



UKDPC

UK DRUG POLICY COMMISSION

Response to the Sentencing Council Drug Offences Guideline consultation

Briefing
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The UK Drug Policy Commission (UKDPC) is an independent body providing objective analysis of evidence related to UK drug policy. It aims to improve political, media and public understanding of drug policy issues and the options for achieving an effective, evidence-led response to the problems caused by illegal drugs.

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Summary

We broadly welcome the Sentencing Council's attempts through the draft guidelines to bring better coherence and consistency to sentencing decisions.

We support the Sentencing Council's differentiation between the roles that an offender might play (Leading, Significant and Subordinate).

However, motivation is also an important factor, especially when it comes to offenders who may have been coerced or who may have a drug dependency or addiction problem. Such motivations need to be recognised in determining an offender's role.

We believe that the core assumptions relating to proportionality and harm need to be made more explicit, and that there should be more explanation of the basis for the factors that have been taken into account on these issues.

In principle we endorse the use of quantities to help determine culpability, seriousness and harms. However, we do not agree with the arbitrary quantities and ranges set out for determining seriousness. We recommend that the Sentencing Council, in collaboration with the Advisory Council on the Misuse of Drugs, should seek to develop expert consensus on appropriate 'Threshold Quantities'.

The Sentencing Council should be more explicit about the relative proportionality applied to different offences and on what evidential basis (rather than custom and practice) drug offences are deemed to be more or less serious than other offences.

In supply/intent, premises, production and possession offences, we strongly support the inclusion of drug dependency and addiction as mitigating factors, given the emerging scientific understanding about their impact on behaviour.

In cannabis production and cultivation, and possession offences, we recommend that explicit reference should be made, that the relief of chronic pain can be a mitigating factor

In supply and intent offences we also recommend adding a new mitigating factor, where the drugs had been supplied or intended to be supplied to individuals within a small social network.

We do not agree that possession or supply offences in prison should be treated as a more serious category.

Britain gives proportionately longer custodial sentences for drug supply offences than many of its European neighbours, yet it is not clear what the benefits of this have been.

In light of the lack of evidence that longer custodial sentences act as a deterrent, and how other countries use fewer lengthy custodial sentences, the Sentencing Council may wish to consider whether the proposed upper custodial ranges for drug offences provide value for money to the taxpayer.

In relation to possession offences, we believe there is now a reasonable case and supportive evidence to suggest that possession cases should not incur a custodial sentence, whatever the offence category, class of drug, or aggravating factors.

We support the proposals relating to 'drug mules' as they are frequently both offender and victim.

Introduction

The UK Drug Policy Commission (UKDPC) is an independent body set up to improve public and professional understanding of the evidence about the effectiveness of drug policies across the UK. Our aim is to ensure that drug policy and practice generally is based on evidence and high quality analysis. More information about our Commissioners and our work can be found at: www.ukdpc.org.uk.

Broadly, we welcome the Sentencing Council's attempts through the draft guidelines to bring better coherence and consistency to the decision-making process of the courts system. We appreciate how it has sought to address the issue of 'drug mules' and to ensure that those with addiction problems receive a sentence that reflects their special problems, while at the same time, ensuring that those that produce, traffic or supply controlled drugs receive appropriate sentences.

The earlier Sentencing Advisory Panel (SAP) consultation document and subsequent guidance to the Sentencing Guidelines Council on drug offences¹ also sought to provide advice on this matter. The SAP approach was particularly welcome in that it sought to relate its analysis to the evidence base, especially about the impact of various sentences. In particular, in:

- contrasting the seriousness of drug offences with other types of offence, and
- examining the evidence about the deterrent effect of custodial sentences.

We were somewhat surprised therefore to see little reference in the current consultation document to the evidence base and how the draft guidelines take account of it. Rather, we see a reliance on 'both case law and current sentencing practice' without any clear underpinning rationale other than seeking to 'uphold the current level of sentencing for those offenders playing a leading role in importation, supply and production offences'.

In the light of much public, political and media misunderstanding about both drugs and sentencing, we believe there is a risk of missing an opportunity to bring greater evidence-based rationale and rigour to tackling drug offences.

Analysing core assumptions underpinning the proposals

The Council says that the two most significant factors of an offence are likely to be the role played by the offender and the quantity of drug involved, and that these should therefore be used to determine the seriousness of the offence and thus the offence category. It says the quantity of drug could broadly reflect the harm the offender has caused or intends to be caused.

