Review of the interaction of health and justice system in relation to the possession of drugs for personal use

A report for the States of Guernsey; February 2020

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This report was prepared on behalf of Public Health Services and the Committee for Health & Social Care by Professor Harry Sumnall of the Public Health Institute, Liverpool John Moores University UK. The author has no relevant conflicts of interest to declare

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1 Executive summary

1.1 Overview

This report was commissioned by the Committee for Health & Social Care, through Public Health Services to provide a review of the international evidence base on health-orientated approaches to the possession of small amounts of drugs for personal use. It examines the interaction between health and criminal justice systems with respect to drug use, and how alternative approaches to possession offences could be used to promote the health and wellbeing, and safety, of people who use drugs, and of the wider community. The report does not make specific recommendations on which approaches should be adopted, but summarises available evidence on these to support decision making of stakeholders developing drug policy.

1.2 Methodology

- The review includes a secondary data analysis, and relevant data presented in other recent reports published in Guernsey. Data includes drug treatment, drug-related offending, and imprisonment, and summaries of recent youth and general population drug use prevalence and opinion surveys. Other data were extracted from published sources including annual Drug and Alcohol Strategy reports, and annual prison service and law enforcement reports. The 2019 Joint Strategic Needs Assessment and 2019 Justice Review provided additional evidence of relevance to the review questions.
- A rapid review was undertaken to summarise international health-orientated approaches to possession offences, with a particular focus on UK and other European policy. This includes discussion of the impact of these approaches, and where possible, identification of the (potential) harms and benefits of policy change. Based on this review, a series of models are presented that include key features of the most frequently implemented approaches, including points of delivery in the criminal justice system, the legal framework adopted, policy implementation features, activities included, and any thresholds and sanctions attached to the policy approach. The proposed mechanisms of action of these approaches are described, including consideration of the social and public contexts into which they are delivered. These factors are then analysed with respect to delivery in Guernsey, in order to assist stakeholder discussion on policy development. Finally, some recent evidence on public support for alternative approaches to drug possession offences is presented, and some recommendations for assessing public acceptability for drug policy change are provided. It was beyond the scope of the current review to assess public support for policy change in Guernsey and Alderney.

- The review was complemented by a stakeholder consultation event undertaken with some of those professionals leading responses to substance use in Guernsey and Alderney. This provided an opportunity to present key findings of the review, to receive a local interpretation of the data analysis and feedback on some of the highlighted alternative approaches to possession offences reviewed in this report. Membership included representatives from treatment and other support services, public health, and the criminal justice and legal sectors.

1.3 The Guernsey and Alderney context

- International drug Conventions oblige signatories to make possession of controlled drugs a criminal offence, but this is subject to a country's constitutional principles and the basic concepts of its legal system. As clarified in the UN Commission for Narcotic Drugs Resolution 55/12[1] signatories are encouraged to provide treatment and other drug demand reduction activities as alternatives to imprisonment, and the Conventions allow for the provision of alternative measures to punitive actions for personal possession offences. Although Guernsey and Alderney are not members of the EU, the EU Action Plan on Drugs 2017-2022[2] recommends that Member States provide and apply, where appropriate and in accordance with their legal frameworks, alternatives to punitive sanctions for drug using offenders, including education, suspension of sentence with treatment, suspension of investigation or prosecution, rehabilitation and recovery, aftercare and social reintegration.
- The law on drug possession offences in Guernsey and Alderney is laid out in Section 4 (2) and Section 4 (3) of the *Misuse of Drugs (Bailiwick of Guernsey) Law, 1974*. Offences for possession include possession with intent to sell or supply, but these are not considered in this report as they are primarily supply offences. Custodial punishments for drug possession offences are based on drug Classification band, but there are no formal sentencing guidelines. For example, possession of cannabis, a Class B drug, may be punished by up to six months imprisonment and/or a fine for a summary conviction, and a fine and/or up to 10 years' imprisonment for conviction on indictment.
- The drug situation in Guernsey and Alderney is different to most European countries, including the UK. The small size of the territories, the small number of (well-monitored) ports of entry, population demographics, and the nature of serious and organised crime activity, means that the

[1] The Commission on Narcotic Drugs (CND) Resolution 55/12 Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety. Available: https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2010-2019/2012/CND_Res-55-12.pdf

[2] Available from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XG0705%2801%29

drugs market is limited. Whereas the majority of focus on controlled drugs in the UK and the rest of the Europe is on heroin, (crack) cocaine, and cannabis, the primary substances of concern in Guernsey and Alderney are cannabis, and diverted prescription medicines. This profile of substance use means that (costs of) drug-related crime, in particular acquisitive crime, is relatively low.

- Drug treatment support is offered by a number of services in Guernsey and Alderney, but drug treatment data is not collected and reported using a unified system, and so it is difficult to provide an estimate of the total size of the treatment population or treatment penetration. In 2018, 75 new clients entered In-dependence community services; 37 into the Criminal Justice Substance Service; and 44 into prison treatment services. The Community Drug and Alcohol Team reported 102 new clients required support for substance use in 2018. The most frequent age group attending drug treatment services are males aged under 35 years.
- In 2018, the Princess Elizabeth Hospital coded 375 Emergency Department presentations relating to drug use. Of the 33 registered drug poisonings between 2001 and 2015, most deaths were in males aged under 40, and most frequently related to prescription medicines, including fentanyl, diamorphine, and dihydrocodeine.
- There are no surveys of substance use undertaken in Guernsey & Alderney that are directly comparable to international estimates, and it is also difficult to draw conclusions in trends in use. Recent school surveys suggest about 18% of pupils have been offered cannabis (2018), and 11% of Year 10 pupils (aged 15/16) report that they have used cannabis in the previous month. This is higher than the EU average of comparable age (7%; 2015 ESPAD survey), but lower than comparable estimates in English students. Eleven percent of adults in Guernsey & Alderney reported use of cannabis in the previous 12 months (2018), and 5% had used it in the previous month. Again, this is less than in the adult population in England and Wales.
- Estimates of rates of imprisonment for all offences are lower in Guernsey (142/100,000) than England and Wales (174) and Scotland (168), but higher than Northern Ireland (96), Jersey (122), and the Isle of Man (125). It is not possible using available data to compare rates of imprisonment of drug possession offences with other countries.
- Analysis of criminal justice data estimated that between 2016 and (August) 2019 there were a total of 910 controlled drug offences recorded, including 538 drug possession offences (59.1% of total drug offences). Drug offences comprised 7% of all crime recorded by police in 2018. Over the same time period, outcomes were recorded for 475 drug possession offences, an average of 119 per year (offences and outcomes may occur in different years). Of these, 13.5% outcomes were issued to offenders aged under 18 years. Due to nature of the data reviewed, it was not possible

to break down offence/outcome by drug Class, so it was not possible to determine, for example, if cannabis possession offences lead to difference outcomes to possession of other Classes of drug.

- Around a third of the prison population at any one time is due to drugs offences. Where recorded, the majority of outcomes of possession offences included a custodial component (67.5%). However, custody can be included as an outcome as a sanction for failure to pay a fine. Examining outcomes recorded for only possession offences *without* a fine element, the number of custodial components fell (44.8%). The average custodial sentence length for these outcomes was 1.8 months (range 0.2-44.0 months). For comparison, in England and Wales in 2017, 4.3% of all drug possession offences resulted in immediate custodial sentences, with an average sentence length of 3.6 months. Examining cannabis possession offences only, 2% resulted in custodial sentences with an average length of 1.7 months. The lower proportion of custodial components in England is partly explained by the greater use of street warnings, community sentences, and out of court disposals.
- None of the alternatives to punishment for drug possession offences discussed in this report are currently in operation in Guernsey and Alderney, although out of court disposals are available. The Children's Convenor can divert young offenders away from the mainstream criminal justice system (and prison) and into the Child, Youth & Community Tribunal system, or make referrals to other appropriate support services. Whilst there is some limited evidence available on the use of these approaches for drug possession offences, it is unknown what impact these have on re-offending and drug-related outcomes.

1.4 Impact of a drug-related conviction on health and wellbeing

- The potential health and social harms and costs to individuals and communities associated with substance use and criminal markets are significant and well-characterised. However, unintended harms may also (indirectly) arise as a consequence of drug policy, and the legal responses to drugs.
- Assessment of the impact of a drug-related conviction on the health and wellbeing of offenders in Guernsey and Alderney was beyond the scope of this review, and so no conclusions are drawn on adverse consequences of criminal justice contact. Similarly, this review should not be read as making any inferences about the prison environment or effects of imprisonment in Guernsey and Alderney.
- The international literature suggests that a criminal record associated with a drug-related offence can have long-lasting consequences for an individual's (mental) health, life chances, and wellbeing. A conviction may impose restrictions on employment, international travel, and residency. Out of court disposals such as cautions may also appear on enhanced background

checks, which can limit some employment and travel opportunities. People with drug-related convictions can lose their job or access to housing, and find it difficult to regain these because of the impact of their criminal record or the associated public stigma and discrimination that this can bring.

- Early personal involvement in the criminal justice system is highly predictive of adult imprisonment. In contrast, international studies have shown that young people who are diverted away from contact with the justice system have lower levels of re-offending, and these positive effects can last into adulthood, when the majority of offenders will desist. Any length of imprisonment can have long-lasting effects upon the physical and mental health of individuals, particular for younger offenders, and the families and partners of prisoners. Having a parent who is in prison is categorised as an Adverse Childhood Experience (ACE), and this is associated with an increased likelihood of adult offending.

