

**AT THE HEART
OF THE MATTER,
NZ DRUG
FOUNDATION.**

Te Tūāpapa Tarukino o Aotearoa

Whakawātea te Huarahi

**A model drug law
to 2020 and beyond**



It's time to take **action**

Our model drug law is based on evidence and research from New Zealand and around the world about the best way to reduce the harms caused by both drugs and our current drug laws.

We think New Zealand is ready to have this discussion. It's time to move the conversation past the question 'Should we reform?' to 'How should we reform?'

We know that 64% of us now think the law on cannabis prohibition should be changed, for example. And calls are getting louder by the day for a new approach to methamphetamine in our communities.

New Zealand has some excellent and world-leading harm-reduction approaches in place already, such as our needle exchange programme and Police diversion schemes. We want to build on that. We can also build on our National Drug Policy 2015–2020, which rightly sees drug use as a health issue.

So let's start making the changes we all want to see. Let's aim for better health, less crime and better outcomes for rangatahi.

Whakawātea te Huarahi **Clearing the pathway forward**

'Whakawātea' means to clear, free up, cleanse or purify spiritually, while 'huarahi' is a pathway, road or track. For us, the title "Whakawātea te Huarahi" signifies a fresh start for the debate on drug policy and a sense of movement towards a better future.

**Ahakoā he iti, he pounamu,
ara, ko Aotearoa. He kaha
tonu tātou ki te tū mo
ngā mea tika. I ngā hīore
o Aotearoa, kāore tātou
e matakū, ko tātou he
manawanui ki a aratakina
te ao mo ngā kaupapa
whakahirahira ki a tātou.**

**New Zealand is a small,
agile country with a strong
sense of justice. We have
a history of not being afraid
to lead the world on issues
that we hold dear.**

64%

OF US NOW THINK THE LAW
ON CANNABIS PROHIBITION
SHOULD BE CHANGED

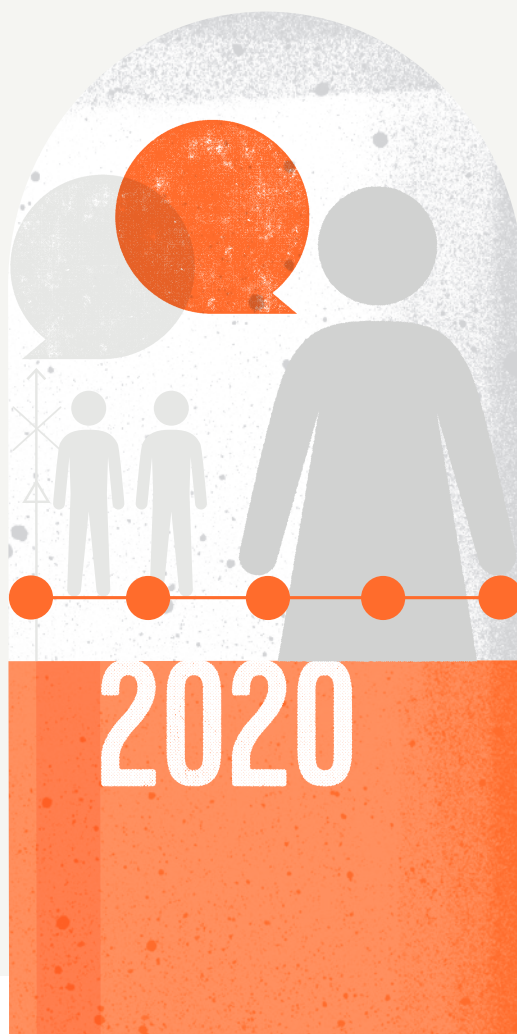
We all want a happier, **healthier**, more equal New Zealand.

For us that means treating drug use as a health issue rather than a criminal issue.

WE PROPOSE:

- Removing criminal penalties for the possession, use and social supply of all drugs
 - Developing a strictly regulated cannabis market
 - Putting more resources into prevention, education and treatment
-

This model drug law is intended to be a conversation starter. We'd love to know what you think.





We can make some **simple** changes that will make all the difference

The Misuse of Drugs Act 1975 came into force more than 40 years ago. It sets out harsh criminal penalties for possession and use of drugs in an attempt to stop people taking them.

