

City Report



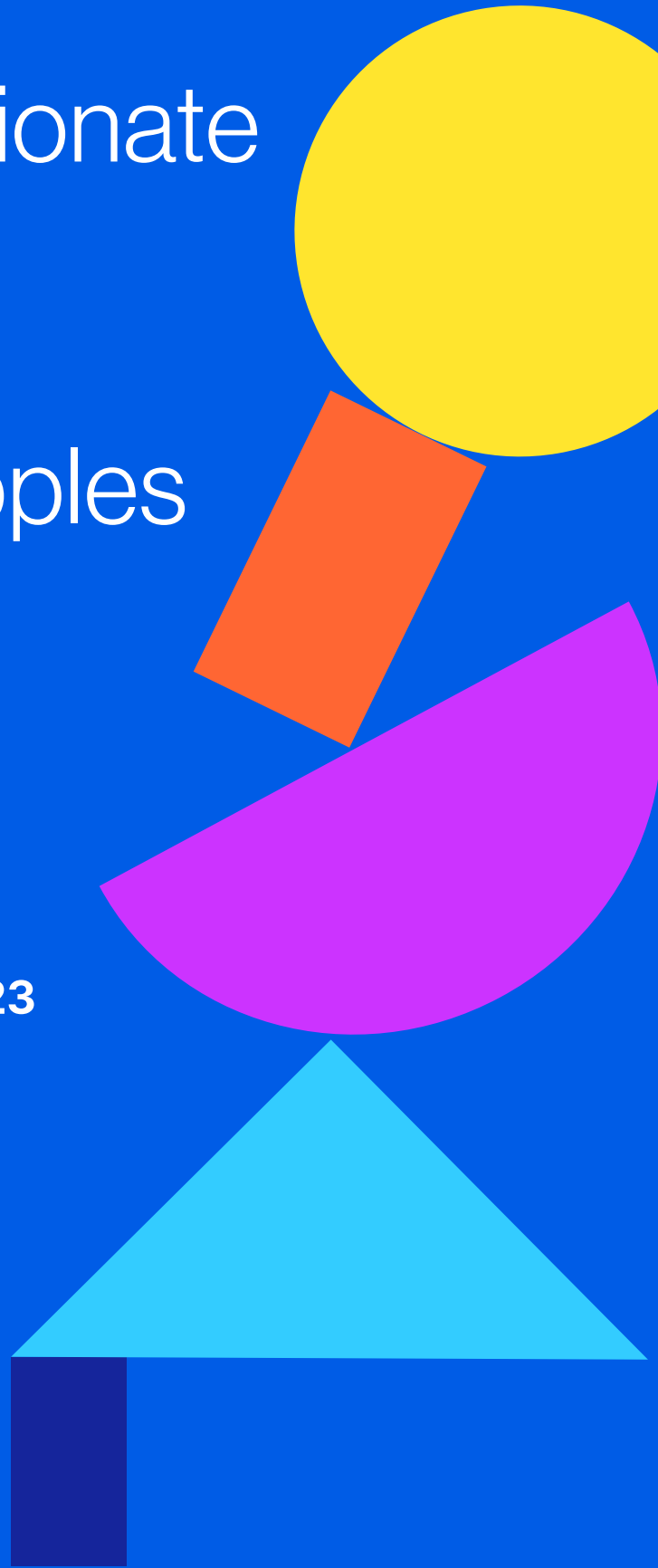
London

The disproportionate
harms of drug
prohibition on
oppressed peoples

Civil Society Monitoring of
Harm Reduction in Europe **2023**

Correlation

  European Harm
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Introduction

London, the capital of England and the United Kingdom (UK), is home to around nine million people. London stands out for its significant ethnic diversity, with 46% of residents identifying as Black, Asian, or minority ethnic, in contrast to the country's overall rate of 18%¹. Communities of colour, especially in London, bear the brunt of harm caused by the UK's outdated and overly punitive drug laws, evident in the disproportionate targeting of Black and minority communities for drug offences².