1.5 Alternatives to punishment for drug possession offences

- 'Alternatives to punishment' for drug possession offences refers to a broad range of policy responses and measures applied in the legal and criminal justice systems that aim to educate, treat, or socially reintegrate people who use drugs, as an alternative or addition to conviction or other punitive actions. Internationally, there are a growing number of countries and territories[3] (e.g. EU Member States, South Africa, Australian territories, US States) where these approaches are applied to simple possession offences or where other lower level criminal activity has been undertaken, such as supply of small quantities of drug (e.g. 'social supply' to friends).
- Descriptions of the models that have been implemented internationally are provided in Section 9 of the main report, but three generic policy actions are described below:

i) Depenalisation is the reduction of the level of penalties associated with drug possession. Punitive sanctions may also be replaced by warnings or cautions, opportunities for ***diversion*** into drug screening, education and/or treatment programmes, or there may be formal reductions in the length of custodial sentences through refinement of sentencing guidelines.

ii) Decriminalisation is the formal process of removal of criminal penalties from drug possession offences. This can be provided in law (known as *de jure*), or in guidelines (*de facto*). Under decriminalisation, possessing less than a legally defined amount of a controlled drug (thresholds may

[3] An informative interactive map showing global approaches is also available at: https://www.talkingdrugs.org/drug-decriminalisation

vary between drugs or there may be no threshold at all) no longer leads to an individual being punished through a criminal record or custodial sentence. Additional sanctions or ***diversion*** may be applied in accordance with the level of offender risk, or where additional drug-related needs have been identified. For low-level offenders and those who are not experiencing problems with their drug use, no further action may be required, or an offender may receive a general drugs education/awareness activity or an administrative sanction such as a fine or a restriction placed on a driving license. For repeat offenders, or those identified with additional drug-related needs there may be ***diversion*** into targeted support that aims to address use of drugs and/or offending behaviour.

iii) Diversionary activities can take place in the absence or presence of wider depenalisation or decriminalisation actions (i.e. the act of drug possession may still remain against the law) and direct offenders away from conventional criminal justice processes into educational, treatment, or other therapeutic activities. They can take place at any stage of the criminal process, from pre-arrest up to the point of sentencing. Conditions may be imposed, and where satisfied, completion of the diversionary activity may lead to an out of court or non-statutory disposal, or no further action taken.

- Discussions of diversionary approaches are provided in Section 9 of the main report. One approach for drug possession offenders is currently delivered by Thames Valley Police (UK). Their pre-arrest diversionary pilot was introduced in 2018 and has subsequently been rolled out across the force area. People of any age, who are found in possession of any substance are eligible. A community resolution, not recorded on standard Disclosure and Barring Service checks is applied on the street (or if necessary, in custody), and the individual is referred to a local drug service. Acceptance of the diversionary referral does not require admission of guilt. Attendance at the drug service is voluntary, and individuals receive assessment, targeted education, and if appropriate, signposting/referral into drug services.
- *Checkpoint* is a voluntary adult offender deferred prosecution programme currently operating in Durham Constabulary, with interest from other English and Welsh force areas. It targets low-level offenders entering the criminal justice system by providing an alternative to criminal prosecution. This approach differs from the Thames Valley Police model as participants agree to adhere to a behavioural contract with a number of conditions, and are supported by a case worker who offers substantial and meaningful contact, and encourages them to engage with services to address drug use and other offending behaviour. If participants re-offend or do not engage with their case-worker or services then the contract is considered to be breached, prosecution is re-activated, and the offender receives a referral to court. If the conditions of the contract are satisfied, then the matter is resolved by the way of a community resolution (a non-statutory disposal that is not disclosed on background checks).

- Portugal offers a well-known diversionary approach that operates under a system of decriminalisation of drug possession (legally-defined thresholds). Other drug offences such as supply, trafficking, and production are retained. A person caught using or possessing less than the threshold amount of a drug for personal use, where there is no suspicion of involvement in supply, is referred by police for an evaluation by a regionally convened *Commission for Dissuasion of Drug Addiction* (CDT). The CDT undertakes an individual assessment before delivering its ruling. Punitive sanctions can be applied, but the main objective is to explore the need for further support, and so clients can be referred to local services, including drug treatment, (mental) health and social care, employment support, education, and child protection. Available sanctions include (but are not limited to) warnings, suspended sentences, community sentences, requirements for attendance at services (drug treatment or other types), loss of driving license, and fines. As the primary objective of the CDT is to identify people experiencing problems with their drug use and to make referrals into treatment, most attendees receive a suspended sentence.

1.6 What is the impact of introducing alternatives to drug possession offences on drug use and drug-related harms?

- In general, and specifically in relation to drug possession offences, international reviews have identified a lack of high-quality evidence on the effects of current drug policy and policy change, law enforcement actions, imprisonment, or alternatives to punishment on drug-related outcomes or offending. This assessment does not suggest that current/alternative policy approaches are ineffective, but that the necessary research has not been undertaken to support strong conclusions. It therefore cannot be predicted what the impact of different approaches to drug possession offence would be in Guernsey and Alderney, and any policy change should be accompanied by evaluation research in order to assess intended and unintended consequences.
- International evaluations of general approaches to criminal justice diversionary programmes have shown that these reduce reoffending in a number of population groups, including young offenders and offenders with mental ill health. These programmes are also cost-saving. For young people, schemes that are implemented prior to charge are more effective, and for lower-risk youth, caution programmes are more effective than structured interventions, with the opposite being true for medium- and higher-risk youth.
- There is no strong evidence that decriminalisation of possession of drug use leads to changes in drug use (increase or decrease) or related outcomes. Subsequently, there is a lack of evidence of the effects of decriminalisation on changes in drug-related harms to users and communities (e.g. a change in the scale or violence of organised crime). Similarly, there have been too few robust

evaluations of drug-diversion programmes to draw firm overall conclusions on their effectiveness in relation to drug use and related harms, although some individual studies have identified positive effects on reducing drug use. Where evidence is stronger, this is in relation to reductions in the number of people processed by courts and receiving custodial sentences, leading to a reduction in the number of people criminalised (with a reduction of indirect harms) and a reduction in criminal justice costs.

- Emerging evidence suggest that there may be potentially a number of advantages and disadvantages associated with decriminalisation and drug diversionary schemes.

Advantages include:

- reduction in the number of convictions and custodial sentences;
- increased referral to drug treatment and other services;
- reduction in substance use (NB studies have primarily assessed cannabis);
- improvement in physical and mental health of people who use drugs;
- improvement in access to actions targeting underlying determinants of offending behaviour (e.g. employment, training, legitimate income);
- reduction in social and economic harms caused by a criminal record;
- reduction in criminal justice costs, and reduced re-offending.

The success of diversion is dependent upon the interventions and services that clients are referred into, multiagency working, referral pathways, the quality of delivery, and service capacity and coverage. Client factors (e.g. substance use and offending histories) also determine outcomes, and so a graduated programme of support may be required for some people, which will have additional cost implications(Shanahan et al., 2017)(Shanahan et al., 2017)(Shanahan et al., 2017)(Shanahan et al., 2017)(Shanahan et al., 2017)(Shanahan et al., 2017)(Shanahan et al., 2017).

Disadvantages include:

- public, political, and media opposition (perceptions of ‘going soft’ on crime);
- set-up costs that may not be recouped for several years (including additional costs for partner agencies who accept referrals);
- difficulties in establishing inclusion criteria (e.g. targeted offences; thresholds for drug possession amounts);
- professional and cultural resistance (e.g. historical responses to drug use led by criminal justice);

- low levels of client engagement and high levels of drop out with voluntary schemes.

In Portugal, the legal changes that were introduced in 2001 were part of a comprehensive strategic approach that was accompanied by large investment in drug demand reduction, treatment, harm reduction, and recovery services; and an expansion of social welfare and social support. Hence effects of decriminalisation and diversion cannot be attributed to legal change alone. Keeping this in mind, there were no consistent increases in recent or heavy use of drugs (in youth or adults), and in line with national drugs strategy and investment, there was an increase in drug treatment presentations. There was a continuation of the pre-2001 trend of reduced drug-related deaths, tuberculosis, HIV, and viral hepatitis infections. Data suggested that injecting drug use also fell. As might be expected, there was a decrease in the number of arrests and imprisonments for all types of drug offences. This led to a decrease in drug-related societal costs, with the increase in treatment costs offset by a reduction of criminal justice costs, and freeing up of resource to target and prosecute other types of offence.

1.7 Deciding on appropriate models for Guernsey and Alderney

- This report does not present specific recommendations about what approach(es) should be adopted in Guernsey and Alderney. Recent work to support government decision making in Ireland on this topic recommended that stakeholders considering alternative responses to drug possession offences should take into account a number of factors that might affect implementation and delivery, and which might support or inhibit intended outcomes[4].
- When a new intervention or drug policy action is introduced, it interacts with existing social, cultural, and political contexts to trigger different 'mechanisms', which then lead to different outcomes (Figure 1-1). Contexts and outcomes are specific to different territories, and policy aims and actions, but the academic researchers undertaking the Irish review identified three interacting mechanisms that were most commonly used in the international literature to help explain how alternatives to drug possession offences might produce (un)anticipated outcomes. These were labelled i) *normative*; ii) *criminal justice*; and iii) *health and social service* mechanisms.
- *Normative mechanisms* relate to social norms, attitudes, beliefs, and the 'messages' that the law gives about the acceptability of particular behaviours. In relation to drug possession offences, introducing an alternative to punishment may 'give the message' that drug possession – and by extension, drug use – is safe and acceptable, which may lead to increased use, or use in ways that is classed as socially unacceptable, such as public drug use. Normative processes closely overlap

[4] Stevens, A., Hughes, C. E., Hulme, S. & Cassidy, R. 2019. Depenalisation, diversion and decriminalisation: A realist review and programme theory of alternatives to criminalisation for simple drug possession. *European Journal of Criminology,* 0, Hughes, C., Stevens, A., Hulme, S. & Cassidy, R. 2018b. Review of approaches taken in Ireland and in other jurisdictions to simple posession drug offences. UNSW Australia and University of Kent UK.

with *criminal justice* mechanisms. Punishment, or fear of punishment, may act as a deterrent to some people contemplating drug use, and imprisonment may incapacitate people from committing further offences. For people experiencing problems with drug use, an arrest may act as a motivation to accept a referral into treatment services (*health and social service mechanisms*).

- On the other hand, punitive responses to drug possession offences may discourage people from voluntarily seeking assistance or entering drug treatment services (*health and social service mechanisms*), because of the fear of prosecution, or the fear of being given the stigmatising label of a 'drug user'. Some research indicates that positive outcomes of treatment entry from the criminal justice system is more closely related to service and practitioner level factors, rather than the motivations provided the source of referral. Drug policy researchers have argued that because such a small proportion of the total number of people who use drugs come to the attention of the criminal justice system, then it is unlikely to have a significant impact on levels of use. Criminologists have also argued that being labelled as a 'criminal' may lead to a self-fulfilling prophecy, whereby an individual begins to disregard social norms as a result of negative societal reaction to offending behaviour, and commits further crime. As discussed in section 1.4 above, criminal justice processes are associated with significant costs: to i) the offender, in terms of health, liberty, and life opportunities; and ii) to the state with respect to the resources required, and the costs associated with further criminality, loss of employment, or exposure to criminal networks. Furthermore, as seen with other substances such as tobacco and alcohol, and as applied to less punitive approaches to drug possession offences internationally, additional restrictions and offences can be retained, such as prohibiting the use of substances in public spaces, punishing harmful behaviours associated with substance use such as driving whilst intoxicated, or imposing monitored abstention orders on violent or repeat offenders.
- Finally, in addition to interaction with the two other pathways, *health and social service mechanisms* help to explain how the processes that lead to increased opportunities for contact with services (e.g. through diversion activities) may lead to better health and social outcomes compared with contact with the criminal justice system alone. Screening and triage is an essential component of this mechanism and ensure that individuals receive the most appropriate and effective programme of support for their use of drugs. For some people this may mean minimal or no intervention, but for others this may mean a targeted and graduated system of support. Decision makers therefore need to consider whether this system is available, what other development activities/resources are needed, and whether there will be buy-in from relevant stakeholders.

