

8 September 2016

Drug Utensils Discussion Document  
Ministry of Health  
PO Box 5013  
Wellington

## **Review of Drug Utensils Regulation**

The New Zealand Drug Foundation (the Foundation) is pleased the Ministry of Health (the Ministry) has recently taken an important initial step in addressing one of five priority areas of the National Drug Policy (NDP) by releasing a discussion document<sup>1</sup> on the review of the drug utensils regulations. This submission outlines the Foundation's position on the matter.

### **Policy objectives**

Priority area three of the National Drug Policy (NDP) 2015 to 2020 is 'getting the legal balance right'. This involves ensuring New Zealand's drug laws and their enforcement effectively balance the NDP's three strategic approaches of problem limitation, demand reduction and supply control.

The Ministry is reviewing the drug utensils regulation to ensure it supports the NDP's goal 'to minimise harm from alcohol and other drug use and promote and protect health and wellbeing'. The review is thus a good opportunity to assess whether a new approach to drug utensils regulation might more effectively meet this goal and better follow the government's stated approach that drug policy should be proportionate, compassionate and innovative.

We note that the Ministry defines drug utensils as anything used as an aid to take drugs. This can include bongs, pipes, vaporisers (including repurposed e-cigarettes) and household items repurposed as drug utensils (e.g., knives, spoons, plastic bottles and hoses). This submission does not include any commentary on the supply of needles and syringes as we take it as read that this is an accepted and well supported, legal practice in New Zealand and an effective harm reduction strategy.

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<sup>1</sup> Ministry of Health (2016)

## **Our responses to the questions**

### **Question 1: Do you support the five proposed evaluation criteria? Why? Do you think they should have different weightings? Why?**

The Foundation considers the five criteria to provide a useful and appropriate basis to assess whether the drug utensils regulatory regime is effective at minimising harm from drug use. The Foundation also considers that giving equal weighting to the criteria is appropriate.

### **Question 2: What evidence or other information can you provide to improve the description of drug utensils and their availability and use?**

The Foundation has no further evidence or information to provide on the description and use of utensils in addition to that used by the Ministry, however the Foundation undertook a short, targeted search of commonly available sources (websites and published literature) to identify any recent overseas research or new interventions around drug utensils and harm reduction. This search also identified some of the risks involved in using alternative methods.

While there is a large amount of published research and evidence internationally on the benefits and safety of needle exchange programmes and the like, there have been considerably fewer studies and commentaries on harm minimisation through the use of drug utensils. However, the research/commentary supporting the use of the following utensils includes:

- **Vaporisers:** It is commonly accepted internationally that vaporisation is a safer method of using cannabis than cigarettes<sup>2</sup>. Vaporisers can heat cannabis to release active cannabinoids, but remain cool enough to avoid the smoke and toxins associated with combustion, resulting in fewer respiratory symptoms than smoked cannabis.
- **Bongs:** While widely accepted that vaporisers are the safest way of consuming cannabis, there are mixed views on whether the use of bongs and smoking pipes is safer than smoking cannabis in cigarettes. It has however been argued that these utensils can reduce harm to the lungs by cooling and filtering smoke, as well as making dosing more manageable. We note the Ministry's assessment regarding the limited and highly contested advice around water-pipes and solid filters. We concur with this assessment.
- **Crack kits:** The supply and use of crack kits has also been shown to assist with harm minimisation amongst crack users.<sup>3</sup> Crack kits will generally include a Pyrex tube, plastic tips, filters, condoms, lip balm, sterile compresses and chewing gum for salivation.

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<sup>2</sup> Including: Earleywine, M and Barnwell S (2007); and European Monitoring Centre for Drugs and Drug Addiction (2016)

<sup>3</sup> Fischer, B et al (2015)

There is a large amount of anecdotal evidence and discussion online<sup>4</sup> about the risks of using alternative methods for drug taking when standard equipment is unavailable. These alternatives and reported risks include:

- **Alternatives to glass pipes:** Smoking off tinfoil, heating up objects that were not designed for that purpose, or using a pipe that has a crack in it because users cannot easily source another. Alternatively, people might use a more physically harmful practice such as insufflating (potential damaging sinus and mucous membranes), rolled up money (unhygienic), or injecting.
- **Alternatives to bong:** it is argued by some that joints use more cannabis than bong and in some cases tobacco will be added, raising the risk of nicotine addiction. People may also end up smoking or vaping through plastic tubes which end up heating, possibly melting and emitting fumes which are then inhaled. They might also fashion a bong using a rubber hose as a bong stem.
- **Alternatives to ascorbic acid:** Often vinegar or lemon juice are used which are more widely available. These can increase the risks of eyesight problems and blindness caused by candidal infections.
- **Alternatives to distilled water:** Those without access to sterile water ampoules (of up to 2ml) are at higher risk of bacterial infection.

While there has been limited commentary on the role of utensils in reducing harm in New Zealand, the potential was mentioned by the New Zealand Nurses' Organisation in its submission to the Law Commission 2011 report:

“The possession of utensils for the purpose of using drugs should also be removed, as there is an abundance of evidence that it can lead to riskier ways of taking drugs (for example, swallowing, injecting, smoking unfiltered) and can also act as a deterrent to use of needle-exchange facilities for injecting users, with attendant public health issues.”

A Working Group in Canada has written a paper<sup>5</sup> outlining best practice recommendations for reducing harm from drug use. This paper includes recommendations and summary of evidence regarding risk, behaviours, and prevention related to the use or non-use of the following drug utensils:

- Needle and syringes
- Cookers
- Filters
- Ascorbic acid
- Sterile water
- Alcohol swabs
- Tourniquets
- Safer crack cocaine smoking equipment.

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<sup>4</sup> Bluelight Discussion Forum, Australia (2012); Exchange Supplies (2014)

<sup>5</sup> Strike C et al (2013)

The Working Group concludes that access to all the above drug utensils is important in helping to reduce risk. They do note however that each of these utensils can also play a role in the transmission of infections if not used correctly (mainly as a result of sharing). The Working Group offers recommendations for best practice regarding each piece of equipment in individual chapters of the paper.

In the United Kingdom, there was a large amount of lobbying to add Vitamin C (ascorbic acid), water ampoules, and foil to the list of drugs utensils that are legal to supply as part of harm minimisation<sup>6</sup> to the Misuse of Drugs Act 1971. On the original list was: filters, swabs, utensils for the preparation of a controlled drug (e.g. spoons, bowls, cups, dishes), citric acid, and filters. The last of these (foil) was added in 2014.

**Question 3: Do you agree with the assessment of the current regulations? Why or why not? What evidence or other information do you have to support your position?**

The Foundation agrees with the Ministry's assessment of the current regulations.

Every year there are two and a half thousand convictions of people aged 25 and under for possession and/or use of an illicit drug or drug utensil in New Zealand. Having a conviction severely narrows opportunities: it's harder to get a job, harder to travel, and harder to get credit<sup>7</sup>. The Law Commission's 2011 report *Controlling and Regulating Drugs – A Review of the Misuse of Drugs Act 1975*<sup>8</sup> includes a submitter's concerns about the impact of the offence on reducing drug-related harm, stating that it can cause harm rather than preventing it:

“Cannabis implements like pipes, bongs and vaporisers can have beneficial effects and can make the use less harmful to the user. Criminalising their possession and use is draconian and calls into question the claim that such a policy is designed to decrease harm.”

The Foundation believes the regulations to be impractical and pointless considering the range of normal household items that can be used for drug taking. We find it particularly concerning that the maximum penalty for possessing a drug utensil is greater than that for possessing illicit drugs (maximum prison term of one year for possessing a drug utensil versus six months for possession of a Class A drug). Given the potential of some utensils to reduce harm for drug users, this regulation is neither proportionate nor compassionate.

When considering the graph on page 8 of the discussion document, the Foundation agrees with the Ministry's assessment that the decrease in number of overall charges laid for drug utensil possession is mostly due to a decrease in enforcement rather than a decrease in utensil use. We feel that this likely demonstrates the New Zealand Police taking a pragmatic approach to prioritising enforcement action to those crimes that actually cause harm in the community and, we hope, an internal commitment to a compassionate approach that recognises that a punitive approach is more likely to increase harm to individual users than prevent it.