In broad terms we agree with the useful distinction in the role of an offender between Leading, Significant or Subordinate. However, we believe that the motivation behind the committing of an offence is also a critical factor which should

¹ Sentencing Advisory Panel. Advice to the Sentencing Guidelines Council: Sentencing for Drug Offences. 2010

inform the determination of an offence category. Such motivations may hinge on factors that include: (i) the desire to make profit (ii) the degree of coercion involved, and (iii) the extent of drug dependence and addiction.

The first of these factors is clearly recognised in the draft guidelines. However the other two are not referred to and should be included as examples of both significant and subordinate roles.

Also, at the heart of the Council's current proposals are two important factors that require closer scrutiny: those of proportionality and harm. We believe that the guidelines need to be more explicit about the core assumptions underlying these factors.

(i) Proportionality:

Proportionality is not clearly defined in the guidelines. In the case of drug offences we identify three types of proportionality which are of relevance to the draft guidelines:

- ***Proportionality between different types of drug offence and between different types of controlled drug***

The consultation paper addresses this in detail, and we identify concerns about the proposals in more detail below.

At this point in our submission we simply note that (a) different interpretations can be made of the thresholds set to enable the police, CPS, and the courts to distinguish whether a charge of possession or supply/production/cultivation offences should be laid, and (b) the thresholds of quantity set for each drug to infer seriousness is based on a degree of proportionality that is similarly open to different interpretation.

The rationale for deciding on such thresholds is not articulated in the draft guidelines and we suggest further work needs to be done to reach consensus about this. We recommend that the Sentencing Council, in collaboration with the Advisory Council on the Misuse of Drugs (ACMD), convenes a consensus-forming meeting bringing together bodies like the CPS, ACPO, defence lawyers, specialist drug bodies and other relevant groups. The purpose of this meeting would be to develop expert consensus on:

- Threshold quantities to be applied in order to determine whether offences are either possession or supply/intent and cultivation/production.
 - The equivalence levels between different types of drugs in order to define relevant quantities.
- ***Proportionality in relation to other types of offences***

We see little evidence, rationale or analysis in the draft guidelines to identify why and how a certain level of custodial or other sentence for a drug offence is proportionate in seriousness to another type of offence. At the time of the SAP consultation, those convicted of importation or exportation offences were sentenced more severely (average 84 months custody) than rapists (average 79.7 months) or those guilty of grievous bodily harm or wounding with intent (average 50.1 months). It is also clear that sentences for importation and supply offences have been increasing over the past few years.²

In response to a later question about sentences we observe that international research evidence finds no relation between sentence length and deterrence. We believe the Sentencing Council should be more explicit therefore about the relative proportionality applied to different offences and on what evidential basis (rather than custom and practice) drug offences are deemed to be more or less serious than other offences.

- ***Proportionality with respect to sentencing practice between countries***

It could be argued that there is no inherent reason that British sentencing guidelines and practice should be proportionate to those in other countries. There are different cultural as well as legal traditions which make direct comparisons challenging. However, in the global world of drug markets, efforts have been made by governments, especially across Europe, to harmonise laws about the production, trafficking and supply of controlled drugs. In the light of this we consider it appropriate to examine whether sentences in Britain are proportionate to those of other countries.

It is clear from such analysis that Britain gives proportionately longer custodial sentences for drug supply offences than many of its European neighbours.³ Increasingly across the world, some countries do not consider possession of controlled drugs for personal use as a crime. Possession is instead being dealt with by a variety of other means. In Britain, this is becoming the case in practice in relation to cannabis, where in some circumstances cannabis warnings and Penalty Notices for Disorder are used as out-of-court disposals.⁴

The UKDPC believes it important therefore that considerations of proportionality (and hence 'fairness') should take account of practice in other countries.

(ii) Harms

Turning to the other underpinning assumption in the guidelines, that of 'harm', we observe that this is an ill-defined concept. It is therefore difficult to achieve

² Transnational Institute. Sentencing for Drug Offences in England and Wales. Amsterdam. 2010

³ European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Drug Offences: Sentencing and Other Outcomes. Lisbon. 2009

⁴ Association of Chief Police Officers. ACPO Guidance on Cannabis possession for personal use. Revised interventions framework. ACPO. 2009

consistency between courts in interpreting what harms have occurred or might occur.

