

# Forty years on: time for a new approach to drug control?

Jonathan Birdwell and Nicola Singleton argue that it is time for a fundamental review of the current system of drug control.

Over the past forty years, since the *Misuse of Drugs Act* (MDA) came into force in 1971, an emotional and polarised debate about the role of government in regulating the use of psychoactive substances has developed. Few areas of policy suffer more entrenched differences. Both sides of the debate claim the moral high ground: the 'legalisers', in defence of liberty and those who suffer disproportionately from drug laws; and the 'enforcers', in defence of protecting young people, social norms and the myriad victims of drug abuse. As a result it is extremely difficult to make improvements to current drug control policy.

In recent years in the UK, classifying drugs within the MDA appears to have become the main aim of drug control policy rather than simply one means. The negative political consequences to decision makers of permitting onto the market a drug that later turns out to be dangerous are very high, while the consequences of keeping off the market a drug that may be relatively harmless are perceived as minimal, since any harms associated with banning substances or benefits that may derive from their use are rarely discussed. Thus there is an inherent bias in the system towards prohibiting new substances (Reuter, 2011).

## Time for a change?

But times change – the new psychoactive substances (also known as 'legal highs') available for purchase over the internet pose serious questions about whether

a twentieth-century approach to drug control is suited to the twenty-first century world of psychoactive substances. The effectiveness of traditional approaches to drug control at keeping pace with new substances and supply routes is increasingly being called in to question (Griffiths et al., 2010). There are already over 600 substances covered by the Act. Public sector cuts, including eight per cent of police funding for 2012-2013, combined with the growing number of drugs to be policed raises concerns about the enforceability of UK drug laws. Hence a fresh look at our approach to drug control seems overdue.

The introduction to the new Drug Strategy (HM Government, 2010), states that it 'sets out a fundamentally different approach to tackling drugs'. It identifies a need to broaden the focus of drug interventions to tackle a wider range of drugs, beyond heroin and cocaine, and the fact that 'severe alcohol dependence raises similar issues' whilst noting its benefits and that it is 'a regulated product'. In terms of supply-side interventions there is little new, although it proposes a new temporary banning power to speed up the classification process for new drugs that is part of the *Police Reform and Social Responsibility Bill* currently going through parliament. However, this provision does not address the wide-ranging concerns about the effectiveness of the current system of controls and the harms they may introduce. A more fundamental review needs to be considered – but in the current

adversarial atmosphere how achievable is that?

## A new approach

'Legal highs', or new psychoactive substances (NPAS), pose new challenges but perhaps also an opportunity to take a fresh look at the issues around drug control. It is important to recognise that not all psychoactive substances are controlled under the MDA. For example, supplies of alcohol and tobacco are regulated largely through Trading Standards legislation, while solvents are regulated through the *Intoxicating Substances Supply Act 1985*.

Most current debate about drugs policy tends to reinforce the view that there are only two options for policymakers: controlling drugs through the MDA, or doing nothing, and positions have become entrenched. To move beyond this impasse and take the debate forward we need to refocus the debate on the purpose of drug control, rather than the means, and identify practical steps to improve the current policy framework based on areas of consensus.

To demonstrate the potential benefits of taking a different approach Demos and the UK Drug Policy Commission convened two workshops with 12 different key stakeholders attending each. These used 'soft systems' methodology, a technique designed to develop consensus on steps to address aspects of 'wicked issues', hotly contested and extremely complex problems for which a single solution is unrealistic (Chapman et al., 2009). Workshop attendees included senior civil servants representing both policy-makers and enforcement agencies, pharmacologists/chemists, front-line workers from different charities, a peer mentor, and advocates from lobbying organisations from opposite sides of the drug control debate. The aim was to examine the key issues for NPAS control in a way that reflected those differing perspectives and to identify areas of agreement about the elements of the 'problem' as well as options for action (Birdwell et al., 2011).



Graphic courtesy of Melinda Kerrison

and there would be a number of potential benefits to taking a step back and producing a simplified overarching control framework, such as perhaps a Control of Harmful Substances Act.