The Misuse of Drugs Act 1971, the primary legislation controlling drugs in the UK, is over fifty years old and categorises substances into three classes (A, B, and C) to determine penalties. Possession of Class A drugs, including cocaine, ecstasy, and magic mushrooms, can lead to up to 7 years in prison, while supply or production can result in a life sentence. Cannabis, classified as a Class B drug, carries penalties of up to 14 years for supply or production and up to 5 years for simple possession³. The Psychoactive Substances Act of 2016, designed to tackle new psychoactive substances (NPS), criminalises the production or supply of any psychoactive substance, with exceptions for certain substances such as food, caffeine, nicotine and alcohol⁴.

Globally, there is a mounting body of evidence pointing to the enforcement of punitive drugs legislation, such as the Misuse of Drugs Act and the Psychoactive Substances Act, becoming a tool

for both racial and class discrimination⁵. Despite this concerning trend, the UK government shows no signs of slowing down with its 'tough on drugs' prohibition agenda which continues to be a driver of discriminatory policing and incarceration across both London and the broader UK.

Prohibition as a vehicle of racist discrimination

— Stop-and-search

In the UK, the discriminatory practice of stop-and-search is based on 'reasonable grounds', targeting individuals solely for the act of 'carrying' a drug, without any connection to trafficking activities⁶. In England and Wales, the proportion of searches attributed to drugs has surged from 40% in 2009/10 to 63% in 2019/20. Notably, since 2012/13, over half of all annual stop-and-searches have been conducted on the basis of finding drugs⁷.

Research conducted in 2018 revealed that while the overall use of stop-and-search by police had declined in recent years in the UK, disproportionality had increased⁸. In 2022, the stop-and-search rate for Black individuals in England and Wales was 27.2 per 1,000 people, almost five times higher than the rate for white individuals, which stood at 5.6 per 1,000⁹. Notably, London had the highest rates of stop-and-search

within the Black and Asian ethnic group. An earlier 2020 study revealed that Black men aged 18-24 years in London were 19 times more likely to be stopped and searched than the general population, and that the vast majority of searches resulted in no drugs being found¹⁰. Release, the C-EHRN focal point for London, has previously criticised such disparities, referring to stop-and-search as an “integral cog in a racially disproportionate justice system”¹¹.

“I've been stopped [and searched] numerous times, of course with nothing [on me]. And you think, why am I being stopped? It's usually, 'oh there's a robbery in the area. You fit the description'. So, you know, whatever. Or, like I said, in all honesty, I did grow up in a highly active gang area. So that's a factor as well, if I have to be honest. But, the biggest thing that stood out to me was just more when you're in the system...and it's like, wow, I swear to myself like 85% of people in here [prison] are Black. You know what I'm trying to say?”

Formerly incarcerated person for drug offences, London.

Race and the criminal justice system

Racial discrimination is not solely confined to stop-and-search practices, but also permeates every facet of the criminal justice system in the UK. In 2023, a groundbreaking report found the Metropolitan Police, the police force responsible for Greater London, to be institutionally racist,

misogynistic, and homophobic¹². Previous research found that Black and Asian people in England and Wales were convicted of cannabis possession at 11.8 and 2.4 times the rate of white people, respectively, despite lower rates of self-reported use¹³. Black people also made up a quarter of all those convicted of cannabis possession, despite comprising less than four percent of the UK population.

One respondent explained that as an ethnic minority, the only way to counteract the racial discrimination embedded in the criminal justice system lies in having substantial financial resources. He argued that financial means are necessary to access the best legal representation, and those without financial backing are consistently ‘screwed over’, particularly if they are unaware of their rights. Within his social circle, he described how people felt varying degrees of impunity, largely based on their ethnic makeup.

“Of course I got white mates, you know, and they used to sniff lines. And they have no fear... They have no fear that they're going to get caught, or like even if they do get caught, something's not going to go any further. They have no real fear about that...it just depends on where you're from, what class you're from, your ethnic makeup as well. That dictates how your life will be when you encounter the police or the criminal justice system.”

Formerly incarcerated person for drug offences, London.