The Misuse of Drugs Act goes some way to providing a broad framework for assessing harm. It does this in two ways:

- (a) through the specification of the range of offence types (importation, production, supply etc) and the associated hierarchy of penalties. The fact that average sentence lengths for all drug offences are well below the maximum permitted demonstrate that the maximum sentences in the legislation are well in excess of what is usually deemed proportionate by the courts.⁵
- (b) Through the ABC drug classification system and associated Scheduling process. However, the legislation does not define how 'harm' is to be assessed. This has been left to the government's official body, the ACMD, to operationalise a definition and framework of analysis. Its efforts to provide a more rational basis for assessing harms of particular drug types have come under much scrutiny and criticism.

The Sentencing Council will be aware that the ACMD's scientific and expert advice has been ignored in some instances in favour of political considerations. But, there is no doubt that expert and lay understanding of relative harms has changed over time as more and better evidence becomes available.

Working within the legislation, the courts are not and ought not to be, immune to shifting perceptions of relative harms. This is perhaps best reflected in the fact that in England and Wales, the courts only infrequently imprison people for simple possession offences, something which undoubtedly is the result of an interacting mix of changing social mores, evidence, and judicial practice, even though the sentencing provisions have remained largely the same since 1971. Custody has been increasingly seen as of limited value as a proportionate punishment.

The changing nature of the assessment of harms and what constitutes proportionate sentencing options is well illustrated by comments from the former Executive Director of the United Nations Office on Drugs and Crime who, in a recent annual report said: *"people who take drugs need medical help, not criminal retribution...Drug courts and medical assistance are more likely to build healthier and safer societies than incarceration"*.

With regards to drug traffickers he also observed, *"even when it comes to notorious and dangerous dealers, there may be alternatives to incarceration"*.⁶ It is worth noting that the Director had a reputation as being a 'hard-liner' when it came to enforcement.

⁵ Sentencing Council. Drugs Offences. Analysis & Research Bulletin. Office of the Sentencing Council. 2011

⁶ UN Office for Drugs & Crime. World Drug Report, United Nations. 2009

This shift in societal attitudes is reflected in a recent UK YouGov opinion poll, where 59% of the public said that people who used illegal drugs, but did not commit other crimes, should be treated as needing treatment and other forms of support and not be brought before the courts.⁷

It is against this background of interpretation of the underpinning assumptions about proportionality and harms that we now turn to the specific questions posed in the consultation document.

UKDPC response to the consultation questions

1. Do you agree with the Council's approach of separating Classes B and C?

Yes

Although the way in which the assessment of harms and the classification of drugs are undertaken has become confused and needs to be reviewed, the principle of differentiation for sentencing purposes is a broadly useful one. We agree it provides a more nuanced approach than collapsing classes B and C, even though in practice offences other than possession currently attract the same maximum penalties.

2. Do you agree with these aggravating and mitigating factors? If not, please specify which you would add or remove and why.

Yes

However we recommend also including explicit recognition of the following:

- In relation to supply, and possession with intent to supply offences, there should be a new and explicit aggravating factor of using vulnerable sex workers and/or trafficked people in determining seriousness. Many sex workers may also be addicted to drugs and be coerced and used as intermediate vehicles of supply. This echoes the Council's concerns and proposals regarding 'drug mules'.
- In the production and/or cultivation of cannabis offences (and also in cannabis related possession cases) we strongly support the mitigating factor of 'serious medical condition'. However, we also recommend including explicit reference to where the condition is for the relief of chronic pain which has been medically diagnosed. Our reason for this is that although there is now a licensed cannabis-based drug (Sativex) for prescription in certain types of pain relief, we are aware that access to this is being denied on cost grounds rather than clinical need. This puts people who have used or cultivated cannabis for their only own use in a very difficult position. In the US, many states now

⁷ YouGov opinion survey. The drugs (policies) don't work. London. June 2011

allow marijuana to be traded and possessed for medicinal purposes under a form of licensing arrangement. While there is a difference between clinically proven drugs and natural substances (particularly cannabis), this is a somewhat artificial boundary is under pressure. In a recent review examining the evidence about drugs and diversity and the impact on disabled people, UKDPC found some support amongst organisations for the courts to look more leniently on those people who cultivate and/or use cannabis for the relief of chronic pain. We agree with this. We suggest that there be a presumption against custody in cases such as this. Although beyond the remit of the Council, we question whether it is in the public interest for the CPS to continue to take action against people who cultivate cannabis for self-medication purposes.