This is an approach that has proved both ineffective and harmful. Research and experience around the world shows that criminal penalties have surprisingly little impact on whether people take drugs.

Our high drug use in New Zealand is proof of that. Even though we convict thousands of people each year for using drugs, we have some of the highest use rates in the world.

Our laws prevent people accessing help when they need it, and they leave thousands every year with a conviction that impacts on employment, relationships and travel.

It's a simple fix. We need to repeal the Misuse of Drugs Act and replace it with a new Act that treats drug use as a health issue, not a criminal issue.

3,140

In 2015, 3,140 people were convicted for possession and/or use of an illicit drug or drug utensil.

'Drug harm' includes harms to physical and mental health and negative effects on employment and relationships. It can also include harm caused by our drug laws. For example, spending time in prison can have a huge impact on a person and their family – especially their children.

Five goals we should all be aiming for

5 GOALS

1	Minimise the harm caused by drug use	<ul style="list-style-type: none">• Young people have special protection from harm.• If people decide to use drugs, they start later and use less.• Anyone can access treatment when they want it.• The law makes it easy to take action that reduces the harms caused by drug use.
2	Respect human rights	<ul style="list-style-type: none">• Penalties for drug-related behaviour are proportional to the harm caused to others.• People who use drugs have access to an equal quality of care in the health system.
3	Safer communities with less drug-related crime	<ul style="list-style-type: none">• Drug-related crime is reduced by investing in prevention, education and treatment.• The black market is reduced, and no one profits by causing harm.
4	Equity for Māori	<ul style="list-style-type: none">• Māori are integral to developing and implementing drug law.• Māori are not disproportionately impacted by laws.• If a regulated cannabis market is developed, the economic benefits are felt by Māori communities.
5	Policy is cost-effective and evidence-based	<ul style="list-style-type: none">• Money is spent on what works to reduce harm – such as treatment rather than enforcement.• Regulations are as simple as possible and provide value for money.

\$1.8B

Drug use costs New Zealand \$1.8 billion per year in health, social and economic harms.

Unfortunately, our current system is not achieving these five key goals. Illicit drug costs New Zealand \$1.8 billion per year in health, social and economic harms.

Meanwhile, families and communities struggle to know who to turn to for support with drug issues. We have long waiting lists for treatment, and stigma around drug use stops people seeking treatment.

Unacceptably, around 40% of people in prison for drugs are Māori. Māori are also twice as likely to experience substance use disorder in their lifetime. Promoting Māori equity needs to be a key goal of any new drug law.

It's time to **decriminalise** possession, use and social supply of drugs

■ WE PROPOSE:

- Treating drug use as a health issue rather than a criminal issue
- Providing more funding for prevention, education and treatment

Under our proposal, commercial supply and trafficking of drugs would still be punished, but people who are caught with drugs for their own use would not face criminal penalties.

Why? Because the vast majority of people who use drugs do so without causing harm to themselves or others. Prosecuting them can have a far-reaching negative impact on their lives but has limited or no effect on their drug use.

The minority who do struggle with their drug use need support, compassion and access to treatment. Fear of criminal punishment does not stop people using drugs. In fact, it can make them use more heavily. Offering treatment instead is not only more humane, it actually works.



How about trafficking and commercial dealing?

These would remain illegal, but we think the penalties should be reviewed to make sure they are proportionate and consistent.

For example, the maximum penalty for dealing Class A drugs is life imprisonment. This puts it on a par with murder.



CASE STUDY

Portugal

Portugal decriminalised the use of all drugs in 2001 and invested heavily in prevention, treatment and harm reduction. Drug use is still prohibited but does not carry criminal penalties in most cases

Counter-intuitive? Evidence indicates this approach is working, with decreases in drug use, fewer offenders in prison, fewer court cases and a reduction in HIV infections and overdoses. Importantly, drug use by young people aged 15–19 has fallen, not skyrocketed as many expected.

Thanks in part to Portugal's positive experiences, at least 15 countries have now decriminalised personal possession of all drugs.

How would our proposal **look** in practice?