Previous research conducted by Release revealed that the Metropolitan Police charged 78 percent of Black people caught in possession of cocaine compared with 44 percent of white people,

signalling that Black people in London who are caught in possession of drugs are charged, rather than cautioned, at a much higher rate than their white counterparts¹⁴. In 2020, research commissioned by the British Sentencing Council revealed that people from Asian, Black and other minority groups are 1.4 to 1.5 times more likely to go to prison for drugs offences than white people¹⁵. Imprisonment comes with significant consequences for individuals, including heightened societal stigma, severe impacts on mental health, limitations on job opportunities, and an increased risk of repeat offending. The one respondent, convicted of cannabis supply, spent seven months of his sentence in a category A maximum security prison.

"Obviously losing your freedom like that is not nice. I'm somebody who's very family orientated. And I love my friends as well, but I love my family the most. And obviously, just not being able to physically check up on my family. Being the oldest child as well, to check up and see how my mum's doing. Hearing what they say through the phone was the biggest thing for me. Because I had to rely on their word rather than see things for myself. That was the hardest. That was the hardest thing for me, for a while."
Formerly incarcerated person for drug offences, London.

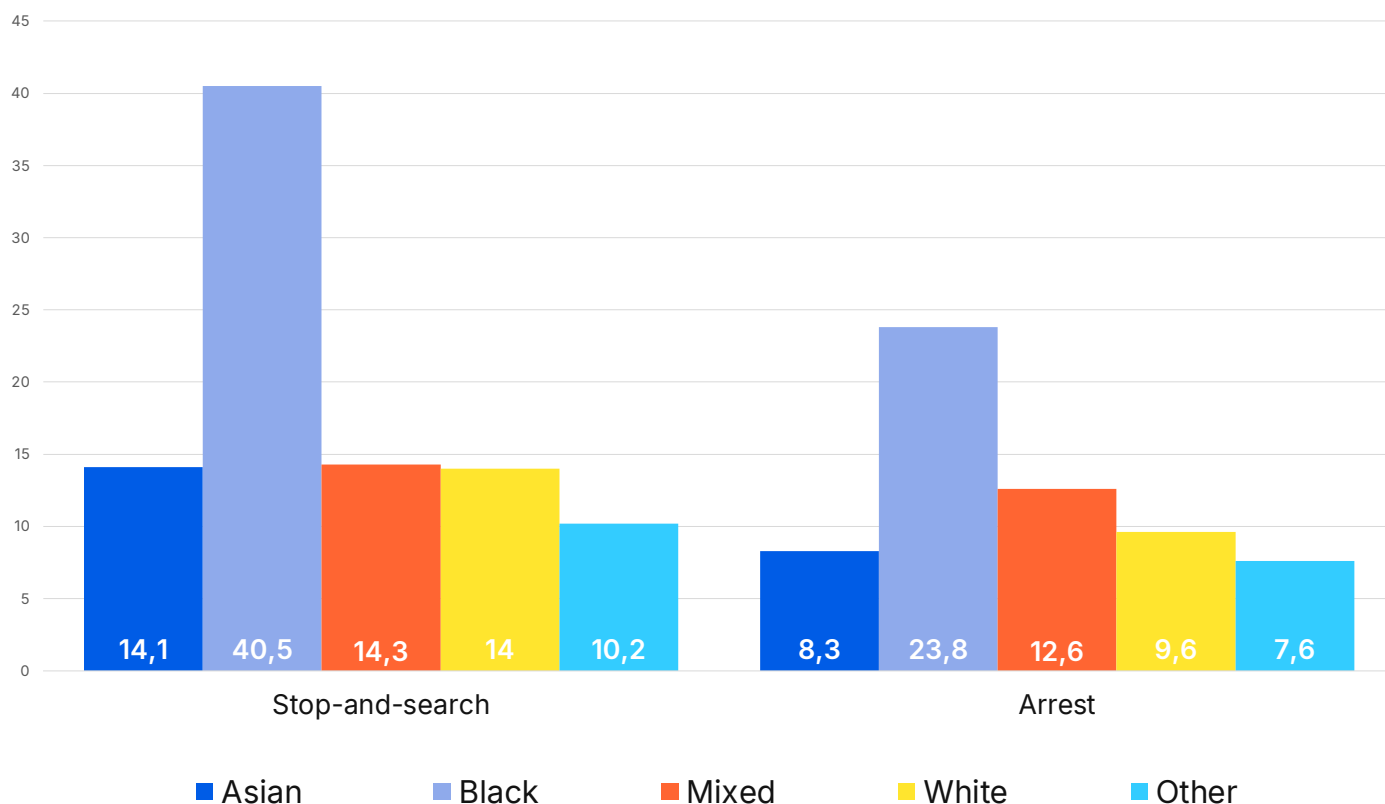


Figure 1: Stop-and-search and arrest rates per 1000 people, by ethnicity in London (Metropolitan Police) for the year ending March 2022.
Source: UK Government, 2023

Harm reduction services for racialised communities

With regard to harm reduction and treatment services in the UK, individuals from Black, Asian and minority ethnic communities, especially women, make up only a fraction of the population¹⁶. This discrepancy does not indicate a lack of need within these communities; rather, barriers exist due to gaps in appropriate provision and a notable absence of culturally-informed services, making it difficult for individuals from ethnic minority backgrounds to access suitable support. Additionally, drug dependence carries significant stigma in some minority ethnic communities, discouraging people from seeking support. The association between drugs and crime further amplifies this stigma, leading individuals from such communities to avoid discussions about drugs and related issues. According to the C-EHRN focal point for London, even the perception of pain is approached differently by service providers for racialised communities.

"When we are doing medical advocacy for racialised people, like trying to get their health concerns taken seriously as part of their treatment by medical professionals, it is always just harder...It's quite often that we can't even