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<sup>6</sup> Exchange Supplies (2014)

<sup>7</sup> New Zealand Drug Foundation

<sup>8</sup> Law Commission (2010)

**Question 4: Do you agree that the two high-level options are the right ones to consider?**

The Foundation agrees that the two options provided are the most appropriate options to consider.

The Foundation supports **Option 2**, which is in line with the Law Commission's recommendation to remove the offence of drug utensil possession, as noted in its 2011 report 'Controlling and Regulating Drugs – A Review of the Misuse of Drugs Act 1975'. In this report, the Commission noted that there does not appear to be any evidence that this offence deters drug use or reduces drug-related harm. The Foundation shares this view. We believe that if someone chooses to use drugs, there are various options including both using traditional utensils or not. Users should not be additionally penalised for using traditional methods, especially when some utensils (e.g. vaporisers), have been shown to reduce harm to health.

**Question 5: Do you think that the sub-options for Option 1 are adequate? What other sub-options would you like to see in Option 1 and why?**

**Question 6: Do you think that the sub-options for Option 2 are adequate? What other sub-options would you like to see in Option 2 and why?**

The Foundation has no further sub-options to suggest that would be suitable to include as part of either of the two options.

The Foundation agrees with the Ministry that the two 'extreme' options outlined on page 13 of the discussion document are undesirable, for the reasons outlined.

**Question 7: Do you agree with the potential pros and cons outlined for Option 1? Why or why not? What evidence or other information do you have to support this view?**

The Foundation agrees with the pros and cons outlined by the Ministry in relation to Option 1. We feel that while Option 1 would be better than the status quo, the benefits it would deliver would be marginal.

**Question 8: Do you agree with the potential pros and cons outlined for Option 2? Why or why not? What evidence or other information do you have to support this view?**

The Drug Foundation agrees with pros and cons outlined by the Ministry in relation to Option 2. Although the ease of implementation is less than that for Option 1, we feel the table on page 16 of the discussion document clearly shows that Option 2 would deliver far greater positive outcomes than Option 1 and would thus better support the harm minimisation goals of the National Drug Policy.

Drug-related harm results primarily from factors including types of drugs used, means and patterns of use, context of use and users' personal characteristics. Prohibiting possession of drug utensils does not help address these important factors. Regulating the availability of drug utensils, as proposed in Option 2, allows this gives authorities the ability to ensure products are safe, restrict location of sale or problematic marketing that might appeal to

minors and provide a useful mechanism for getting health messages to the drug using community.

Please contact me if you require any further information or clarification on our submission.

Yours sincerely

Ross Bell  
Executive Director

## References

All references were accessed online between 23<sup>rd</sup> August to the 2<sup>nd</sup> September, 2016.

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## **About the Drug Foundation**

The New Zealand Drug Foundation was established in 1989. It is an independent trust with a national focus on minimising drug—related harm. This includes social and health harms caused by legal drugs, such as tobacco and alcohol, as well as illegal drugs, such as cannabis.

The Drug Foundation advocates evidence—based policy on these issues, and provides reliable and credible information to organisations and individuals. We take a lead role in networking and cooperation within the alcohol and drug sector.

The Drug Foundation recognises that drugs, legal and illegal, are a part of everyday life experience. Drugs, and their use, impact on many of us, and on the people we care about. Harms to individuals and families include injury, disease, social, personal and financial problems and a reduced quality of life. Harms to society include unsafe communities, increased need for law enforcement, and high health and economic costs. For these reasons, the Drug Foundation is committed to reducing drug use and its harmful consequences.

This commitment to reducing harm includes ensuring that any illicit drugs, if used, are used safely. Our focus is on advocating for policies that build a healthy society where there is the least possible harm from drug use. All efforts to control or reduce the harm from drugs must be evidence based, socially just and maintain the rights of individuals and the aspirations of communities.

The Drug Foundation provides leadership and representation for our nationwide membership of organisations and individuals working on alcohol and drug issues. The Drug Foundation is a member of the International Harm Reduction Association, the Global Alcohol Policy Alliance, the Vienna NGO Committee on Narcotic Drugs and the International Drug Policy Consortium.

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