■ WE WANT TO:

- Ensure those with drug use issues are offered treatment as early as possible
- Reduce the number of people needlessly introduced into the criminal justice system

If police find a person in possession of drugs, they would issue a 'mandatory caution'. They would also give out some health information and legal advice.

After one, two or three cautions (depending on the drug), the person would be required to attend a brief intervention session run by a community alcohol and drug treatment service. The session would result in a recommendation as to whether further health assessment and treatment is needed. If so, a range of non-compulsory treatment options would be available.

To ensure the focus remains on improving health outcomes, any legal penalty for not attending the brief intervention session would be restricted to an option to reschedule or a low fine.



It is not generally appropriate for the State to intervene coercively to prevent individual citizens from harming themselves.

LAW COMMISSION REPORT 2011
"CONTROLLING AND REGULATING DRUGS"
(PAGE 48, PARA 1.44)



What about drug utensils (such as pipes and bongs)?

We don't think possession of a drug utensil should be a crime. There's no evidence that the offence deters drug use, and keeping utensils illegal doesn't help us meet any of our health goals. Some utensils, such as sterile needles and vaporisers, can actually save lives. We'd like to see the supply of drug utensils carefully regulated though, with health a key focus.



CASE STUDIES

Joel ^{34y}

Is having trouble with his meth use and feels like his life is spiralling out of control. He's caught by Police with a small amount on his person. He's given a caution, and because meth is a Class A drug, he's sent to a brief intervention session the next day with a local health NGO. They recommend he seeks treatment and suggest a range of options. He decides to see a counsellor to help him address some of the underlying issues leading to his dependency on meth. He also joins a support group and is able to dramatically reduce his meth use.

Sam ^{22y}

Uses drugs occasionally on weekends. She's caught by Police buying a tab of ecstasy, which has been reclassified as a Class C drug. They give her a mandatory caution and some information on staying safe and how to access help if she needs it. Having read the information, she decides that her drug use is not currently problematic, but from then on, she is more aware of the risks and takes better health precautions. Sam continues her life with no further interaction with the Police.

What about cannabis?

■ WE PROPOSE:

- **Developing a regulated cannabis market that protects young people and keeps health considerations central**

A poll commissioned last year showed 64% of New Zealanders now support decriminalisation or legalisation of cannabis.

Because cannabis use can be harmful, especially for those who start using cannabis earlier in life, we need a system that will:

- minimise the number of people who use cannabis
- make it harder than it is now for those under 18 to access cannabis
- educate people about the risks
- make it easier for anyone struggling with their use to access support.



How dangerous is cannabis?

We know that the majority of people use cannabis without serious harm. However, a small proportion experience negative impacts such as anxiety, depression, memory loss and mood swings. Those who use cannabis long term may face health risks such as respiratory disease (if smoked) and mental illnesses such as schizophrenia, at least for those who may be predisposed.

Cannabis impairs driving, especially when combined with alcohol. It also carries the risk of dependency in around one in 10 users. Heavy use by young people has been linked to poorer outcomes in education and employment as well as a reduction in IQ points, though the research on this is mixed.

Our verdict? Cannabis can be harmful, so our law should focus on minimising harm, especially to young people. The best way to minimise harm is to tightly regulate use.

44

COUNTRIES NOW HAVE SOME TYPE OF DECRIMINALISATION OR LEGALISATION OF CANNABIS.

415k

PEOPLE EACH YEAR IGNORE OUR LAWS PROHIBITING CANNABIS USE. THIS BRINGS THE LAW INTO DISREPUTE – IT'S TIME FOR A CHANGE.



Our focus is on protecting kids and protecting our streets.

JUSTIN TRUDEAU, PRIME MINISTER OF CANADA, AS CANADA PREPARES TO LEGALISE CANNABIS

Regulating cannabis is the responsible thing to do

Public conversations about cannabis often compare our current tough drug law with a completely free market. In fact, there are a range of responsible options in between these two extremes shown in the diagram below.

In a profit-driven market (at each end of the graph), sellers target people who use most frequently and heavily, increasing social and health harms. Instead, we should be aiming our law at the 'sweet spot' in the centre of the spectrum.