- There therefore needs be clarity about relevant contexts, and the pathways and mechanisms that might lead to the desired outcomes, as these will determine whether new action is likely to be successful or not. Participants at the professional stakeholder event were asked to identify and discuss some of these contextual factors and valued outcomes, and these are summarised in Table 1-1 alongside other evidence included in the review.

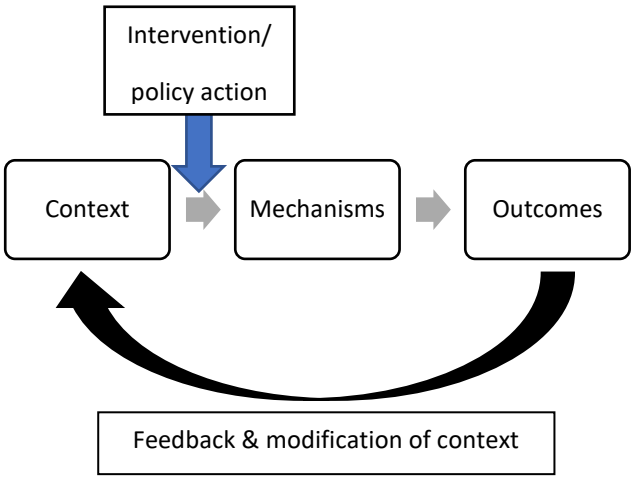


Figure 1-1 Simplified model illustrating the relationship between introduction of new measures and existing socio-political contexts. After Stevens and colleagues (2019)

1.8 Summary and concluding remarks

- Alternative and non-punitive approaches to drug possession offences are compatible with international drug control Conventions, and contemporary international drug policy norms.
- There are a number of well-described models that have been delivered internationally, and as more countries are adopting these approaches there are good opportunities for learning. Some policy actions may require legal change, but others, such as some types of diversionary approach, can be delivered under existing legislation. Some offences can be retained, or new offences created for drug-related behaviours that fall out of scope of policy focus.
- Although there is no definitive evidence that adopting alternative approaches to drug possession offences lead to a reduction in drug use and related harms, this is also true of existing punitive responses. There is, however, emerging evidence from a number of countries that alternative approaches can reduce criminal justice costs and increase the number of referrals to support services for those individuals who need it. These approaches are supported by the public and professionals (including the police) when clearly explained and when stakeholders are involved in

the policy process. Importantly, introduction of alternative approaches does not appear to increase drug use by 'giving the message' that drug use is 'acceptable'.

- A number of advantages and disadvantages have been identified in adopting the different approaches described in this report. Analysis of the Guernsey and Alderney context suggests that whilst the local drug situation might be unique, there are several structural, cultural, and institutional factors that align with those of territories that have successfully introduced alternative approaches. These include, but are not limited to, the relatively low levels of Class A and harmful drug use, relatively high numbers of drug possession outcomes that include a custodial outcome, opportunities for out of court disposals, low public support for punishment of minor offences that affect people's life chances, and the availability of community and clinical services that can provide support for a range of drug-related and offending needs.
- Decision makers should identify, and prioritise those outcomes they would expect from the introduction of alternative approaches to drug possession offences. The reasons why particular outcomes are valued should also be considered by stakeholders. For example, the perceived deterrent effects of retaining possession offences, compared with the potential savings on criminal justice costs and reduction of harms related to criminal justice contact and increased voluntary presentation to services. These outcomes should be in alignment with the strategic priorities of the Combined Substance Misuse Strategy. Internationally, alternatives to drug possession offences have been most successful when delivered as part of a package of supportive drug strategy actions.
- Public consultation on any proposed policy change should seek to identify public awareness and understanding of the determinants and consequences of drug use, attitudes towards people who use drugs (and those who need support), and current responses to drug use in Guernsey and Alderney. A clear description of the policy proposal should be provided, accompanied by likely advantages and disadvantages. Consultation should also acknowledge the values that underpin the policy proposal, as these may be different to the attitudes and perceptions that the public hold towards people who use drugs, and therefore their preferences for responses to drug possession offences.
- In parallel, consultation with those professional groups currently delivering drug strategy actions should be undertaken. Introduction of alternative approaches to drug possession may pose challenges to professional cultures, beliefs about the 'best' way of responding to drug use, and who should take the lead on this. Alternative approaches may require new resources, referral pathways and agreements, and service development. Unless new funding is available, this can lead to reallocation of resources away from some sectors. However, it is noteworthy that in some

countries, changes in policy and practice have been driven by those professional groups that have traditional led punitive responses to drug possession offences (e.g. police, prosecutors).

- If decision makers decide to introduce new approaches to possession offences, then evaluation and monitoring should be an integral part of policy development and delivery. This would require some changes to the current data infrastructure, which has resource implications. Previous work in this field has shown that policy change in 'controversial' areas that includes a commitment to evaluate and review progress, is more likely to draw stakeholder support.

Table 1-1 Contexts and outcomes of alternative approaches to drug possession offences relevant to Guernsey and Alderney. Framework based on the work of Stevens et al 2019; [1] Identified through stakeholder discussion, and evidence presented in this review

Factor	Description	Examples from the Guernsey & Alderney context[1]	Comments
Context			
Structural	How policy is developed, who is involved in that process (and who is not), and what relationships, values and preferences are important	• Transference of responsibility for drug strategy to the HSC • Commissioning of the Justice Review, this review, and the medicinal cannabis review suggests that stakeholders are open to change • Development of a Combined Substance Misuse Strategy	
Cultural	The wider societal values that determine whether policy change will be accepted and what change looks like	• Recent public surveys suggest a majority of respondents think that sentences for drug possession are too strict, and that criminal records shouldn't be given for minor offences if it affects future life-chances	Unknown how the public interprets 'minor offence' or levels of support and understanding of the different alternatives to possession offences described in the review
Political environment	The political context into which change is delivered, and the likely windows of opportunities and levers of change	• Combined Substance Use Strategy driven by the Committee for Health& Social Care, with a specific instruction to commission this report	
Legal system	The legislation and system of law required to implement activities	• Major changes to legislation would be required for some alternatives, including amendments to the Misuse of Drugs Law 1974 • New offences may be required to cover possession offences not exempted by changes in law • *De facto* diversion approaches and depenalisation would not require legal change • Administrative law structure already in place	Clear guidelines required on *de facto* approaches (e.g. police-led diversion) with strong buy-in from relevant services to ensure consistency of implementation
Illicit market for drugs	The nature of the drugs market, demand for drugs, and patterns of use and harm	• Unique drug situation that is different to other territories that have implemented alternative approaches to possession • Relatively low levels of drug-related crime • Majority of drug use and drug possession offences relate to cannabis, which may be considered a relatively lower-risk drug	Most international approaches have targeted cannabis use, so good potential for learning from existing models; Relatively low levels of drug-related crime (e.g. acquisitive crime) suggests that the majority of possession offenders needs could be served by interventions and activities focusing on their

			substance use (i.e. advice, education, and treatment), rather than more complex programmes addressing offending behaviour.
Use of criminal sanctions	Resource utilisation for prosecuting drug possession offences	• Relatively high number of drug possession offences include a custodial component • Relatively high overall rate of imprisonment compared to relevant jurisdictions	Data availability limits assessment of this factor. No data available on costs of prosecuting and resolving drug possession offences
Culture and priorities of police and prosecutors	Professional cultures that support or oppose the use of alternative approaches. Beliefs and values of role of the criminal justice system in addressing drug related harm	• Criminal justice sector valued as partner in approaches to reducing drug related harms • Use of out of court disposals and other available powers is currently low • Possession offences sometimes seen as useful tool in targeting more serious offenders	Further work is required to better understand whether police and prosecutors would support alternatives to possession offences, and if this would support prioritisation of other offences
Healthcare and welfare systems	Demand reduction, harm reduction, treatment/recovery support already available for people who drugs, and the capacity and quality of that system. New service/capacity requirements	• Existing portfolio of services suitable for delivery of diversionary activities • Referral pathways and resourcing of diversionary activities would need to be reviewed • Some services will need to be reoriented towards referral from community, and away from the criminal justice system	Evaluations of international systems have concluded that capacity, quality, and resourcing of necessary referral services should be established prior to change
Research/evaluation capacity	Data collection and reporting systems that monitor delivery, utilisation, and outcomes from the system. Capacity and resource to (independently) evaluate policy outcomes, and to help refine approach	• There are domestic health and criminal justice monitoring systems, and annual key indicator surveys • Sufficient internal capacity for monitoring process activities and throughput, but lack of specialist local evaluation expertise (this review was externally commissioned) • New systems to monitor delivery of alternative approaches would have to be developed	Stakeholders noted the need for a unified drug treatment monitoring system; refinement of existing data collection systems would be required to adequately capture new activities for purposes of evaluation
Outcomes			
Direct	Health, social, and community outcomes directly related to the activities delivered, and which are directly related to drug possession offences	• Some relevant outcomes are already included in the Drug and Alcohol Strategy 2015-2020 • Reporting mechanisms already in place: key indicators and monitoring reported in the annual Drug Strategy, Police, Law Enforcement, Children's Convenor Reports, and in the 2019 Joint Strategic Needs Assessment and annual in the	Selected outcomes should be related to the activities delivered, the mechanisms underpinning alternative approaches, and should be feasible and measurable - i.e. the system should not be 'set up to fail' through unrealistic expectations, lack of data, or evaluation based on outcomes that are not relevant to possession offences. The 'signals' that introduction of alternative approaches may give may lead to unexpected
Indirect	Health, social, and community outcomes indirectly related to the activities delivered, and which are indirectly related to drug possession offences		

		• Relevant baseline data already available for outcome monitoring/evaluation purposes	outcomes, such as greater willingness to declare drug use in prevalence surveys, or 'net widening' by police Alternative approaches to possession may contribute to broad strategic aims, but should only be considered alongside, and as part of, a whole system of activity. There may be feedback loops between different activities and outcomes, so that failure and success in one part of the system (e.g. drug seizures, effective prevention programmes) may affect another. Outcomes can improve or worsen, but these may be related to factors external to the policy change, or related to the way in which the policy is implemented. Depending upon the approach adopted, direct outcomes may include indicators such as drug use prevalence, types of drugs used, and frequency and amount of drug use; arrests, prosecutions, criminal convictions and imprisonment; referrals into treatment or other support services such as housing and employment; the total economic cost of drug-related crime. Depending upon the approach adopted, indirect outcomes may include indicators such as drug-related hospitalisations and deaths; treatment outcomes; social functioning; public perceptions and stigma towards people who use drugs; recorded offences for other types of crime (as police time is freed up)

2 About this report

This report was commissioned by the Committee for Health & Social Care, through Public Health Services, to provide a review of the evidence base, including international evidence, on the interaction between health and criminal justice systems with respect to drug use, and how this could promote the health, wellbeing, and safety of people who use drugs and of the wider community. More specifically, it comprises a narrative of health-orientated approaches to the possession of small amounts of drugs for personal use. Consideration of legal regulation of controlled drug markets ('legalisation') is beyond the scope of the report. Specific objectives included:

- Analysis of local trends in Guernsey and Alderney in relation to drug use;
- A summary of the current situation in Guernsey and Alderney with regard to drug use and the criminal justice system, including an analysis of local law, conviction rates and length of sentences;
- A summary of international health-orientated approaches to the possession of small amounts of drugs for personal use;
- A summary of evidence for different approaches on health and criminal justice outcomes;
- An appraisal of possible models for Guernsey and Alderney;
- Consideration of the public acceptability of any policy or legislative change; and
- Consideration of the role of public consultation process in relation to the possession of small amount of drugs for personal use.