get the basic acknowledgment that they are suffering or actually experiencing withdrawal, despite scoring highly on a withdrawal scale."
C-EHRN focal point.

Prohibition as a vehicle of class discrimination

— Drugs and housing

The criminalisation of drugs in the UK not only perpetuates racial discrimination, but also disproportionately impacts individuals from low socio-economic backgrounds and those experiencing homelessness. For instance, in London, social housing will often contain policies that restrict certain activities such as drug use, resulting in eviction. Current UK legislation gives social landlords power to repossess someone's home if they are convicted of a drug supply offence, or have their home closed from access for individual drug use if perceived to be a 'nuisance' to others. Closure orders can require tenants to vacate the property for up to 3 months, during which landlords often pursue possession orders with the intent of ultimately evicting the resident^{17,18}. A legal advisor based in London shared a case

involving a local authority tenant living with her 16-year-old daughter. The tenant's former partner was present in the property when the police arrived and conducted a search, leading to the discovery of drugs in his possession.

"They arrested him, arrested her and then the local authority applied for a closure order over the whole property. The terms of a closure order can prohibit anybody from accessing it, whether that's the tenant or anybody else. And the turnaround can be really quick. I think we had a week or something to deal with this. So, the client gets this notice that the closure order has been applied for. And the consequence of that is that they're faced with pretty imminent homelessness."

Legal advisor, London.

Many of the respondent's clients have experienced situations where their neighbours reported their drug use or made allegations of drug dealing. According to the respondent, the local authority typically issues a warning letter to the individual, which can instigate high levels of worry and anxiety. Often, individuals fail to respond, fearing potential stigma or the potential consequences for their housing situation, which ultimately can lead to eviction.

"People who use drugs often won't report anti-social behaviour to the housing association because they know that people working in housing associations might be prejudicial towards them. It might be a case of, oh, but if I report the issues that I'm having, if my housing provider finds out that I'm a drug user, I'll get

kicked out. So, there's this sort of perverse disincentive for them not to take advantage of the reporting structures that exist, and which should be equally available to them."

Legal advisor, London.