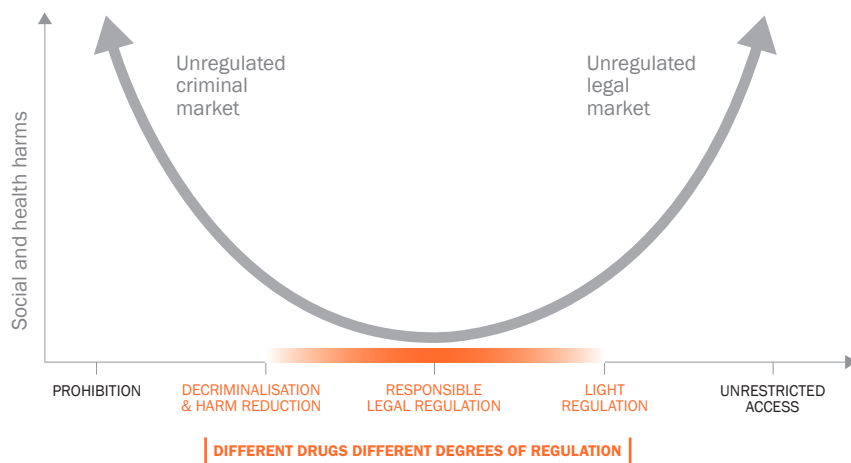
We think it makes sense to start moving towards the centre cautiously, monitoring health and other effects as we go. We can learn from experience with the alcohol and tobacco industries. This means ensuring that we never have a cannabis industry influencing future governments to put profits before health considerations.

He tino waiwai rawa nei ki ngā māori ki te hurihanga ngā ture tarataru, tā rātou i pākinikini ai mai i te kahungahanga tarukino me ngā raruraru whaimana hoki, e rua pū ake te raruraru mō te māori ki ngā tauīwi ma.

Changing cannabis law is especially crucial for Māori, who not only suffer more harm from cannabis use but report legal problems resulting from their use at nearly twice the rate of Europeans and others.

Source: New Zealand Health Survey 2012/13

DRUG POLICY SPECTRUM



So how would this cannabis market look?

Under our model, it would no longer be an offence to possess, use, grow or sell cannabis within strictly regulated guidelines.

GROW

Cannabis grown by licensed suppliers or in small amounts at home



Regulated commercial supply

We want to promote small-scale community development and avoid developing a powerful industry lobby. It makes sense to keep growers as small scale as possible and make it easy to register as a grower. We do need to register growers though, to ensure cannabis is free from pesticides and is tested regularly for potency levels.

OUR MODEL:

- A central authority licenses and regulates commercial growers.
- The total number of plants for each grower is restricted.
- Active assistance is provided for smaller growers to access the market, for example, by providing pre-approved packaging and assisting growers to register.
- Having a previous cannabis conviction does not prevent registration as a grower.



Growing at home

People should be able to grow enough cannabis for their own needs but not so much that a black market would be created.

OUR MODEL:

- Individuals can grow up to three mature plants each (maximum six per household) for personal consumption. Plants should not be visible from the street.
- People may gift homegrown cannabis to adult friends but may not sell it.

SELL/BUY

Cannabis would be sold at licensed outlets and from a single, regulated website



Licensed shops

For health reasons, we want to keep the amount of cannabis sold and consumed as low as possible and not attract new people (especially young people) to try it. We think this lends itself to developing a retail environment that is as dry and uninteresting as possible and that is not highly visible on the street.

We also don't want to compound the harms caused by consuming cannabis alongside tobacco and alcohol, so we should keep retail outlets separate from each other.

From a health perspective, it would be better if those under 25 didn't use cannabis, but that's an unrealistic goal. It makes practical sense to align the cannabis age limit with the alcohol age limit, and use techniques such as banning advertising and keeping prices high to limit use by young people.

OUR MODEL:

- Licensed shops would only sell cannabis products and utensils.
- Shops would be situated a minimum distance from schools, alcohol off-licences and other cannabis outlets.
- Only those over 18 would be allowed to enter.
- No products or advertising would be visible from the street.
- Licensed premises would display public health information and advice around moderating use and provide details on how to access help for drug-use issues.
- Staff would be trained in health-related aspects such as looking out for signs of dependency.

