the reality of dealing with drug users collides head-on with 30-year-old laws. Lessons have been learned. The relationship between agencies, their clients, the police and the law has in the past few years improved significantly – despite the irreparable damage done to the lives of the two defendants. But how has this come about?

In the months after the trial, Release the charity that offers services to professionals and the public about drugs and the law worked extensively with agencies around the UK to try and clarify matters and help agencies develop strategies that were both robustly legal and allowed effective work with drug users.

Release was keen to get several messages across: the importance of having a legal policy in place; the need to develop flexible policies; that the use of substances (other than cannabis and opium) was not restricted by Section 8 of the Misuse of Drugs Act 1971; and that organisations had clear legal obligations to prevent production and supply of drugs (and cannabis smoking) using reasonable means readily available.

Reassuringly, a number of housing providers around the UK moved away from their 'zero-tolerance' approaches to management of drug use and instead adopted more flexible, inclusive policies. These agencies used the anomalies within Section 8 to work with continuing drug use on premises, especially of heroin and to house drug users in a safe and supportive environment.

But these promising early gains were thrown into jeopardy by subsequent ill-considered attempts to amend Section 8(d) of the Misuse of Drugs Act 1971 in order to make it easier to close crack houses. Although the then drugs minister Charles Clarke said he saw "no need" to create new police powers, the Government acceded to pressure from the Tories, and, in a brazen attempt to salvage the Criminal Justice and Police Act and garner a few votes in the run up to the general election, introduced the proposed amendment in the House of Lords.

Section 38 of the Criminal Justice and Police Act 2001 became law with little fanfare, bypassing



Kevin Flemen is former Acting Director of Release and now works as an independent trainer and consultant. A 'sample drugs policy' and the new 'cannabis protocol' are available on the KFx website at www.ixion.demon.co.uk

discussion in the House of Commons and by the Advisory Council on the Misuse of Drugs. Section 38, as yet not an 'active' law, widened the scope of Section 8(d) from covering cannabis and opium to all unlawfully held illegal drugs. In one stroke it meant that services and housing providers that faced up to drug use carried on in their premises in order to minimise harm, would become illegal. However, the Government assured housing providers and the drugs field that "guidance notes" would be issued prior to commencement to offer workers some protection.

In September 2003, the guidance notes were produced. The Home Office, keen to see the new powers come into force, allowed only six weeks for

consultation. Fortunately, a large number of organisations in the drugs and housing sector responded vociferously. The agencies argued that they were being placed in an intolerable position and that the Government's own Rough Sleepers and Supporting People strategies were jeopardised by the amendment. To house people and know that they were using drugs on site would put organisations on the wrong side of the law. The only protection the guidance offered was that the police should weigh up the harm-reduction benefits before considering prosecution. Unsurprisingly, this left agencies uneasy.

In the face of concerted resistance, the Home Office made a rare U-turn. The changes to Section 8(d) were officially "postponed" for a period of two years so that

new measures under the Anti Social Behaviour Act could be introduced and piloted.

The end of this long period of uncertainty was a blessing for the housing field. The prospect of some stability, combined with the well-drafted and reassuring approach adopted in the Anti Social Behaviour Act, which decided against targeting occupiers or managers of premises who know drug use is taking place, meant that drugs policies could be revised and new provision developed with some degree of confidence.

There was of course one fly in the ointment. While the Home Office had shelved the amended Section 8(d) they were insistent that the old 8(d) remained in force obligating organisations to stop cannabis smoking on site. Simultaneously, cannabis was

“ In the face of concerted resistance, the Home Office made a rare U-turn ”

reclassified and the general public informed that they would not generally be arrested for possession especially where this was taking place away from public view. This ludicrous situation meant that while cannabis users faced a maximum penalty of two years for possession, those allowing use on site faced a maximum penalty of fourteen years.

But even this issue is starting to be resolved. The Julian Housing project in Norwich has negotiated a flexible cannabis policy with Norfolk police for two residential settings it runs for people with mental health problems. It effectively allows Julian Housing to police cannabis use in its own flats, although the protocol promises a "robust" reaction to dealing on the premises.

A number of organisations still hide behind Wintercomfort as a justification for not housing drug users. But a significant number are proactively working with users, providing them with quality housing and support interventions. Highly proactive responses have been developed in Stoke on Trent, West Yorkshire, Exeter, London, and numerous other areas. They have housed people who had previously been considered 'ineligible for housing' and they have made a difference to many people's lives. Serious discussions are taking place about how to take other areas of work forwards, such as safer consumption rooms.

On balance, the situation is manifestly better now than it was five years ago. While the Wintercomfort Trial sparked immense disquiet, this would have been nothing compared to the repercussions had the Government pursued the Section 8 amendment. Five years were wasted when innovative housing responses could have been implemented. The next five years, instead, hold great promise. ■

left Wyner and Brock outside the Court of Appeal after their release from jail in 2000



COLD COMFORT FOR JOHN

John Brock, 54, has been unemployed since being released from Highpoint Prison in 2000. He lives with his wife Louise and two teenage boys in Cambridge.

"The conviction wrecked our lives. I suffer from severe depression. I'm fed up. I do washing and cleaning, sometimes just sitting and doing nothing. It's difficult to get motivated. I have been going to weekly psychotherapy for four years.

Being jailed left me in a state of shock. I was hallucinating for seven weeks, hearing voices, thinking other prisoners were trying to get at me. But it did get better. I gave support and advice to inmates from my cell. It reminded me of my office at Wintercomfort. While I was in jail I took Prozac but that left me in a kind of living death so I stopped taking it.

I am still angry at those who instigated the proceedings: local counsellors, police and local residents. To be convicted of something after we thought we were doing the right thing made me feel very let down. This feeling has snowballed into a lack of trust and faith in authority and it's difficult to see an end to that.

I view politicians, the judiciary and the media with great scepticism.

It didn't enter my mind when I became a drug worker that this could happen. I wanted to do a job that was worthwhile, to help people with problems. Two former colleagues from Wintercomfort dropped by the other day and it was good to see them but I don't like talking about it. I haven't read Ruth's book on her time in jail yet.

The desire to go back to drug work is strong, but reality says something different. I doubt if anyone would take a chance on someone who has been convicted under the Misuse of Drugs Act. And the job itself dictates you walk the thin line between serving clients and being mindful of the law, and I don't want to fall off that tightrope again. Occasionally I get a spark of excitement and on a good day I will look at the job ads in a paper, anything from pumping gas to a managerial job. But the hurdles I would have to jump and barriers I would need to break I think are phenomenal. If the Wintercomfort case has changed things for the better than that is ironic, but I can live with that".