

## **Swift, Certain Tough: New Consequences for Drug Possession**

White paper

October 2022

### **A new Drug Strategy**

Collective Voice is the charity working to improve the drug and alcohol treatment and recovery system. We believe that anyone in England with a drug or alcohol problem should be able to access effective, evidence-based and person-centred support. We know that treatment and wider support has a transformative power for people with drug or alcohol issues, their families and communities.

We largely welcomed the government's Drug Strategy in 2021, particularly the renewed focus on the drug treatment and recovery system's role in lowering crime, reducing preventable deaths, and supporting people to live healthily and meaningfully. The new funding for drug and alcohol treatment and recovery will be crucial in bringing about the transformational change we all want to see – for our system and the people it serves.

### **Swift, Certain, Tough**

The government white paper “Swift, Certain, Tough” provides the detail for many of the criminal justice measures set out in the Drug Strategy. It raises important questions about how the criminal justice system should respond to drug possession, and how the health and care system – including drug and alcohol treatment services – intersects and interacts with this response.

Our concerns at Collective Voice are that any measures brought forward are **grounded in the**



**evidence base and do not reinforce stigma towards people who use drugs** that can deter them from seeking potentially life-saving support. Stigma not only marginalises people who use drugs, but also has a negative impact on the families, friends and communities of people with a drug problem and suppresses their ability to provide support. Stigma towards people who use drugs also invades our mainstream services, stifling willingness or capacity to provide much-needed care for vulnerable people.

From grassroots and lived experience community organisations to national charities providers and NHS trusts, treatment and recovery services hard at work every day across the country know what works – compassion, understanding and meaningful engagement, not stigma, shame and condemnation.

## **Drug dependence or recreational use?**

The core of the white paper sets out a proposed three-tier “drug diversion” scheme. Many such schemes already exist around the country, and we welcome the government’s motivation for more areas to adopt this type of approach, and to promote greater consistency across the country. But while we are focussed primarily with the drug and alcohol treatment and recovery system, we do have some concerns about the government’s direction on this issue.

The white paper sets out to address “so-called recreational drug use” as distinct from dependence on drugs, which the paper acknowledges is better addressed through treatment. However, the government has not set out how it – or the services tasked with implementing the new approach – will distinguish between these two issues. With no clear explanation as to *how* people caught in possession of drugs will be categorised there is, at a minimum, the potential for much confusion.

An example of this inherent confusion stands out in the tiered diversion scheme itself. The white paper sets out an escalating series of consequences for people caught repeatedly in



possession of drugs. However, being caught repeatedly in possession could reasonably indicate drug dependence, not simply a third instance of “so-called recreational drug use”. The white paper offers no clarity on how such a determination would be made, whether any would thresholds apply, how it would affect any criminal records accumulated in earlier “tiers” of the scheme, and indeed what the next steps would be.

The scheme also makes no mention of alcohol use, which occurs frequently alongside drug use and adds to the complexity in discerning between “normal” and “problematic” use. This raises the possibility that, where a person is found in possession of drugs, designating their use as “recreational” without also taking into account their alcohol use could lead to unhelpful stigmatisation of a broader, more complex substance misuse issue.

## **Responsibility and resource**

Collective Voice welcomes the additional funding for treatment and recovery now flowing into the system and facilitating the early stages of mobilisation. Recruitment into local services starved of resource for almost a decade is now taking place and it will not be long before we start to see the first signs of a recovering field. The vision set out by Dame Carol Black in her independent review of drugs is underway.

But while the funding and the vision for treatment and recovery is undoubtedly welcome, there is still a considerable burden on over-stretched treatment services to deliver at a time of ever-increasing need. This makes the uncertainties in the white paper especially unsettling for treatment and recovery services:

- Who are the people that will likely be caught in this new approach to drug possession, and in what numbers?
- Will they be referred into treatment where appropriate, and with what expectation of additional service from providers?
- Will there be sufficient resource made available to manage increased workloads?



The labour market for the types of additional roles needed to facilitate this expansion of the system is already under strain, raising serious questions about the system's ability to absorb a potential influx of people requiring currently uncosted support.

## **The white paper in context**

Policy should never be made in vacuum, particularly where there is the potential to seriously curtail people's rights, freedoms and financial situation. Commentators have already pointed to potential for the white paper's approach to have an unfair impact of particular groups of people, particularly young black men who are already subject to discrimination by the criminal justice system.

For the reasons outlined above, we would add there is significant potential this approach, whether it intends to or not, will negatively impact vulnerable people facing substance misuse amongst a range of other multiple disadvantages. If people caught in possession of drugs are not correctly identified as having a dependency issue, they will be subject to financial penalties during a cost of living crisis that is already taking a toll on people's budgets and their mental health. Seen in this light, the white paper's approach has all the hallmarks of a policy that could, in practice, end up penalising poverty and disadvantage.

## **Unanswered questions**

In summary, there are several key issues the government must clarify before implementing the approach (and making the legislative changes it requires) set out in the white paper.

1. How should "so-called recreational drug use" be distinguished from drug dependence?
2. How should local areas ensure people facing substance misuse and other areas of multiple disadvantage are not caught up unnecessarily, and detrimentally, by this new



approach?

3. How will policing, criminal justice, and health and care systems be expected to interact with each other to implement the approach? Where will responsibilities and accountabilities sit within this system, and will additional resource be made available?
4. What research has been done about the consequences of expanding the drug test on arrest programme? How will local areas be supported to cope with what is potentially a significantly higher number of people entering the criminal justice system and/or the treatment system?