A central authority would be responsible for issuing licences to sell cannabis based on clear, health-focused criteria. In addition, territorial authorities would have the option to implement a policy prohibiting retail outlets within certain areas. In those cases, online sales would fill the gap.

Online sales

We propose that online sales of cannabis would be allowed but through a single website only, operated by a non-profit under contract to the government. This could be run similarly to Trade Me, with licensed retailers able to offer small quantities for sale in a controlled way.

One major benefit of this approach is that small-scale growers who are currently operating illegally can become part of the mainstream economy, bringing economic development to areas of the country that desperately need it. At the same time, centralised online sales would make it easy and cheap to regulate suppliers and their products.

OUR MODEL:

- Website sales allowed through one website only, with government oversight.
- Strict age checks at point of purchase and registered delivery by courier only where the purchaser is at home and is over 18.
- Health information provided to all consumers and heavy users offered pathways into treatment, if needed.
- Levies taken at point of sale to cover administration costs as well as research, education, treatment and prevention programmes.

CONSUME

Consumption of cannabis at home or at licensed events only



In line with our cautious approach, we want to keep the consumption of cannabis and alcohol separate, at least initially. Current evidence is inconclusive around whether health and other harms (such as traffic accidents, for example) are magnified or reduced overall where cannabis can be consumed in public places alongside alcohol. Experiences from other countries such as Canada – which will soon legalise cannabis – will provide useful research on this. In the meantime, we recommend keeping consumption to the private sphere as much as possible. This approach also supports our desire to not attract new people to try it, especially young people.

OUR MODEL:

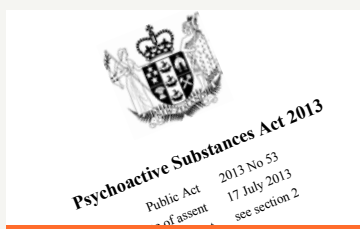
- Cannabis to be consumed only at home or by special licence at events.

\$150M

ESTIMATES BY TREASURY OFFICIALS IN 2016 PREDICTED THAT LEGALISING CANNABIS COULD COLLECT AN EXTRA \$150 MILLION PER YEAR IN TAX REVENUE AND SAVE \$400 MILLION A YEAR ON DRUG PROHIBITION ENFORCEMENT.

REGULATE

The system would be regulated under the Psychoactive Substances Act 2013



The Act already establishes a regulatory authority and a workable regime covering licensing, marketing, retailing and penalties for breaches. For example, it already specifies heavy fines for selling to those who are underage or manufacturing products without a licence. It could be tailored to regulate a cannabis market.

OUR MODEL:

- The Act is altered to allow the sale of raw cannabis by licensed vendors.
- Strict regulations around advertising, sponsorship, gifting and promotional deals, as set out in the Act.
- Packaging is child-proof and includes information on potency, recommended dose and how to access treatment if needed, along with prominent health warnings.
- Those wishing to sell products other than raw cannabis (such as edibles or concentrates) would apply separately for approval

under the Act. They would need to show their product poses no more than a low risk of harm and meets criteria around portion control, potency and packaging.

Pricing and taxes

Keeping prices high, but not too high, is a key way to reduce demand for a product. If the price is set too low, consumption increases – too high, and the black market takes over. To reduce consumption, we can and should control the price of cannabis using taxation, as we do with cigarettes.

By setting a minimum price for cannabis, we can avoid the issues we have seen in some states in America where cannabis has become increasingly cheaper as production costs have fallen.

OUR MODEL:

- Cannabis sales are subject to minimum pricing.
- Higher-potency products have a higher minimum price.
- Levies are payable on each purchase, with proceeds earmarked to cover regulatory costs as well as drug treatment, education and prevention programmes.
- Levies also cover the costs of regular research, monitoring and evaluation of the effects of the new law.



What about medicinal cannabis?

Cannabis-based medicines would continue to be available through the existing pharmaceutical approvals model. We would like to see these medicines easier to access and fully subsidised.

In addition, using raw cannabis in a therapeutic way, such as for pain relief, would no longer be illegal.

We may need new regulations to protect those who take cannabis for therapeutic purposes. For example, we should ensure that retailers do not make misleading health claims about their products.