The review takes the form of a secondary analysis and presentation of available drugs-related data, and a non-systematic rapid review of international approaches to health-orientated approaches to the possession of small amounts of drugs for personal use. During the early stages of undertaking the work, Hughes and colleagues published a comprehensive review on the same topic commissioned by the Irish Department of Justice & Equality and The Department of Health to inform Irish National Drug Strategy development and delivery (Hughes et al., 2018b) (embargoed until August 2019). Rather than replicating that work, this report summarises the main findings, with a focus on those approaches with most relevance to Guernsey and Alderney. Hence, the valuable contribution of the earlier work of Hughes and colleagues to the current review is fully acknowledged.

The review was supplemented by a stakeholder consultation event which took place in Guernsey in December 2019 (participants listed in Appendix 1). This provided an opportunity to present the emerging findings, to receive a local interpretation of the data analysis, and to receive feedback on

two of the highlighted alternative approaches to possession offences reviewed in this report for options appraisal (diversionary approaches, referral from arrest; section 9). The findings of this event are not reported separately but summaries of discussions are incorporated, and inform the writing and interpretation throughout.

The final two objectives of the review (public acceptability; public consultation) are not addressed in detail in this report. There is limited evidence available on public acceptability of health-orientated approaches to drug possession, although some relevant questions were included in the 2019 Justice Review public survey (summarised in Section 0). International opinion surveys (including those conducted in the UK) predominately focus on decriminalisation or legalisation of cannabis, or the general acceptability of poorly defined 'public health' compared to 'criminal justice' led approaches to drug use, rather than specific intervention approaches. Where data on acceptability of particular approaches does exist then this is summarised in relevant sections in the report. Recommendations for a public consultation on approaches to possession of small amount of drugs for personal use form part of the conclusions of the report, but it was beyond the scope of the commissioned work to undertake this activity.

3 Policy and governance: background to the review

The States of Guernsey's Bailiwick Drug and Alcohol Strategy 2015-2020 (BDAS) aims to minimise the harm caused by alcohol and other drugs. The strategy includes six main priority areas (

Figure **3-1** Drug and Alcohol Strategy Framework 2015 – 2020

), monitored by a series of Key Performance Indicators, and reviewed annually (The Health Improvement Commission for Guernsey & Alderney LBG, 2018):

- Reducing supply and demand;
- Supporting children, young people and families;
- Working in partnership;
- Providing treatment;
- Encouraging responsible choice; and
- Monitoring work streams through training, data collection, monitoring and evaluation.

Operational delivery of the BDAS is governed by the Health Improvement Commission for Guernsey and Alderney LBG, and overseen by the BDAS Technical Team who advise on the planning, delivery and evaluation of the Strategy. In 2017, the strategic responsibility for the BDAS was transferred from the Committee for Home Affairs into the Committee for Health and Social Care (HSC).

This transition provided an opportunity to broaden the scope of policy action to further develop drug demand and harm reduction activities (including education, prevention, treatment, social reintegration, needle exchange), alongside supply and use restriction priorities. Considering the burden of harms produced by use of alcohol, tobacco and other drugs, a Combined Substance Misuse Strategy is being developed, and this will bring together the Guernsey and Alderney Tobacco Control Strategy 2014-2020, and BDAS.

Strategy development will be informed by the 2019 Committee for Health and Social Care Joint Strategic Needs Assessment (JSNA), focusing on the health and care needs in relation to use of alcohol and other drugs. The current review was also commissioned by the HSC as part of Strategy development. A parallel review of justice strategy and its relationship with social justice and related policies (including public and professional views) has been commissioned by the Committee for Home Affairs to provide a blueprint for future criminal justice strategies (Do It Justice and Crest Advisory, 2019). The report includes some novel data and discussions related to drugs offences, and is referred to and cited herein.

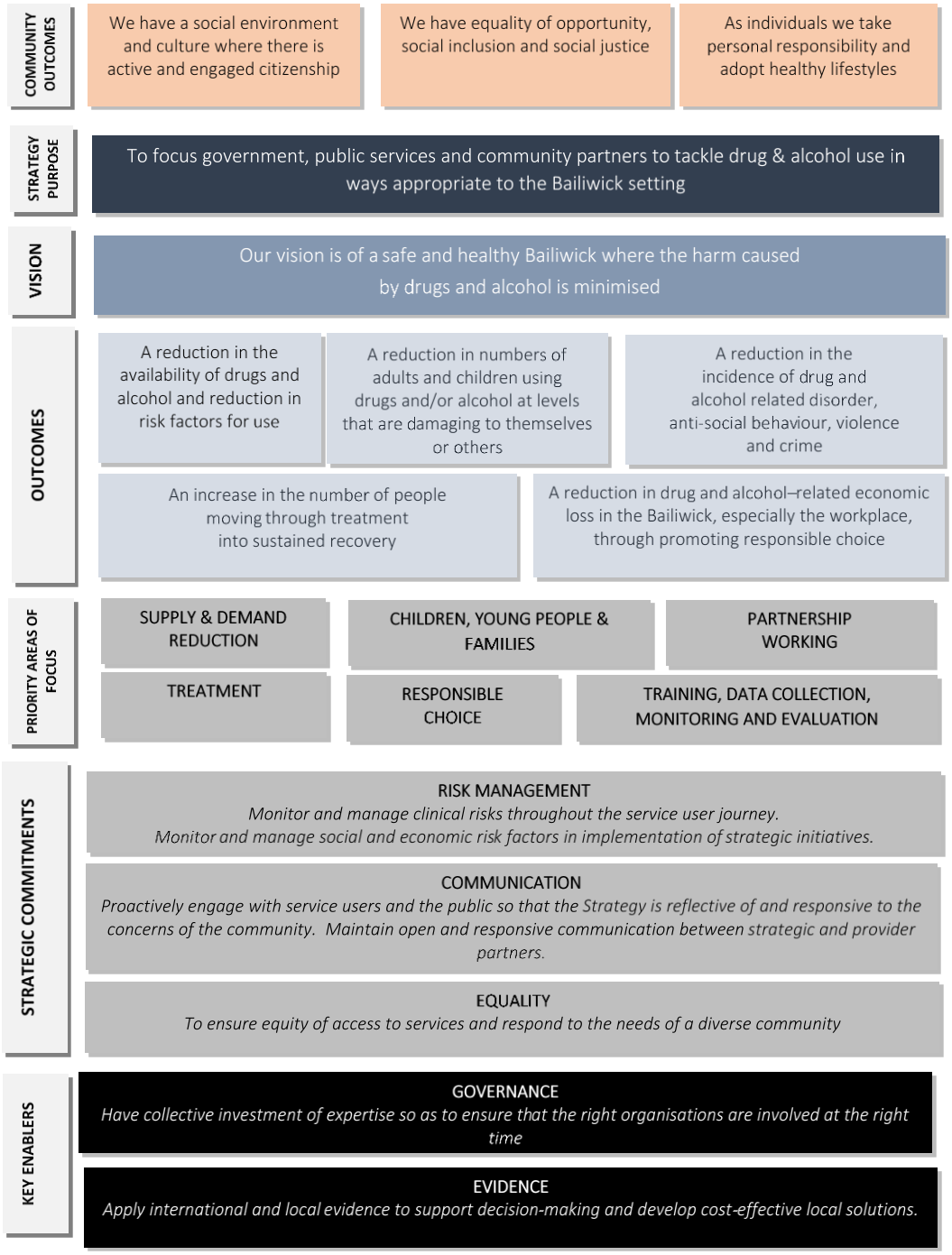


Figure 3-1 Drug and Alcohol Strategy Framework 2015 – 2020

4 Current law on possession of drugs in Guernsey and Alderney[5]

The law on drug possession offences in Guernsey and Alderney is determined by Section 4 (2) and Section 4 (3) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974. Exemptions are provided through prescriptions for controlled drugs, licencing (e.g. for scientific research), activities lawfully undertaken as part of professional practice (e.g. medical practitioner, pharmacist), safe custody, or destruction of controlled substances. Defences include possession for the purposes of preventing another from committing or continuing to commit and offence, with the purposes of destroying the drug, or delivering it to a person lawfully entitled to take custody of it. The law further provides restrictions on possession with intent to supply, regardless of whether possession is lawful.

Where referenced, possession offences are defined in this report as those controlled by the Misuse of Drugs Law 1974, and which are not exempted by the Law. It does not include possession with intent to sell or supply, as this is primarily a supply offence.

Custodial punishments for i) possession and ii) possession with intent to sell or supply offences are provided in Table 4-1 below. These are based on drug Classification band (i.e. Class A, B, or C), as specified in Parts I-III of the Controlled Drugs Schedule. Unlike the UK, which also applies Classification banding, there are no formal sentencing guidelines in Guernsey and Alderney, and as applied in Bassford v. Law Officers (Royal Ct.), 2007–08 GLR 330, and Driscoll v. Law Officers (Royal Ct.), 2009–10 GLR N [15], the length of sentence is determined by the controlled drug Class, quantity of drugs involved, and individual factors, including mitigation. For Class A drug possession offences, a fine is normally considered inadequate and leniency is only justified only if possession concerns a 'minute quantity' (Bassford v. Law Officers (Royal Ct.), 2007–08 GLR 330).