- In supply/intent, premises, production and possession offences we support the inclusion of 'addiction' as a mitigating factor. However, we believe the guidance should be reworded to read, 'evidence of drug dependency or addiction especially where there is a determination or demonstration of steps taken to address it or associated offending behaviour'. There is a growing body of international evidence, especially from the new neurosciences, which points to the complex nature of drug dependency and addiction.⁸ For example the World Health Organisation has observed:

"Substance dependence is a complex disorder with biological mechanisms affecting the brain and its capacity to control substance use. It is not only determined by biological and genetic factors, but psychological, social, cultural and environmental factors as well. Currently, there are no means of identifying those who will become dependent - either before or after they start using drugs.

Substance dependence is not a failure of will or of strength of character but a medical disorder that could affect any human being. Dependence is a chronic and relapsing disorder, often co-occurring with other physical and mental conditions".⁹

While dependency or addiction does not remove culpability, there is mounting evidence about its influence on behaviour. Thus the guideline should not only acknowledge positive steps being taken to address addiction but should also recognise it as a mitigating factor even where no steps have yet been taken. This would also enable the court to apply an appropriate sentence to address the underlying dependency.

- In supply and intent offences we wish to see a new mitigating factor added where the drugs had been supplied or were intended to be supplied to individuals within a small social network. While we support their role being

⁸ Academy of Medical Sciences. Brain Science, addiction and drugs. London. 2008

⁹ World Health Organisation (2004) "Neuroscience of psychoactive substance use & dependence", WHO: Geneva. p247-248.

seen as a subordinate one, we are of the view that a small social network reduces the seriousness of the offence and should be seen as a mitigating factor. This group was identified in the 2000 Independent Inquiry into the Misuse of Drugs Act which recommended *"It should be a defence for a person accused of supply or possession with intent to supply to prove that he was a member of a small social group who supplied or intended to supply a controlled drug (other than a drug of Class A) to another member or other members of that group believing that he was acting, or had acted, on behalf of the group, which shared a common intention to use the drug for personal consumption"*.¹⁰ We are also of the view that in some cases it may be more appropriate for such offences to be charged as possession offences and reinforces our earlier recommendation that the Sentencing Council and others reach a broad consensus about threshold quantities which could be used by the police and prosecution authorities.

3. Do you agree with the different approaches taken for determining the seriousness of the offence for each of the drug guidelines?

Yes

However we have some concerns that are picked up in response to later questions:

- We do not agree that possession or supply offences in prison should be treated as a more serious category (see response to question 4 below).
- We have concerns about the quantity thresholds proposed (see earlier comments and response to question 5 below).

4. Do you agree that someone possessing any quantity of drug in a prison should receive a more severe sentence?

No.

In relation to possession or intent to supply offences by a prisoner we do not agree that this should automatically be an aggravating factor or that it should be a Category 1 level offence. Even though we concur that the offence undermines discipline and efforts to treat other prisoners, our reasons for rejecting the proposal are

- Prisoners should not be subject to harsher sentences for a drug offence than someone in the community. It is not only prison where good 'discipline and order' is desired, for example psychiatric hospitals, bail, residential and homelessness hostels and military establishments all have similar requirements and we see no reason why a more severe sentence should be applied to the prison setting.

¹⁰ Independent Inquiry into the Misuse of Drugs Act 1971 The Police Foundation, London. 2000

- The reasons underpinning why prisoners use drugs in prison is down to a number of 'extraneous' factors, paramount amongst which are the range of drug treatments on offer, inadequate and variable regimes as well as prison management, resourcing and drug control provisions. A prisoner should not be punished more harshly than those on the outside because the prison system has failed to help or protect him or her.

In situations where visitors are caught and charged with either supply or intent to supply offences, we are concerned that there is the risk of disproportionate sentences for family members who may be coerced into supplying drugs to prisoners.

Where prison-based staff commit an offence we assume the court will naturally take into account their breach of professional duty and trust in determining an appropriate sentence.

5. Do you agree with the quantities that are set out for each of the drug guidelines?

No.