People who are facing eviction have the option to go to court; however, obtaining representation in such proceedings is challenging, especially without recourse to legal aid. There are certain law centres and private firms in London with legal aid contracts that can offer assistance, but as with all public services, they are hugely overrun. Furthermore, many clients are unaware of the availability of the duty solicitor scheme, a free advisory service offered by county courts. Others choose not to engage with such resources due to a lack of understanding, fear of the complex process, or intimidation by the courtroom environment.

"Most clients are so frightened of the process that they're not prepared to engage in it, which is completely understandable. If you've ever been in a courtroom or walked into a court building, it's an intimidating process. Some of those buildings were designed to be physically imposing to the everyday person, so it's no surprise that people, particularly vulnerable people, avoid putting themselves in that situation. It's definitely heavily weighted in favour of the housing provider over the client."

Legal adviser, London.

The UK Government's 'Anti-Social Behaviour Action Plan'

In March 2023, the UK Government unveiled its "Anti-Social Behaviour Action Plan", providing enhanced powers to police, local authorities, and other agencies to address anti-social behaviour in communities across England and Wales. The plan adopts a "zero-tolerance approach" towards drugs, including the banning of nitrous oxide, an increased use of drug testing upon arrest, and a proposed consultation to expand on-the-spot drug testing capabilities for police. Additionally, it introduces measures against rough sleeping and begging that causes public nuisance, including drug 'paraphernalia', with the enforcement of higher on-the-spot fines for non-compliance¹⁹.

Since November 2023, nitrous oxide, otherwise known as 'laughing gas', was reclassified as a Class C drug under the Misuse of Drugs Act 1971. Although improper supply of nitrous oxide was already regulated by the Psychoactive Substances Act 2016, this reclassification renders its possession illegal, whereas previously possession was only unlawful if intended for supply. This decision was made despite the Advisory Council on the Misuse of Drugs (ACMD), a body appointed by the UK government, recommending against the inclusion of nitrous oxide under the Misuse of Drugs Act, citing that the sanctions under the act would be

disproportionate for the harm associated with the drug²⁰. This significant shift in legislation means that possessing nitrous oxide can now result in various consequences, including an unlimited fine, a visible community punishment, a caution, and, for repeat serious offenders, even a prison sentence²¹.

Though it is too early to fully assess the long-term impact of this measure, it is clear that further criminalising nitrous oxide is likely to worsen harm. The most affected will be individuals from socially marginalised communities, especially young people from Black, Asian and minority ethnic backgrounds, who are already subject to disproportionate levels of drug-related policing such as surveillance, stop-and-search, arrests, and prosecutions²². Critics have referred to this move as a "simple pre-election populist ploy to vilify young people who do not vote"²³. During a Parliamentary debate, Lloyd Russell-Moyle, an opposition Member of Parliament of the UK Labour Party, expressed serious concerns about the potential harm of the re-classification, citing that, "*large numbers of people from different demographics take drugs, but the laws criminalise a specific set of demographics.*"²⁴

London-based civil society organisations, Liberty and Release, have strongly condemned the 'Anti-Social Behaviour Plan' as a means to address community safety concerns. They argue that the concept is inherently biased based on race and class, disproportionately affecting individuals experiencing homelessness, people who use drugs, individuals dealing with mental health issues, and people of colour. According to their joint submission to the UK Home Office, granting police powers to subject individuals to public drug tests based on the mere suspicion of anti-social

behaviour is *"miles beyond the status quo"*, and would clearly lead to an *"inflation of stop-search, charge, and so on, along racial and class lines, which is already a big enough problem."*²⁵

Public Space Protection Orders

The Anti-Social Behaviour Plan also includes an expansion of the use of Public Space Protection Orders (PSPOs). Originally introduced by the UK government in 2014, PSPOs grant local authorities the right to prohibit activities deemed to have a 'detrimental impact' on 'the quality of life' of others²⁶. At present, violating a PSPO results in an on-the-spot fine of up to £100, with a possible £1,000 penalty if unpaid. However, the new Anti-Social Behaviour Plan outlines plans to raise these on-the-spot fines to £500.

"If you're fining people who don't have the means to pay, you're essentially punishing people for living in poverty. You are fining people who are living in tents. You're effectively punishing people for being homeless."
Legal adviser, London.