In accordance with The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, the length of time before a conviction is considered to be 'spent' is based upon the original sentence. For adults, for periods of up to 6 months imprisonment this is 7 years (3.5 years for those aged under 18 years); for sentence lengths of 6-30 months 10 years (5 years); fines, community service orders 5 years (2.5 years); probation and supervision orders 1 year of at the end of the order (1 year); and for cautions, 6 months. Custodial sentences of 30 months to life never become spent. Drugs offences are categorised as Category 2 offences, and a person with two Category 2 offences is considered to have a serious

[5] This report primarily focuses on possession offences, as these are the ones most likely to be committed by people who use drugs, and individuals who require support for problems related to the use of substances. However, discussion of production, supply, importation and other drug offences, and drug-related offences are included where appropriate.

criminal record. Job applicants may be asked to declare all unspent convictions to potential employers, and roles with high requirements of risk management (e.g. working with children, law enforcement) require compulsory disclosure.

Section creating offence	Nature of Offence	Mode of prosecution	Class A	Class B	Class C
Section 4(2)	Having possession of a controlled drug	Summary offence	12 months[1] or three times level 5 on the uniform scale[2], or both	6 months, or level 5 on the uniform scale, or both	6 months or level 5 on the uniform scale, or both
		Indictable offence	14 years or a fine or both	10 years or a fine or both	4 years or a fine, or both
Section 4(3)	Having possession of a controlled drug with intent to supply it to another	Summary offence	12 months or three times level 5 on the uniform scale, or both	12 months or three times level 5 on the uniform scale, or both	6 months or level 5 on the uniform scale, or both
		Indictable offence	Life or a fine, or both	21 years or a fine, or both	14 years or a fine, or both

Table 4-1 Punishment of drug possession and possession with intent to supply offences under the Misuse of Drugs Law 1974. [1] Maximum sentences; [2] Level 5 fines can be imposed at an amount up to £10,000.

5 Drug use in Guernsey and Alderney

5.1.1 Prevalence of use

Continuous surveys of substance use are not currently undertaken in Guernsey & Alderney, and so it is not possible to present accurate prevalence estimates or trends in the number of people who use drugs. However, a number of individual surveys have been undertaken which include some items pertaining to substance use, and these are summarised here.

5.1.1.1 Young people

Health behaviour surveys were undertaken with Guernsey & Alderney school pupils in 2010, 2013, 2016, and 2019 (Years 6 [aged 10-11], 8 [aged 12-13], 10 [aged 14-15]), with a Year 12 (aged 16 and 17) survey undertaken in 2017. These data show that reports of drug offers and drug use have remained stable.

The most recent secondary school survey (2019; n = 856 respondents who indicated gender) was delivered online and developed in conjunction with the Schools Health Education Unit (SHEU) (Schools Health Education Unit, 2019b). In 2019, just over one third (35%) of secondary school pupils (Years 8 and 10) were 'fairly sure' or 'certain' that they knew someone personally who used controlled drugs. This was 34% in 2016, 21% in 2013, and 34% in 2010. Eighteen percent of pupils (21% boys; 15% girls) had been offered cannabis; this was a slight increase from 17% in 2016, but only 9% of pupils reported being offered cannabis in 2013, and 10% in 2010. Eleven percent of respondents reported that they had ever taken a drug in their lifetime, an increase from 11% in 2016, 6% in 2013, and 11% in 2010. The drug most commonly reported was cannabis (9%), which was the same as 2016 (9%), but an increase since 2013 (4%). **Table 5-1** shows the proportion of Year 10 pupils who reported using cannabis in the previous month. Although prevalence increased between 2013, 2016, and 2019 the small number of positive responses means the data should be interpreted with caution.

	2007 (n = 482)	**2010 (n = 447)**	**2013 (n = 457)**	**2016 (n = 473)**	**2019 (n = 423)**
% reporting use of cannabis in the previous month (n)	6.5% (31)	3% (13)	2% (9)	6% (28)	11% (47)

Table 5-1 Use of cannabis in Year 10 respondents to the SHEU survey

Unsurprisingly, responses in primary school pupils (n = 590) were lower for all drug-related items (Schools Health Education Unit, 2019a) . Nine percent of pupils responded that they were 'fairly sure' or 'certain' that they knew someone personally who used controlled drugs. This had increased from 6% in 2016 (7% in 2013 and 9% in 2010). One percent of pupils (1% in 2013) responded that they have been offered cannabis (same as 2016), and 1 % of pupils reported (2% in 2016; 0% in 2013) that they have been offered drugs other than cannabis. Primary school pupils were not asked about personal use of drugs, and so no comparison between years was undertaken.

In 2016 the survey was undertaken with year 12 students (n = 821), and 58% of respondents were 'fairly sure' or 'certain' that they knew someone personally who used controlled drugs; 42 % had been offered cannabis; 25% had ever used a controlled drug; and 11% reported using a drug in the previous month (primarily cannabis). This was the first time the survey had been conducted and so comparisons could not be made with previous years.

For comparison, the English Schools Smoking Drinking and Drug Use survey is undertaken biennially, and last reported in 2019 (survey conducted in Autumn term 2018) (NHS Digital, 2019). This is a nationally representative survey of school pupils aged 11-15. This data suggests that drug use in English pupils is higher than in Guernsey. Thirty eight percent of pupils had been offered any type of drug in their lifetime (22% cannabis). In 2018, 23.7% of pupils (38.1% of 15 year olds) reported ever having taking any type of drug. Cannabis use in the previous year increased from 7.9% in 2016 to 9.0% in 2018. However, in 15 year old boys this was 20.6% (a 16% increase), and in girls 17.8% (a 7.8% decrease).

5.1.1.2 Adult population

The Guernsey Wellbeing Survey is conducted every five years, with the latest data collection wave undertaken online in 2018 (previous waves were a postal survey). Although the full survey findings have not been published, some data were made available for this report. This is a self-selecting survey and so estimates are not necessarily representative of the population. Respondents were asked about their use of cannabis and other drugs. Eleven percent of people in Guernsey & Alderney reported use of cannabis in the previous 12 months, and 5% had used it in the previous month. Four percent of respondents reported use of other controlled drugs in the previous 12 months. Prevalence of cannabis was highest in 16-24 year olds (38%) although the sample size was small for this age group so the estimate should be treated with caution. In comparison, in the 2013 survey, 5.1% reported cannabis in the previous year, and 0.6% in the previous month. Four percent of respondents reported use of any other drug in the previous year and 1% in the previous month. Again, use of cannabis (16.2%) in the previous year was highest in 16-24 year olds.

Although not directly comparable, the Crime Survey for England and Wales is a nationally representative household survey of 16-59 year olds' experiences of crime and includes a self-reported drugs module that provides robust estimates of use of the most popular substances. It is a continuous survey and last reported in 2019 (2018/19 data). In 2018/19 9.4% of respondents reported using any drug in the previous year, and 7.6% reported use of cannabis. Respective estimates for last month use were 5.0 % and 4.0%. Drug use was also highest in 16-24 year olds, and 20.3% reported use of any drug, and 17.3% cannabis in the previous year. Respective estimates for last month use in this age group were 11.4% and 9.5%.

The Crime and Justice Survey is a biennial household survey which collects feedback from residents on the activities of the criminal justice system in Guernsey. The 2015 survey had a sample size of 1055, and included some questions on drug use.

49.4% of respondents thought that drugs were a major cause of crime in Guernsey (54.5% in 2013). This was the third most frequently reported answer, behind lack of discipline from parents (53.4%; 44.9% in 2013), and alcohol (66.6%; 66.9% in 2013). 10.6% reported being 'involved' in the use of illegal drugs (the wording of this question could be interpreted to relate to any offence under the Misuse of Drugs Law). This was 22.5% in 2013. When asked which drugs this involved, 90% reported cannabis (61.1% in 2013), followed by 30% reporting Ecstasy (18.2% in 2013), and 17.0% cocaine (14.8% in 2013). Less than 5% reported heroin (13.0% in 2013).

5.1.2 Drug treatment and support

Specialist substance use treatment in Guernsey is provided by three community-based services; the Community Drug and Alcohol Team (CDAT), In-Dependence (formerly Drug Concern), and the Guernsey Alcohol Advisory Service (GAAS). Action for Children (AfC) provide the Young Peoples' Substance Misuse Service (YPSMS) for young people under the age of 25, and deliver prevention, education, and outreach activities, and specialist and intense support for those with complex needs. They take referrals from the local health professionals and families, as well as making onward referrals to structured treatment providers where appropriate. Residential treatment to support (medically) supervised detoxification is provided in the Crevichon Ward at the Oberlands Centre, GAAS at Brockside, and St Julian's Hostel. However, data from these three service providers was unavailable for this report. Although primarily an alcohol service, GAAS supports clients who report co-use of controlled drugs (see also Section 5.1.2)

The majority of dedicated annual drug and alcohol funding is allocated to adult community (£222,000) and criminal justice (£121,000) treatment services. Funding for substance use services is included in young peoples' service budget (£211,000).

Data on treatment is not collected centrally using a standardised monitoring system (such as the National Drug Treatment Monitoring System (NDTMS) in England), and so it is not possible to present trend data or comment on the outcomes of treatment. However, data are collated in annual Bailiwick Drug and Alcohol Strategy reports, and these are summarised here (The Health Improvement Commission for Guernsey & Alderney LBG, 2018).

5.1.2.1 Treatment: Young people

201 young people accessed AfC in 2018, and of these 101 (48.3%; n = 60, 59% males) reported substance use issues (n = 137 in 2015; 124 in 2016; data not reported for 2017). The percentage of clients presenting to AfC with drug use between 2014 and 2018 is shown in Figure 5-1. Although there was a slight dip in male presentations in 2015, this has remained relatively stable in both males and females. For comparison, male alcohol use fell from 41% in 2014 to 31% in 2018; and in females 32% to 28%. In total, 29 young people (29% of clients) received intensive interventions, and 16 (16%) received clinical intervention from specialist agencies. 53 (25%) Young Parents were additionally supported within AfC and of these, 30% were assessed as requiring support with substance use.