In both groups there was agreement that the current drug control system was not coping adequately with the challenge posed by legal highs. It was also recognised that use of legal highs was part of a wider culture of substance use, both legal and illegal. Questionnaires completed by participants before and after the workshops showed that they reconsidered their perspectives and gave greater recognition to other viewpoints.

To achieve this, discussions were structured around outcomes for which there was universal consensus. For example, the first workshop addressed the question: What is the best approach to protect young people from the harms of new emerging psychoactive substances? Framing the question this way – as opposed to, for example, asking whether new substances should be classified under the MDA – facilitated a more fruitful discussion and the identification of issues of concern for everybody regardless of their perspectives on drug control.

All participants agreed on the importance, for everyone involved in the drugs field, of information about the nature and effects of new substances and the motivations behind using and not using. The need for ‘accurate and reliable information on the effects and harms of drugs, including new substances’ is also recognised in the new drug strategy. Better information is necessary for more effective drug education, the development of harm reduction strategies, the treatment of those with drug use problems, making decisions on appropriate control measures, and the enforcement of relevant controls. However, it was also agreed that controlling a substance under the MDA makes collection of the necessary information much more difficult.

The group identified actions that everybody agreed could be beneficial. For example, creating a framework for information collection to tap into the experience of users and front-line workers, supporting harm reduction strategies in clubs and other venues, such as free pill-testing, and investing more in laboratory-based investigation of newly emerging psychoactive substances.

The second workshop focused on the most effective way of controlling the spread of new psychoactive substances and hence discussed the range of regulatory options available. Participants agreed that:

- There is a wide range of different pieces of legislation besides the MDA that are used for controlling harmful substances.
- The number of substances now controlled and the multiplicity of ways in which this is done is confusing, inconsistent and potentially inefficient and ineffective.
- There is a need for a review of our approach to drug control

### A way forward?

In conclusion, the world we face now is very different to that in 1971 when the MDA came into force. The vast number of drugs now controlled under the MDA, the ever-expanding range of new psychoactive substances, new routes of supply and changing patterns of drug use make enforcement increasingly difficult, if not impossible in many cases.

As described above, there is currently a bias in the system for dealing with new substances based on a ‘precautionary principle’, which leads to the default option being control under the MDA, regardless of whether this will be effective or reduce harms. This results in a drug

control system that, all sides of the debate agree, fails to adequately control use.

Discussion of alternatives is inhibited by the entrenched, polarised nature of the debate around drugs policy. However, as our project demonstrates,

there are things that can be done to push the debate forward and make improvements to the current policy framework.

Firstly, we need to broaden the debate to focus on the desired

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outcomes of controlling new substances and the full range of control options. Developing effective policies towards new substances also requires the recognition of the harms that may be associated with some approaches to enforcement as well as the potential benefits many people clearly derive – and being able to talk about these openly. This was something that everyone we spoke to, even the ‘enforcers’, agreed on.

Secondly, the government should undertake a review of drug control legislation to develop a comprehensive and coherent framework for dealing with all psychoactive substances. This could encourage the use of a broader range of legislative powers, for example, the *Medicines Act 1968* or Trading Standards controls, which may be more effective overall.

Finally, our project showed that it was possible to bring together people from different sides of the debate to identify a range of actions that could improve the current situation. By first agreeing on universally valuable outcomes, it was possible to identify steps towards improving the current approach to the problem of psychoactive substances. While not providing *the* solution for drugs policy, our approach presents a possible model for making decisions about drug policy that could be more fruitful. ■

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### References

Birdwell, J., Chapman, J. and Singleton, N. (2011), *Taking Drugs Seriously: Issues*

*for the Control of New Drugs*, London: Demos and UK Drug Policy Commission. Chapman, J., Edwards, C. and Hampson, S. (2009), *Connecting the Dots*, London: Demos.

Griffiths, P., Sedefov, R., Gallegos, A. and Lopez, D. (2010), ‘How globalization and market innovation challenge how we think about and respond to drug use: “Spice” a case study’, *Addiction*, 105, pp. 951-953.

HM Government (2010), *Drug Strategy 2010 Reducing Demand, Restricting Supply, Building Recovery*, London: Home Office.

Reuter, P (2011), *Options for Regulating New Psychoactive Drugs: A Review of Recent Experiences and an Analytic Framework*, London: UK Drug Policy Commission.

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