The implementation of PSPOs depends on the discretion of local councils. This variability in enforcement practices can lead to what one respondent aptly describes as a *"bizarre local enforcement of some pretty draconian rules"*²⁷. An illustrative case comes from Lewisham, an area of southeast London where approximately 49% of

residents identify as non-white. Through successful advocacy efforts, the C-EHRN focal point organisation – Release – successfully challenged a proposed PSPO. The PSPO included provisions for dispersal powers and penalties for noncompliance, specifically targeting drug consumption and so-called 'illegal encampments'. Release highlighted a critical flaw in the consultation process conducted by Lewisham council—that around two-thirds of respondents were white. Consequently, the council had failed to seek input from those who would be most impacted by the proposed policy.

As well as having a disproportionate impact on Black, Asian and minority ethnic populations, PSPOs can impact harm reduction efforts, resulting in disproportionate levels of harm for people who use drugs. PSPOs can encompass penalties for carrying drug 'paraphernalia' or refusing to surrender it, which can restrict individuals' access to essential harm reduction tools, such as needles or safer smoking kits. Expulsion from an area can severely impact the stability of a person's accommodation and also prevent them from accessing local pharmacies, treatment centres and other harm reduction initiatives. This is especially problematic considering that these penalties do not exist under the criminal law.

As noted by the legal representative for Release, this raises the question of whether it is appropriate to grant such extensive power and decision-making authority to local authorities, given that their role should be centred on supporting constituents rather than developing punitive frameworks²⁸. PSPOs have been criticised for blurring the lines between anti-social behaviour and behaviour that is considered criminal, amounting to a form of 'double punishment'.

"The problem is most antisocial behaviour wouldn't pass the threshold of being a criminal offence, so they are almost making this sort of new category of behaviour that's amenable to punishment as it would be under the criminal law, without needing to be a criminal offence."
Legal adviser, London.

Release's advocacy and legal efforts in the Lewisham case has set an important precedent in terms of holding local governments accountable. Currently, Release is actively working to enhance transparency by compiling information on each local authority, including the presence and terms of any PSPOs. Their ultimate goal is to create a national map for public access, providing valuable information with the aim of minimising harm to marginalised communities.

Recommendations

Based on the findings of this report, the following policy recommendations are proposed. While the focus of this report is on the city of London, these recommendations extend to England as a whole, at both the local and national levels.

Institutional police reform

Comprehensive reform is imperative to address deep-rooted institutional racism and other forms of discrimination within police forces in London and across the UK. Essential measures include regular anti-bias training; promoting open communication through community forums; enforcing transparent data collection on police interactions; establishing an independent oversight body; and actively diversifying the force through targeted recruitment. One proposed solution to recent criticisms of the London Metropolitan Police is to disband and restructure the force into smaller, community-focused police forces across London²⁹.

Drug decriminalisation

In line with neighbouring countries, such as the Netherlands, Germany, Spain, Portugal and Switzerland, the possession and use of all drugs should be decriminalised. Current UK drug legislation, notably the Misuse of Drugs Act 1971, perpetuates racial and class discrimination, and diverts funds away from crucial treatment and harm reduction initiatives into futile law enforcement efforts. Decriminalisation is

essential to mitigate the disproportionate burden of prohibition borne by racialised communities, removing the legal basis for racially biased policing practices like stop-and-search that primarily target low-level drug possession offences. Additionally, decriminalisation will play a crucial role in removing barriers to treatment services by reducing associated stigma, which is particularly prevalent in Black, Asian and minority ethnic communities.

Tailored harm reduction services

Providing tailored treatment and harm reduction services for Black, Asian and minority ethnic communities is crucial to bridging the current gaps in availability and accessibility. Efforts should be made to extend services to specific demographics, given the existing inaccessibility of treatment for many racialised communities, compounded by the heightened risk of encountering racist policing under current drug laws. Aligned with recommendations from Collective Voice³⁰, a comprehensive review of drug treatment and harm reduction services for Black, Asian and minority ethnic is necessary. This should include considerations for ringfenced grant funding to facilitate specialised services for racialised communities, developed in collaboration with ethnic minority-led organisations. Service providers should also take additional measures, such as recruiting ethnically diverse staff, collaborating with ethnic minority and faith-based peer networks, addressing language barriers, increasing community awareness, and enhancing cultural competence within services.