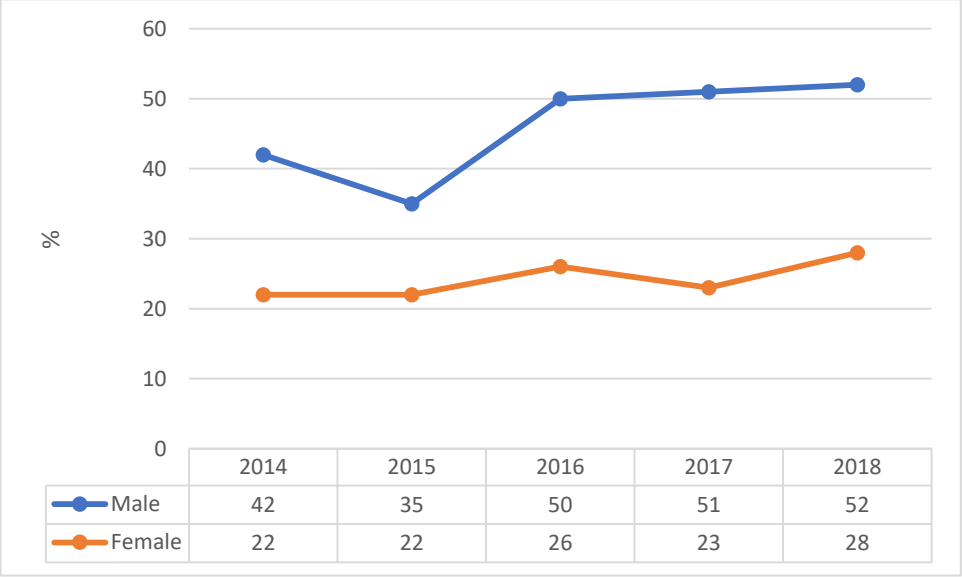


Figure 5-1 Presentations to AfC reporting substance use (2014-2018)

There were 148 referrals into the Youth Justice Service in 2018, and in 40 cases (27.0%), offending behaviour was judged to be associated with substance use. In 2016, this was 40 (32.3%) and in 2017, 35 (25.7%) (data not collected in 2015).

Six children were referred to the Children's Convenor for non-offence related concerns over substance use (alcohol and other drugs) in 2018 (Convenor and Tribunal Board, 2018). This number

is stable, and 5 or fewer were referred between 2014 and 2017. Data on referrals to the Convenor from the criminal justice system for drug offences is presented in Section 5.

There were 67 (55%) children on the Child Protection Register in 2018 (n = 121) where use of substances has been identified as a parental risk factor. This represents a fall since 2017 (n = 45; 58%) and part of a long-term downward trend since 2007 (n = 44; 79%)

5.1.2.2 Treatment: Adults

Although primarily an alcohol treatment service, **GAAS** have reported an increase in clients reporting use of other substances. In 2018, 41 (51% of n = 80 total clients) reported using prescription drugs (an increase from 25% in 2017, total n = 63; 2016 15.4%, n = 12; 2015 25.0%, n = 23) and 23 (29%) reported illegal drugs (8%, n= 5 clients in 2017; 2016 15.4%, n = 12; 2015 15, 16.3%).

75 new clients entered **In-dependence** community services in 2018 (82 in 2017); 37 into the Criminal Justice Substance Service (CJSS; in partnership with the probation service) (65 in 2017); and 44 in the prison treatment services (75 in 2017). There were also 165 people entering into the prison estate (140 in 2017) who required support with substance use. Of these, 50 (30.3%) were prescribed suboxone or dihydrocodeine prior to reception, suggesting opioid use. Only the total number of clients were reported in 2015 and 2016 and these were 76 and 73 respectively in community services, and 124 and 104 in clients serving custodial sentences. In 2016 (no data for 2015), 34 clients sought support for opioids (19%), 44 for cannabis (25%), 25 for other drugs (14%) and 74 for alcohol (42%). Up to Q 3 2019 (January to June), 23 clients were in contact with CJSS, 65 in the prison service, and 46 in the community service.

CDAT reported 102 new clients requiring support for substance use in 2018 (101 in 2017). Clients' substance use is shown in **Table 5-2**. 26% of females and 38% of males report use of opioids only; and 10% of females, 11% of males report use of other drugs, either with or without alcohol. The largest age group attending drug treatment services are those aged under 35 years.

	Female N (%)	**Male N (%)**
Opioids only	8 (26%)	27 (38%)
Non-opioids only	0 (0%)	1 (1%)
Non-opioids/other with Alcohol	3 (10%)	7 (10%)
Alcohol only	20 (64%)	36 (51%)
Total	31 (100%)	71 (100%)

Table 5-2 Substance Use in CDAT clients (2018)

As of June 2019 (latest data available), 152 clients were in receipt of opioid substitute medication; 67 of these were prescribed with suboxone under supervision at community pharmacies, and 91 were prescribed with dihydrocodeine. Respective data for 2017 was 78 and 75. As reported in the JSNA, since the start of April 2019, the number of people prescribed dihydrocodeine has fallen from 69 to 43 (a 38% reduction).

5.1.3 Drug-related morbidity and mortality

As reported by the 2019 JSNA, Princess Elizabeth Hospital coded 375 Emergency Department presentations in 2018 relating to drug use.

There were 33 registered drug poisoning deaths[6] between 2001 and 2015 in Guernsey and Alderney, primarily in males (58%) and those aged under 40 (61%) (Public Health Intelligence Unit, 2016). Deaths most frequently relate to prescription medicines, including fentanyl (n = 7); diamorphine (n = 4); dextropropoxyphene (n = 3); dihydrocodeine (n = 2); and morphine (n = 2). No deaths associated with other drugs such as cocaine, cannabis, and MDMA were recorded. There are approximately three drug poisoning related deaths per year in Guernsey and Alderney, and it has been estimated that these represent 63 Years of Working Life Lost (YWLL) (JSNA 2019).

Eighty people are currently receiving treatment for Hepatitis C that has been linked to injecting drug use (total of 100 cases in Guernsey). According to the JSNA, none of the 40 patients with HIV who are being cared on the island contracted the virus through injecting drug use.

[6] In accordance with ICD-10 classifications, and including: Mental and behavioural disorders due to drug use (excluding alcohol and tobacco), F11–F16, F18–F19; Accidental poisoning by drugs, medicaments and biological substances, X40–X44; Intentional self-poisoning by drugs, medicaments and biological substances, X60–X64; Assault by drugs, medicaments and biological substances, X85; Poisoning by drugs, medicaments and biological substances, undetermined intent, Y10–Y14.

6 Drug law offences

This section summarises recent data provided by relevant stakeholder agencies on offences under the Misuse of Drugs Law 1974, with a focus on possession offences. Data extracts were provided in August 2019, although some updates based on secondary data analysis are included in the text.

As shown in **Table 6-1**, border drug seizures are primarily for cannabis and cannabis preparations. There were a high number of seizures in 2017 due to large numbers of seized cannabis (herbal and resin) as well as for MDMA. The 2019 JSNA report notes that "*Guernsey's drug environment is unique*" (pg 22) because of a limited number of ports of entry, strong border enforcement actions, and other geographic factors mean that importing and sourcing controlled drugs is difficult. However, the JSNA highlights a growing stakeholder concern over diversion of controlled prescription only medicines (including opioids), which are not captured in border seizure data.

Classification		**Number of seizures**		
		2016	**2017**	**2018**
A	Cocaine (all forms)	3	5	6
	Heroin	0	0	2
	MDMA (tablet)	8	9	4
	MDMA (powder)	1	11	7
	Methylamphetamine (methamphetamine)	3	0	0
	LSD	1	1	0
	Cannabis Oil	0	0	1
CLASS A TOTAL		**16**	**26**	**20**
B	Amphetamine (powder)	1	2	1
	Dihydrocodeine	0	1	0
	Cannabis (whole plant)	0	0	1
	Cannabis (resin)	34	56	19
	Cannabis (herbal material)	5	68	44
	CBD Capsules / Pills	0	0	5
	CBD Liquid	0	0	12
	Mephedrone	2	0	0
	CLASS B TOTAL	**42**	**127**	**82**
C	Anabolic Steroids	4	7	6
	Anabolic Steroids (vials)	7	5	9
	Benzodiazepines (general)	4	0	0
	Ketamine	1	0	0
	Diazepam	2	8	10
	Buprenorphine (tablets)	0	1	0
	Other Class C medication	0	0	3
	CLASS C TOTAL	**18**	**21**	**28**
	OVERALL TOTAL	**76**	**174**	**130**

Table 6-1 Drug importation seizures by Guernsey Border Agency for the years 2016 and 2017. Data adapted from Bailiwick of Guernsey Law Enforcement (2018). Annual Report 2017. States of Guernsey.

Table 6-2 and **Figure 6-1** summarises the total number and type of controlled drug offences in Guernsey and Alderney between 2016 and August 2019. No assessment has been made of data quality and so values may be subject to change, but they do provide information on relative changes in recent years. Between 2016 and 2018 there was a mean of 251 controlled drug offences per year, with possession for personal use offences comprising 59-62% of these. For comparison, overall crime increased by 11% between 2012 and 2018, and this had risen by 54% since 2016 (Do It Justice and Crest Advisory, 2019). Drug offences comprised 7% of all crime recorded by police in 2018, with the most frequently recorded offence types being violence against the person (33%), criminal damage and arson (21%) and theft (16%)[7].

	2016	2017	2018	2019[1]
Possession of a controlled drug for personal use[2]	**118**	**198**	**148**	**72**
< 18 years	1	6	9	5
Males	102	168	127	67
Possession of a controlled drug with intent to supply	**14**	**32**	**19**	**14**
< 18 years	0	2	1	2
Males	11	28	17	12
Cultivation or production of controlled drugs[3]	**10**	**12**	**8**	**8**
< 18 years	0	0	0	0
Males	10	10	9	6
Importation of controlled drugs[4]	**28**	**56**	**50**	**39**
< 18 years	0	1	0	1
Males	20	50	41	34
Supply of controlled drugs	**5**	**40**	**15**	**24**
< 18 years	0	2	0	1
Males	4	34	12	17
All controlled drug offences	**175**	**338**	**240**	**157**
< 18 years	1	11	10	9
Males	147	290	205	136

Table 6-2 Recorded controlled drug arrests 2016-2019. NB arrests do not refer to individuals as one person can have multiple arrests for the same offence. Offences recorded between 18/03/2016 and 13/8/2019; [1] offences recorded up to 13/8/19; [2] includes one offence of permitting premises to be

[7] 2018 Law Enforcement Annual Report

used to smoke cannabis recorded in 2016; [3] including cultivation of cannabis; [4] offences include importing a controlled drug; concerned in the importation of a controlled drug; knowingly importing a controlled drug (fraudulent evasion); knowingly concerned in the importation of a controlled drug (fraudulent evasion); knowingly attempting to import a controlled drug; knowingly concerned in attempted importation of controlled drug.