In principle we endorse the use of quantities to help determine culpability, seriousness and harms. However, as stated in the introduction above, the complexity of seeking to set threshold quantities is considerable. We wish to see a more evidence-based and rational framework developed for determining the appropriate quantities, and some measure of equivalence between different quantities of different drugs. At the moment, the quantities proposed appear arbitrary and the product of past practice and case law. This is not necessarily a reliable guide to best practice, given the apparent absence of an underpinning analysis of their equity, proportionality, relevance and impact. Therefore we recommend that the Sentencing Council, ACMD and other bodies should seek to establish a consensus about such thresholds.

In seeking a consensus, consideration should also be given to international comparisons. For example, we note that there is a simple reference to 'cannabis' rather than any distinction between cannabis resin and herbal cannabis (in the latter case fresh plants should also be distinguished from dried plants). In Spain for example, the threshold quantities for cannabis start at 2.5kg for resin and 10kg for herbal.¹¹ In the current draft guidelines this would be deemed to be a medium quantity. We do not suggest such quantity levels as used in Spain are common throughout Europe or elsewhere. Rather, the threshold at which the supply offence threshold begins appears to be out of step with some other countries.

In relation to other classes of drugs, there are similar discrepancies. In Austria the threshold for a supply/aggravated supply offence for heroin is 45g and 225g

¹¹ EMCDDA. Threshold quantities for drug offences. Lisbon. 2011

for cocaine.¹² Under the current draft guidelines, the equivalent threshold here would be 4.9g for both heroin and cocaine. What this points to is not only that the quantity range in the draft guidelines proposed may be set too low but rather that we cannot discern the logic behind setting the ranges at the levels set out.

We believe that further work is needed to determine the quantity ranges and how they should be applied. This could be achieved by bringing together a range of experts to reach a broad consensus about what they might be and the criteria for deciding them.

6. Do you think that the Council is taking the right approach in terms of purity?

Yes

Overall, the international trend has been to use quantity (along with intent) to indicate seriousness and culpability. We concur with the Council's view that purity or strength, and/or the street value should not be considered when initially establishing the sentence range. These are too 'rough and ready' indicators to be reliable and consistently applied. Additionally, there may be circumstances where the forensic evidence may not have been provided because of cost considerations.

The historical reliance on street values for sentencing was always a contentious issue and largely unsatisfactory. In the complex mix of quantity, value and purity we believe the Council has adopted a reasonable balance, bearing in mind there is no reliable single indicator of seriousness and/or intent. In essence, seriousness is contingent on either the harm (or potential harm) caused by the offence, or the role of the offender, or the motives and personal circumstances of the offender.

7. Should 'medical evidence that a drug is used to help with a medical condition' be included as a mitigating factor for possession offences?

Yes

We strongly believe this is important where (a) cannabis is being used to relieve chronic pain and (b) where other drug dependency or addiction is underpinning the offender's motivation (drug addiction and drug dependency are internationally defined medical conditions).

8. Do you agree with these sentencing ranges for the types of offenders set out here?

No

¹² EMCDDA. Threshold quantities for drug offences. 2011

We are not aware of any reliable domestic or international evidence to support claims that increased sentence lengths for drug offences act as a deterrent. In a systematic evidence review, the Campbell Collaboration Centre has highlighted the paucity of research evidence in support of the cost-effectiveness of sentencing generally, and there is nothing specific we have found relating to drug offences.¹³

The UN describes what is likely to be the reality: *"Those willing to risk death by ingesting a kilogram of condom-wrapped bullets are unlikely to be put off by the possibility of a jail sentence. Drug addicts and sex workers are equally hard to scare into good behaviour."*¹⁴

In relation to possession offences, we believe there is now a reasonable case and supportive evidence to suggest that possession cases should not incur a custodial sentence, whatever the offence category, class of drug or aggravating factors. The category range should therefore exclude custody as a disposal option.

The Advisory Council on the Misuse of Drugs has previously raised doubts about the use of criminal sanctions for drug possession cases:

*"For people found to be in possession of drugs (any) for personal use (and involved in no other criminal offences), they should not be processed through the criminal justice system but instead be diverted into drug education/ awareness courses (as can happen now with speeding motor car offenders) or possibly other, more creative civil punishments (e.g. loss of driving licence or passport)."*¹⁵

In relation to cannabis possession cases we are also concerned that with the increasing use of cannabis warnings and Penalty Notices for Disorder, we could in fact be developing a two-tier system of penalties, with separate responses for those outside the court system and those within it: a distinction which in many respects is arbitrary. This raises questions about decisions to prosecute, which lie outside the Sentencing Council's remit. Nonetheless, we believe it important to seek consistency and hence reiterate the need to develop a broad consensus so that police, prosecution and court decisions are better aligned.