What about drug driving?

Drug driving will continue to be a concern under the new law. Currently the Police carry out impairment tests when they have reason to suspect a driver has taken drugs. This system works well and we don't propose changing it for now.

We would like to see a public education campaign around drug driving, that would use some of the same techniques that have been so successful in changing behaviour around drink driving.

Our model law promotes Māori equity

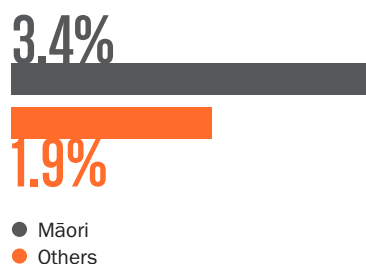
Whakawātea te huarahi, Ko tō mātou ture tauira hei mana taurite mō te māori. Ko te Tiriti o Waitangi i waiho iho nei te mana taurite ki ngā Iwi māori me ngā tauwiwi hoki o Aotearoa. Kei pākinikini tonu te māori i ngā ture tarutaru me nga raruraru whaimana hoki. E hē ana te ture tarutaru nei, na te mea e noho pāhikahika nui ngā māori ki ngā tauwiwi i mauhere i ngā whare herehere i Aotearoa. He mea whakahirahira ki tō mātou ture tauira hei hāpai te orangātonutangā o te tāngata whenua o Aotearoa. Mana taurite māori, mana taurite māori, mana taurite māori, Arā, Whakawātea te huarahi!

Te Tiriti o Waitangi guarantees legal equality between Māori and other citizens of Aotearoa. We don't see that under our current drug law, which guarantees only hugely disproportionate imprisonment and conviction rates for Māori. Our proposals will benefit Māori by reducing Māori drug convictions by as many as 1,300 per year. That means fewer tangata whenua coming into contact with the criminal justice system and fewer trapped in endless cycles of reconviction.

Our proposals will also improve health outcomes for Māori by significantly increasing the amount spent on drug treatment. We also want to actively promote equity by ensuring Māori communities feel the financial benefits from a regulated cannabis market.

We feel strongly that, for the new law to be a success, Māori need to be a part of its development and implementation. We're travelling around the country over the next months to hear from as many people as possible about how this should look. We also welcome feedback online.

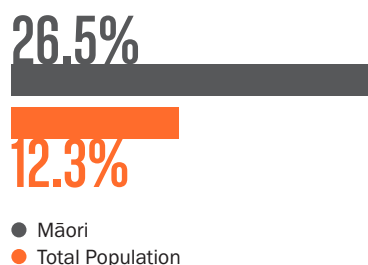
Percentage experiencing legal problems from cannabis use in past 12 months (2012)



Among cannabis users, nearly twice as many Māori as non-Māori report legal problems from their use

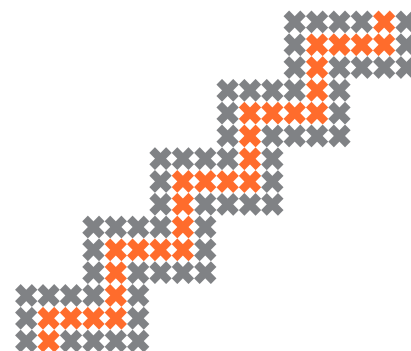
Source: Cannabis Use 2012/13: New Zealand Health Survey, page 12

Lifetime prevalence of any substance use disorder

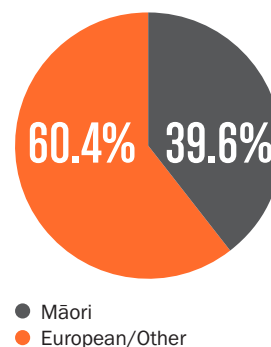


Māori experience more harm from drugs – they are more than twice as likely to suffer a substance use disorder in their lifetime than the general population

Source: MA Oakley Browne, JE Wells, KM Scott (eds). 2006. Te Rau Hinengaro: The New Zealand Mental Health Survey. Wellington: Ministry of Health.