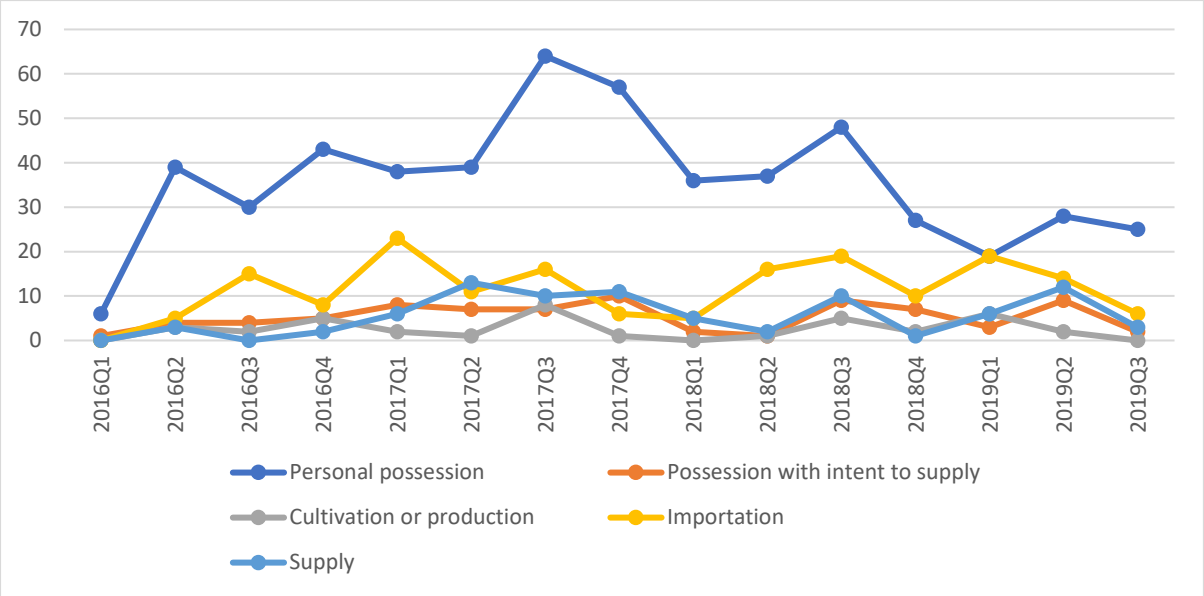


Figure 6-1 Recorded arrests by offence type and quarter (18/3/16 - 13/8/19)

	2016	2017	2018	2019[1]
Possession of a controlled drug for personal use	**41**	**185**	**152**	**97**
< 18 years	9	24	21	10
Males	38	166	141	95
Possession of a controlled drug with intent to supply	**0**	**9**	**4**	**2**
< 18 years	0	3	1	1
Males	0	8	4	2
Cultivation or production of controlled drugs[2]	**3**	**13**	**3**	**3**
< 18 years	0	0	0	0
Males	3	13	3	3
Importation of controlled drugs[3]	**6**	**24**	**17**	**22**
< 18 years	0	3	0	0
Males	5	23	17	21
Supply of controlled drugs	**0**	**11**	**16**	**7**

< 18 years	0	1	0	0
Males	0	11	16	6
All controlled drug offences	**50**	**242**	**192**	**131**
< 18 years	**9**	**31**	**22**	**11**
Males	**0**	**11**	**16**	**6**

Table 6-3 (previous page) Drug offences leading to an outcome or disposal 2016-2019; NB date refers to year of outcome/disposal, but an offence may have taken place in an earlier year. Offences recorded between 4/4/2016 and 10/8/2019; [1] offences recorded up to 10/8/19; [2] including cultivation of cannabis; [3] offences include importing a controlled drug; concerned in the importation of a controlled drug; knowingly importing a controlled drug (fraudulent evasion); knowingly concerned in the importation of a controlled drug (fraudulent evasion); knowingly attempting to import a controlled drug; knowingly concerned in attempted importation of controlled drug.

Overall, between 4/4/2016 and 10/8/2019, 615 offences were prosecuted (Table 6-3). Not all prosecutions proceed to court or lead to a recorded outcome, but of these, 429 (69.8%) led to a guilty verdict; 2 led to a not guilty verdict (0.3%); 27 (4.4%) were dismissed as no evidence was offered; 4 resulted in no conviction (0.7%); 18 (2.9%) young people were referred to the Children's Convenor; 2 (0.3%) drug-related offences were taken into consideration in relation to other offences; 68 (11.1%) resulted in a verbal caution; and 65 (10.6%) cases were withdrawn. Note that the available data do not allow matching of arrest data with dispersals. This is because i) multiple offences can be recorded per individual; ii) an incident may result in >1 court outcome, if multiple offences were committed (e.g. possession of 2 different classes of drugs; possession and an importation offence); iii) some incidents may not proceed to court.

Table 6-4 and Figure 6-2 shows the outcomes/disposals for possession offences across the reporting period, including out of court disposals such as cautions and referrals to the Children's Convenor. There were 475 outcomes recorded between 2016 and 2019 (77.2% of cases with a recorded outcome). As data for 2016 and 2019 were incomplete (i.e. does not cover the calendar year), it is not possible to comment on trends in outcome. Due to nature of the data received, it is not possible to break down sentence lengths by drug Class.

293 (61.7%) offences included a custodial component. The relatively high proportion of custodial components can be explained by this outcome being included as a sanction for failure to pay a fine (e.g. £2500 fine or 125 days imprisonment) or attached to a custodial sentence. Data is not available on the number of cases where a custodial sentence was subsequently imposed for failure to pay the fine. Examining outcomes recorded for possession offences *without* a fine element (Table 6-5) (n=328), the number of custodial components fell to 147.

Over the reporting period, where a custodial sentence was recorded (including with a fine), this was for a mean of 1.8 ± 3.5 months (range 0.2-44). For reporting years, custodial sentences ranged from 1.0 (2016) to 2.1 months (2018). Table 6-6 shows the length of custodial components recorded for other types of drug offences. For disposals without a fine element, the mean custodial sentence was 2.7 ± 4.8 months (range 0.2-44). This was 1.2 ± 1.1 in 2016; 3.0 ± 6.3 in 2017; 2.7 ± 4.0 in 2018; and 2.7 ± 4.3 in 2019.

For comparison, data for England and Wales[8] shows that there were 86,815 drug possession offence prosecution outcomes recorded in 2017 (latest data available). 16.0 % of offences resulted in cautions, and 27.0% in sentences. For recorded sentencing outcomes, 54.4% were fines, 12.9% community sentences, 3.2% suspended sentences, and 4.3% immediate custodial sentences. Examining cannabis possession offences only, there were 49,732 recorded court outcomes; 13% resulted in cautions, 29% convictions, and 28% sentences. Of these sentences, 13% were community sentences, 2% suspended sentences, and 2% immediate custodial sentences. Mean custodial sentence lengths (immediate custody orders) for possession offences (all drug classes) were 3.2 months in 2016, and 3.6 months in 2017 and modal sentence length was up to and including one month. Examining cannabis sentences only, mean length fell to 1.3 and 1.7 months.

	2016	2017	2018	2019	Total
Possession of a controlled drug for personal use – total cases	**41**	**185**	**152**	**97**	434
< 18 years	9	24	21	10	64
Males	38	166	141	95	440
Guilty plea	**30**	**113**	**91**	**54**	**288**
Outcomes/Dispersals					
Custodial component	32	116	91	54	293
Community order	1	7	7	6	21
Fine only	0	1	0	0	1
Probation order	1	7	0	0	8
Verbal caution	2	21	30	11	64
Referral to Children's Convenor	2	10	4	5	21

[8] Court Proceedings database https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2017

Other[1]	0	4	0	0	4
Not guilty	0	0	0	1	1
Case withdrawn	3	19	20	20	62
Length of custodial sentence recorded (mean ± SD [months])	1.0 ± 0.7	1.6 ± 4.2	2.1 ± 3.4	1.8 ± 3.3	
Dispersals including a fine component[2]	22	69	31	25	147

Table 6-4 Court disposals for ***possession offences*** across the reporting period. [1] includes defendant bound over to be of good behaviour; adjournment of case; [2] reported separately as records include resolutions with multiple dispersals (e.g. £2500 fine or 125 days imprisonment).

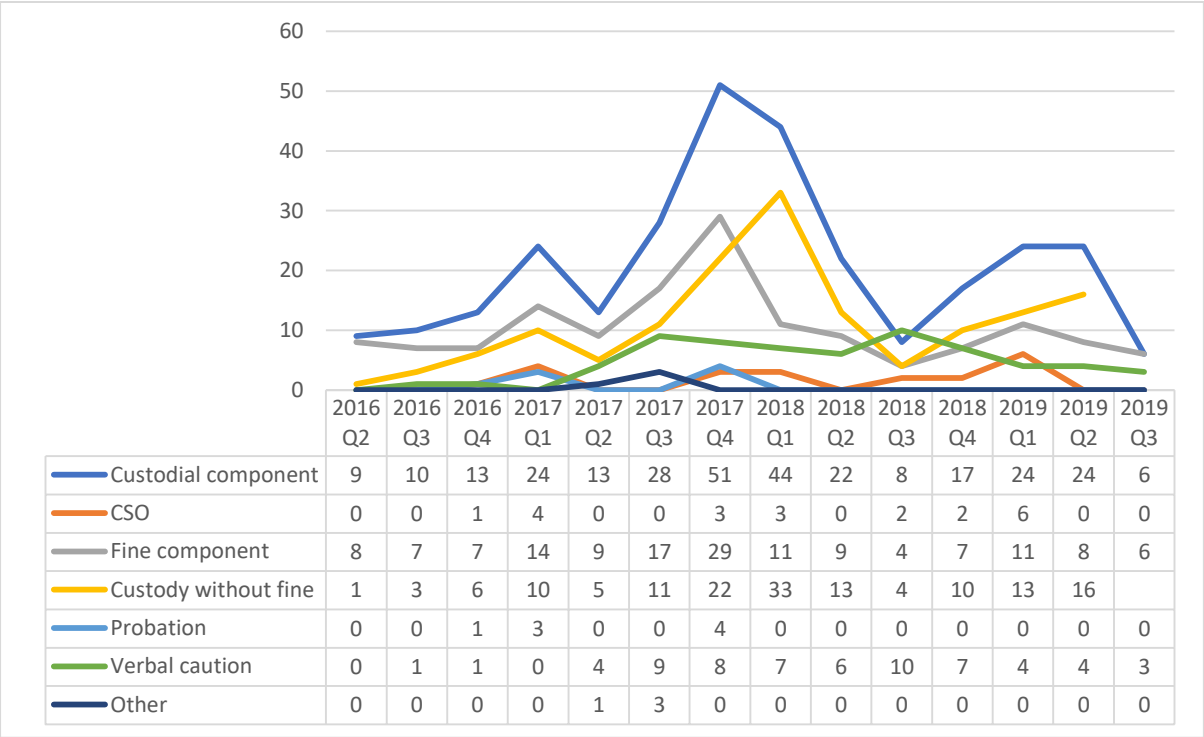
	2016	**2017**	**2018**	**2019**	**Total**
Outcomes/Dispersals					
Custodial component	10	48	60	29	147
Community order	1	7	7	6	21
Probation order	1	7	0	0	8
Verbal caution	2	21	30	11	64
Referral to Children's Convenor	2	10	4	5	21
Other[1]	0	4	0	0	4
Case withdrawn	3	19	20	20	62
Total	**19**	**116**	**121**	**72**	**328**

