



# UKDPC

UK DRUG POLICY COMMISSION

## Background note for the Police Reform and Social Responsibility Public Bill Committee

**Briefing**  
January 2011

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1. The UK Drug Policy Commission (UKDPC) is an independent and non-campaigning organisation, which brings together senior figures from policing, public policy and the media along with leading experts from the drug treatment and medical research fields, with the aim of encouraging a transparent and evidence-led UK drug policy.
2. The Police Reform and Social Responsibility Bill proposes two changes that are of relevance to the work of the UKDPC.
  - (i) The introduction of new powers to make temporary banning orders for new drugs (Clause 149 and Schedule 16)
  - (ii) Removal of the requirement for the Advisory Council on the Misuse of Drugs (ACMD) to have members with certain specified scientific expertise (Clause 150)

### **On Temporary Banning Orders** (Clause 149 and Schedule 16)

3. Clause 149 in the Bill gives the Home Secretary powers to ban, temporarily, new substances for a period of one year. This provision is predicated on the assumption that a temporary ban will enable some control of an emerging market to take place, while allowing time for an appraisal of harms by the ACMD.
4. The list of drugs controlled under the Misuse of Drugs Act (MDA) has grown significantly since 1971. There are now over 600 substances listed and this clearly presents a major practical challenge in enforcing the law for police, border and other agencies.
5. Before the general election, the UKDPC proposed that, in response to the concern about potential risks posed by emerging substances, a new Category X be established as a 'holding vehicle', to enable the proper scientific evidence of harms to be established. Our proposal was to provide reassurance that, in responding to public concerns, the system under the MDA did not unduly accelerate a drug into a controlled substance without robust assessment of its actual, rather than perceived, harms.
6. The provision in the bill for temporary bans mirrors our proposal to some extent. Unfortunately, the proposed Clause and Schedule do not explicitly require the Home Secretary to formally consult the ACMD prior to making the order. The UKDPC believes this oversight could easily be remedied by introducing an additional safeguarding condition (to the two already proposed) that the Secretary of State ***consults with and seeks the advice of the ACMD before exercising the power.***
7. Additionally, our proposal was for a separate Category X that might be outside the current MDA, to avoid the potential problem of "unclassifying" a substance at the end of any temporary banning period. We would suggest that further consideration of the current legislative provisions and system of control for new drugs is overdue. The UKDPC and the think-tank Demos are currently exploring

options for the control of new drugs which do not simply rely on temporary or longer controls under the MDA provisions. At the heart of our concerns is the effectiveness of the current process in being able to balance the need to be able to react to potentially harmful substances with the potential unintended consequences of doing so without a proper and robust evidence base. Our report is scheduled to be published in May 2011.

### **On ACMD membership** (Clause 150)

8. The UKDPC has some sympathy with Home Office Ministers' desire to have some flexibility with regard to membership of the ACMD. Our Commissioners and staff include those who served on ACMD for many years and indeed led a number of its pioneering social policy reports on criminal justice interventions and HIV/AIDS.
9. So, we understand the desire to remove 'anachronistic' constraints which formally require some members to come from specific scientific disciplines. But to remove any reference to the types of expertise necessary for the Committee might leave future governments open to accusations of bias. The UKDPC has suggested that the spirit of the government's proposals for flexibility could be met with a modest clarifying amendment which secured some broad categories of scientific and other expertise.
10. For example, the clause in the MDA could be reworded so that the Home Secretary would, after due consultation, appoint people with a background from one of four broad areas. This could include:
  - (i) **Scientists from the natural and physical sciences** (this would include such disciplines as neuroscience, pharmacology, medicine and toxicology).
  - (ii) **Experts from the social and behavioral sciences** (which would include people from epidemiology, psychology; social policy, criminology and public health).
  - (iii) **Experts with backgrounds in tackling drugs** (which would ensure those from drug treatment, health and social care, prevention, education and youth work and criminal justice were included).
  - (iv) **People affected by drugs** (we should not ignore the important contribution that people who are affected by drugs such as service users and/or their families make to the development of policy).
11. In recognition of the concerns expressed by some people about this proposed amendment we are aware that the Government has said that it will publish a working protocol governing its relationship with the ACMD. We welcome this as a valuable development but remain of the view that this may not prove to be a sufficient safeguard in the longer term to ensure a well balanced ACMD with the integrity of expertise and this is better enshrined in primary legislation.

## Appendix A

### THE UK DRUG POLICY COMMISSION (UKDPC)

We are a registered charity which provides authoritative and objective analysis of UK drug policies and practices. Our mission is to encourage to the formulation and adoption of evidence-based drug policies.

### WHO WE ARE

The UKDPC brings together senior and leading figures from policing, public policy and the media along with leading experts from the drug treatment and medical research fields.

### OUR COMMISSIONERS

**John Varley** (President): Former Group Chief Executive of Barclays Bank Plc.

**Dame Ruth Runciman** (Chair): Chair of the Central & NW London NHS Foundation Trust & previously Chair of the Independent Inquiry into the Misuse of Drugs Act and member of the Advisory Council on the Misuse of Drugs.

**Professor Baroness Haleh Afshar** OBE: Professor of Politics & Women's Studies, University of York

**Professor Colin Blakemore** FRS: Professor of Neuroscience at the Universities of Oxford and Warwick and Chair of the Food Standard Agency's General Advisory Committee on Science.

**David Blakey** CBE QPM: formerly HM Inspector of Constabulary, President of ACPO and Chief Constable of West Mercia Police.

**Tracey Brown**: Managing Director of Sense About Science.

**Annette Dale-Perera**: Strategic Director of Addiction and Offender Care for the Central & NW London Mental Health Foundation Trust. Former Director of Quality at the NTA

**Baroness Finlay of Llandaff**: Professor of Palliative Care, University of Wales Cardiff & Former President of the Royal Society of Medicine.

**Jeremy Hardie** CBE: Former Chair of WH Smith.

**Professor Alan Maynard** OBE: Professor of Health Economics and Director of the York Health Policy Group, University of York and Adjunct Professor, University of Technology, Sydney, Australia.

**Vivienne Parry** OBE: Science writer and broadcaster and Vice-Chair of University College London.

**Adam Sampson**: Chief Ombudsman, Office for Legal Complaints. Former CEO, Shelter.

**Professor John Strang**: Director of the National Addiction Centre, Institute of Psychiatry, Kings College London.

**Chief Executive**: Roger Howard, formerly Chief Executive of Crime Concern & DrugScope.