Ethnicity of those in prison with drug offences as their main offence 2010–2014



Māori make up about 40% of those in prison for drug offences

Source: Statistics NZ online tables, annual sentenced prisoner throughput for latest calendar years

We need to invest in prevention, harm reduction and treatment

WE PROPOSE:

- Increasing investment in drug prevention and education that is evidence-based
- Removing legal barriers to providing harm-reduction services such as supervised consumption rooms and drug checking
- Doubling the funding for treatment services to eliminate waiting lists
- Ensuring a full range of treatment options are funded, including community and whānau-based services

If your son or daughter was struggling with their drug use, would you prefer they receive effective and timely treatment or face a jail sentence?

In 2014/15, we spent \$268 million enforcing our drug laws but only \$78.3 million on drug-related health interventions. How might things look if the scales were switched?

We'd like to see all those who need support able to access a full range of evidence-based treatment options at the time that they need them. Investing in prevention, harm reduction and treatment is not only effective but also humane.

To reduce drug harm effectively, we need to invest in these things:

Prevention and education.

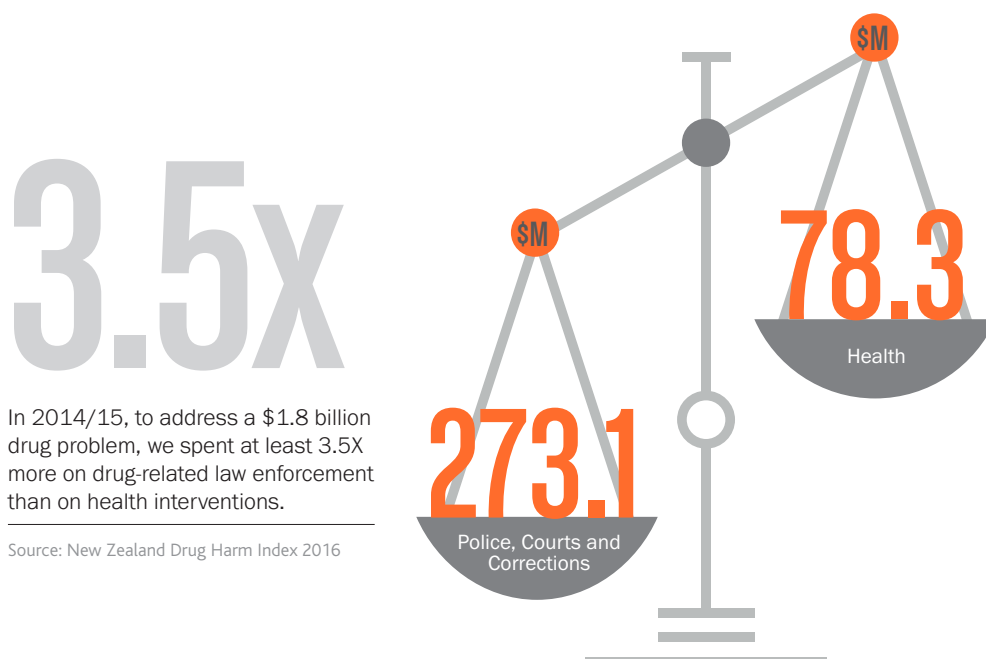
This will mean that, if people do make the choice to use drugs, they start later in life, use less frequently and experience less harm.

Harm reduction.

This includes information and tools that reduce the risk of drug harm, for example, providing sterile injecting equipment.