Increased funding for harm reduction services

The government should invest in a full range of high-quality treatment and harm reduction services. Spending on drug-related services has significantly decreased in recent years, despite the fact that every £1 spent on harm reduction and treatment saves £4 by reducing demands on health, prison, law enforcement and emergency services³¹. C-EHRN focal point, Release, are stepping up efforts to fill the gap, exemplified by their recent successful fundraising efforts to establish a harm reduction hub in London. This initiative will not only provide life-saving harm reduction services, but also offer a supportive community space where individuals can access basic legal advice and support³². To effectively combat the challenges posed by drug prohibition and an increasingly toxic drug supply, it is essential that harm reduction services receive adequate funding and operate independently of drug treatment spaces.

Ensure wider support services

Ensuring holistic and multi-faceted support for drug dependence is vital, especially for individuals in lower socio-economic groups who are more likely to develop dependence due to driving factors such as deprivation and poverty. Therefore, individuals must have access to adequate and stable housing, welfare support, and meaningful employment, alongside drug treatment and harm reduction services, to alleviate some of the underlying factors that may lead to drug dependence in the first place.

Community-led services

To enhance the effectiveness of harm reduction services, it is vital that they are community-led, with active participation from peer networks. This is especially important for Black, Asian, and minority ethnic communities, where the engagement of individuals with lived and living experiences is paramount. This approach ensures a nuanced understanding of the distinctive challenges and structural barriers encountered and supports in diminishing heightened stigma within these communities.

Abolish drug-related evictions

The use of drugs and/or social supply should not be legal grounds for eviction. Measures should be taken to amend relevant legislation, safeguarding people who use drugs and those in drug treatment from the threat of homelessness. Recognising the crucial role that secure and stable housing plays in an individual's well-being and the avoidance of drug dependence, the government should guarantee and improve access to legal advice and representation during eviction proceedings. Furthermore, addressing the widespread shortage of legal aid resulting from prolonged funding cuts is essential to ensuring fair and just legal support for those in need.

Reverse the nitrous oxide ban

The re-classification of nitrous oxide as a Class C drug under the Misuse of Drugs Act 1971 should be immediately reversed. The criminalisation of the use of nitrous oxide primarily resulted from concerns related to cartridge littering rather than inherent health risks. Consequently, criminalising nitrous oxide

for personal use proves disproportionate, resulting in unwarranted criminal records for numerous young individuals and impeding their life opportunities. As noted by Drug Science³³, a more effective approach involves an evidence-based, harm reduction campaign aimed at young people, including health warnings on cannisters, limiting the number of cannisters that can be bought at one time, and a recycling campaign for cartridges, with the possibility of a deposit/refund scheme.

Abolish Public Spaces Protection Orders

PSPOs should be abolished given their inconsistent application across boroughs, and their disproportionate impact on marginalised populations. These orders not only result in a form of double punishment alongside existing criminal law powers but also contribute to the stigmatisation and criminalisation of people who use drugs.

Methodological remarks

This report is a contribution to Correlation's 'City Reports' series, presenting harm reduction case studies in five European cities in 2023. Extensive literature was compiled on the topic, supplemented by interviews conducted in English with three key participants: a legal representative engaged in drug cases, the C-EHRN focal point representative, and an individual with lived experience of incarceration for drug offences. The interviews were documented through audio recordings and subsequently analysed by C-EHRN. To safeguard participant confidentiality, specific details of the respondents have been omitted from the report.

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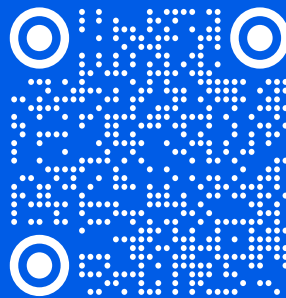
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