Overall we find little objective rationale for framing the sentence ranges in the way set out, other than recourse to past practice and case law. For example, in looking at the sentencing data in the Council's research paper, two things can be discerned: first is that there has been a general upward drift in sentencing levels for some drug offences over a number of years, and second, the average sentence length is well below the maximum available under the legislation.

Despite average custodial sentences given being well below the maximum available, it would appear from a comparison of average sentence lengths for

¹³ C. McDougall et al, "Benefit-Cost Analyses of Sentencing", Campbell Systematic Reviews. 2008

¹⁴ UNODC (2009), World Drug Report, United Nations

¹⁵ ACMD. Submission to the 2010 Drug Strategy consultation. Home Office. 2010

drug offences across Europe that, broadly speaking, the UK is in the upper range of use of long custodial sentences, especially for supply offences. According to 2008 data, the average UK prison sentence for supply offences was approximately 32 months. In Denmark it was approximately 11 months and in France 14 months.¹⁶ Within this, time actually served in prison may vary as different national rules apply to early release.

This raises the question as to whether the upper custodial sentence ranges for importation, supply/intent and production/cultivation offences may be disproportionate, compared to some other countries and other offence types. In light of the lack of evidence about deterrence and how other countries use fewer lengthy custodial sentences, the Sentencing Council may wish to consider whether or not the indicative upper custodial ranges for drug offences, set out in the draft guidelines, provide value for money to the taxpayer.

9. Are there any other ways in which you think the Council can take into account the impact on victims?

We have already expressed our support for the proposals in relation to 'drug mules'. Many are victims of coercion and, by seeking to reduce the level of custodial sentences involved, in certain circumstances, the court is recognising their role as both offender and victim.

One factor which is often overlooked in relation to drug offences and offenders is that many of those involved in simple possession cases, as well as supply, are frequently victims of crimes themselves. Understandably there is little sympathy for them or recognition of this. Yet, their needs should not be overlooked as they journey through the Criminal Justice System.

We are aware, through the public opinion research conducted for the Council and from public attitudes research commissioned by the UKDPC and others, that there is significant sympathy towards those seeking to rebuild their lives through treatment programmes, many of which are accessed through the courts.¹⁷ ¹⁸ It would be interesting to see whether any victim or community impact statements could seek to ascertain the views of victims, where identified, as to their support for a sentence involving the provision of help to overcome drug dependency or addictions. Furthermore, it should be explored whether this, in turn, has any impact on the effectiveness of sentencing outcomes.

In drug possession offences the family members may also be considered as victims, as the impact of prison sentences also affects their lives.

¹⁶ EMCDDA Drug Offences: Sentencing and other Outcomes. Lisbon. 2009

¹⁷ UK Drug Policy Commission. Attitudes to Drug Dependence: Results from a Survey of People Living in Private Households in the UK. London. 2010

¹⁸ YouGov opinion survey. The drugs (policies) don't work. London. June 2011

10. Is there any other way in which equality and diversity should be considered as part of the proposals?

In his analysis of ethnic disparities in drug law enforcement, Professor Alex Stevens paints a worrying picture:

- Black people were 9.2 times more likely to be stopped and searched for drug offences than white people.
- They were 6.1 times more likely to be arrested for drug offences.
- They were 11.4 times more likely to be imprisoned for drug offences.
- As of June 2008, 25% of people serving sentences for drug offences were of African or Caribbean origin.
- Yet only 2.2% of the population over 10 years of age are estimated to be of this ethnic group.¹⁹

Broadly speaking drug use rates are lower for BME communities than white people. Yet, a disproportionate number of BME community members are in the CJS for drug-related offences. There may be some explanations for this (see UKDPC review).²⁰ However, there remains considerable lack of knowledge about whether and why those from BME communities are sentenced disproportionately for comparable drug offences in similar localities. There is a need for more research to examine this.

The Judicial Studies Board has sought at various times to address matters relating to discrimination. But we think there may be further need for their and the Judicial Office's and Judicial College's support in addressing this challenge as the guidelines are eventually agreed and applied.

¹⁹ Stevens, A. *Drugs, Crime and Public Health*. Routledge, 2011

²⁰ UK Drug Policy Commission. *Drugs & Diversity: Ethnic Minority Groups. Learning from the Evidence*. London. 2010.