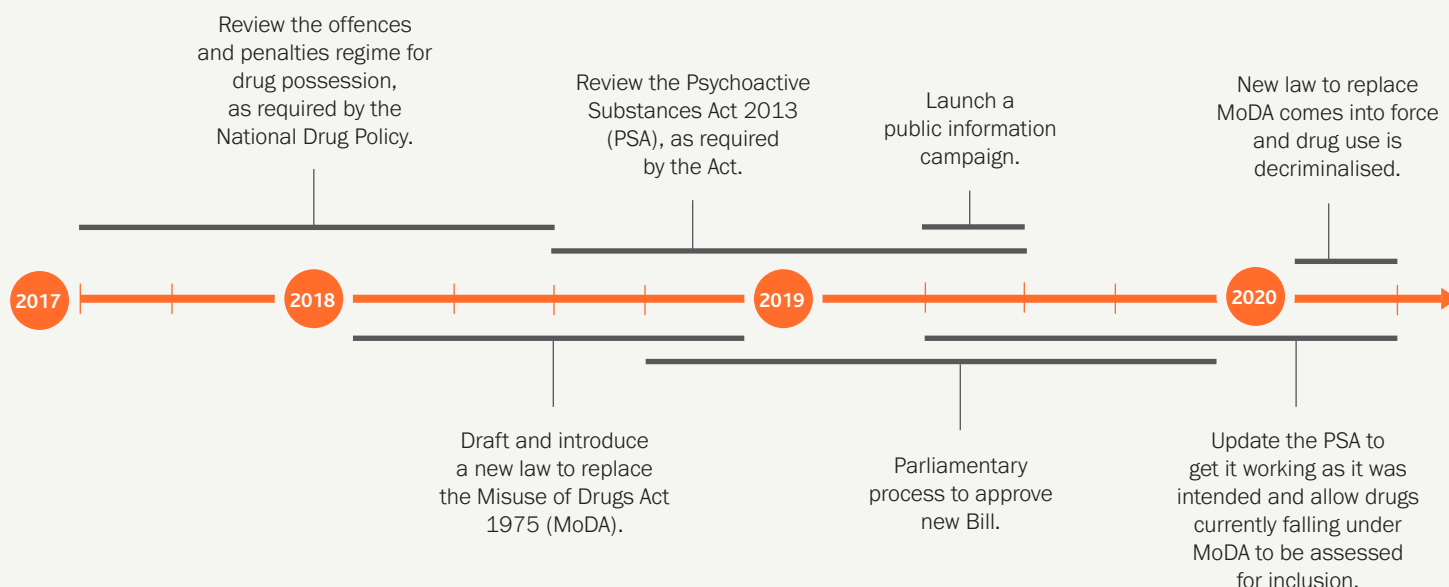
Treatment.

Effective treatment means providing a range of options to suit different people, from support groups and one-to-one counselling to more intensive support such as detox or residential treatment.



Timeline for reform

Our vision is a staged approach.



2020

ONWARDS

- Reclassify cannabis as a low-harm substance within the PSA and begin developing a regulated market.
- Undertake regular research, monitoring and evaluation on drug use and drug harm under the new legislation.
- Review the new law and the PSA at 5-year intervals.

E mahi ana ki te whakahoro
Aotearoa i ngā hē ā tarukino

Working for an
Aotearoa New Zealand
free from drug harm

AT THE HEART
OF THE MATTER,
NZ DRUG
FOUNDATION.

Te Tūāpapa Tarukino o Aotearoa

The NZ Drug Foundation works to reduce drug-related harm in Aotearoa New Zealand. Formed in 1989, the Drug Foundation has always been about basing policy and law on evidence and an acceptance of public health values. Over the past 28 years, we have contributed to significant change in how New Zealand responds to alcohol, tobacco and other drug use. Our work spans policy, public education, information delivery and community engagement.

Getting people around the table to find effective solutions to drug issues is at the heart of our work. Ensuring that the interests of tangata whenua are reflected in both policy and practical services is a key part of our work, as is maintaining close links with people working in treatment agencies, harm-reduction services and education programmes.

Website:
<http://nzdrug.org/drug-law-2020>

Services we run or support

DRUG
HELP
.ORG.NZ

Living
Sober

KnowYourStuffNZ

So what do you think?

We want our model drug law to be as good as it can be.
Please tell us what you think. Are our proposals workable?
What parts would you change and why?

We will be bringing as many voices together as possible this
year to develop consensus around a workable model. We'll be
holding community hui and talking to iwi, politicians, service
providers, people who use drugs and many others.

Please let us know what you think of our model drug law
proposal by

- **Attending** one of our hui
- **Giving** feedback online at <http://nzdrug.org/drug-law-2020>
- **Filling out** the form below and returning it to us at
NZ Drug Foundation, PO Box 3082, Wellington 6140

YOUR COMMENTS

- ☐ I mostly **agree** with this proposal
- ☐ I mostly **disagree** with this proposal

comments?