Table 6-5 Court disposals for possession offences *without* fine components across the reporting period. [1] includes defendant bound over to be of good behaviour; adjournment of case

Offence	**2016 (n = 32)**	**2017 (n = 116)**	**2018 (n = 91)**	**2019 (n = 54)**	**All years (n = 293)**
Possession of a controlled drug for personal use	1.0 ± 0.7	1.6 ± 4.2	2.1 ± 3.4	1.8 ± 3.3	1.8 ± 3.5
Possession of a controlled drug with intent to supply	-	17.0 ± 7.6	-	27.0 ± 0.0	19.5 ± 3.5
Cultivation or production of controlled drugs	2.0 ± 1.4	18.2 ± 30.5	10.0 ± 12.7	14.0 ± 18.4	14.4 ± 24.5
Importation of controlled drugs	43.5 ± 19.8	32.9 ± 36.5	22.1 ± 25.3	26.1 ± 16.7	28.9 ± 27.6
Supply of controlled drugs	-	37.5 ± 26.0	37.5 ± 15.1	20.5 ± 8.78	31.0 ± 18.6

All controlled drug offences	5.5 ± 14.4	8.4 ± 19.9	7.5 ± 14.3	8.6 ± 13.2	7.9 ± 16.6

Table 6-6 Custody lengths (months) for possession offences without a fine element



	2016 Q2	2016 Q3	2016 Q4	2017 Q1	2017 Q2	2017 Q3	2017 Q4	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	2019 Q2	2019 Q3
Custodial component	9	10	13	24	13	28	51	44	22	8	17	24	24	6
CSO	0	0	1	4	0	0	3	3	0	2	2	6	0	0
Fine component	8	7	7	14	9	17	29	11	9	4	7	11	8	6
Custody without fine	1	3	6	10	5	11	22	33	13	4	10	13	16	
Probation	0	0	1	3	0	0	4	0	0	0	0	0	0	0
Verbal caution	0	1	1	0	4	9	8	7	6	10	7	4	4	3
Other	0	0	0	0	1	3	0	0	0	0	0	0	0	0

Figure 6-2 Sentencing outcomes for possession offences (2016 – 2019). *CSO*, Community supervision order

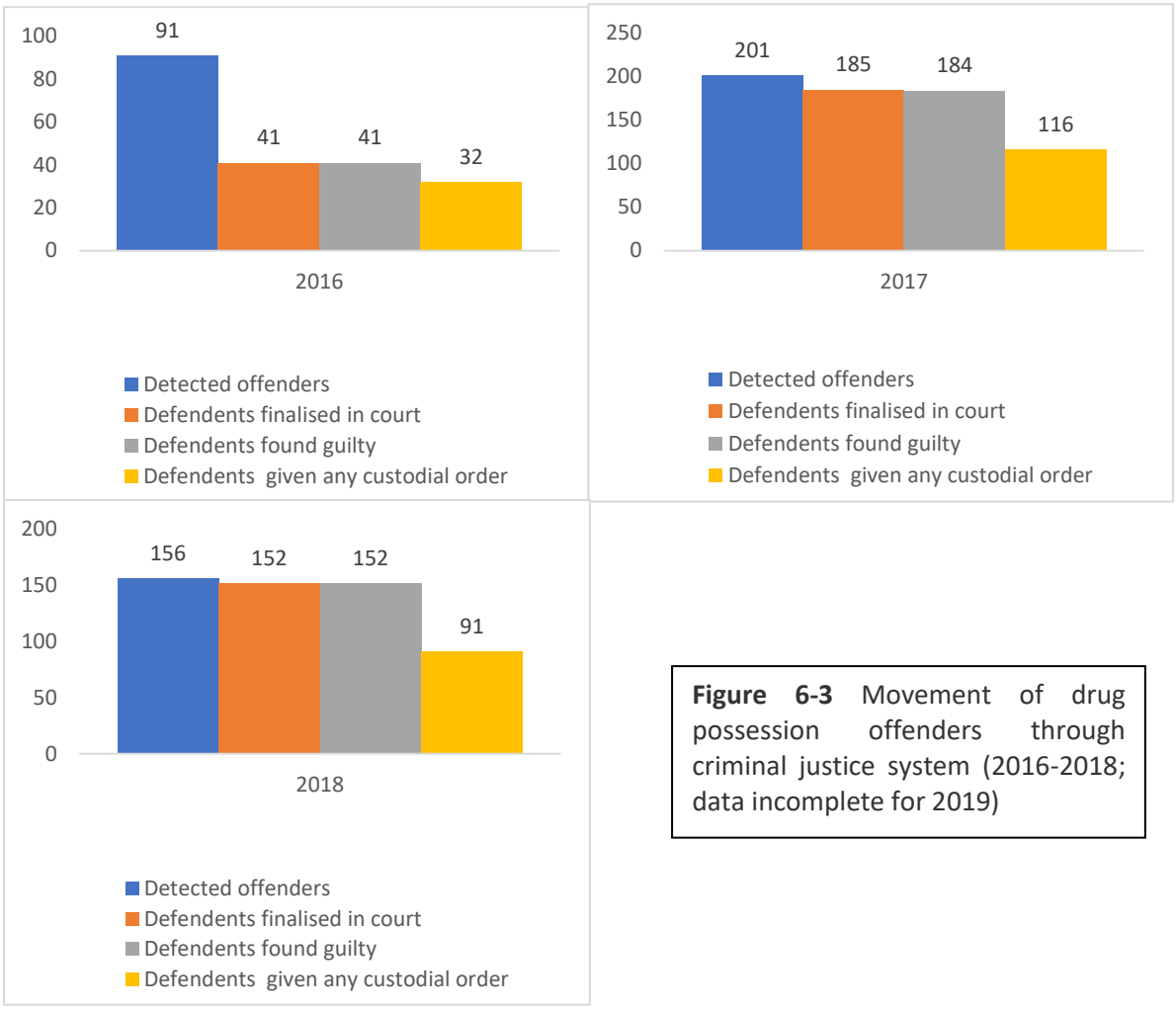


Figure 6-3 Movement of drug possession offenders through criminal justice system (2016-2018; data incomplete for 2019)

Figure 6-3 shows the movement of offenders charged with possession offences through the criminal justice system between 2016 and 2019. Note that cases may not necessarily be brought to court in the same year as the offence was detected (the mean time between arrest and completion of a court decision for drug offences is approximately four months in Guernsey; Do It Justice and Crest Advisory (2019)), and so the yearly figure do not show outcomes/dispersals of the same offences. In 2016, 91 possession offences were detected, and 41 defendants were finalised in court (45.1%); of these 41 (100%) were found guilty, and 32 (78.0%) of these sentences included a custodial component (including were imposed as an alternative to a fine). In 2017, 201 possession offences were detected, and 185 defendants were finalised in court (92.0%); of these 184 (99.5%) were found guilty, and 116 (63.0%) of these sentences included a custodial component. In 2018, 156 possession offences were detected, and 152 defendants were finalised in court (97.4%); of these 152 (100.0%) were found guilty,

and 91 (59.9%) of these sentences included a custodial component. Data collection for 2019 was incomplete at the time of analysis and so is not reported here.

Guernsey Police reported that in 2018, 590 crimes were recorded for all types of assault (data reported in JSNA 2019). Of these 5 (<1%) involved an offender who was intoxicated with a controlled drug. For comparison, 225 (38%) offences involved alcohol. With respect to intimate partner violence and domestic abuse, 65 perpetrators were known to use substances, and 95% of these were aged under 40 years of age (*cf* 66% alcohol) (data reported in JSNA 2019).

7 Prison population

Data from the Prison Service indicated that as of 10th January 2020 (latest release of summary statistics) the total Guernsey prison population was 89, and assuming an island population of 62,506 (December 2018 estimate[9]) a rate of 142/100,000. This is less than England and Wales (174/100,000) and Scotland (168) but higher than Northern Ireland (96) (2018 estimates) (Sturge, 2019), and higher than estimates independently reported for Jersey (122), and the Isle of Man (125)[10]. The annual cost per prison place in Guernsey is £41,992 (2017 estimate)[11], which is higher than England and Wales (£40,8430; 2017/18) and Northern Ireland (£55,304; 2016/17), but less than Scotland (£35,293; 2017/18) (costs calculations differ between administrations and so comparison should be undertaken with caution). There is no data available estimating of the costs of prosecuting and resolving drug possession offences.

Twenty-seven people (32.5% of all prisoners) were in prison for drugs offences (breakdown of drug offence type not available), and 18 (66.7%) were serving first time custodial sentences. As with arrest and court data (Section 6), it is not always possible to determine whether imprisonment for other types of offence was associated with drug-related behaviour (e.g. acquisitive crime). Furthermore, some criminal justice sector participants in the consultation event suggested prosecution of drugs offences may sometimes be used as a mechanism to target other types of offender, although this could not be determined from the available data or verified through publicly available reports. For comparison, in England in March 2019 (latest data), 12778 people were in prison for drugs offences. This represented 15.5% of all offenders[12].

Between 1/1/2016 and 23/8/19 (dates detailed data extract) there were a total 111 new drug-related receptions into Guernsey prison (Table 7-1). One hundred and five (94.6%) were males, and the mean age at reception was 29.4 ± 9.4 (range 18-63). The six females had been received for supply (n =2); importation (n = 3); and possession offences (n=1). Mean age at reception was 26.3 ± 5.6 years for possession offences (range 19-42); 30.7 ± 10.4 for supply (18-63); 31.2 ± 12.0 for importation (19-63);

[9] Guernsey Quarterly Population, Employment and Earnings Bulletin. Population at 31st December 2018 (issued 24/10/19; https://www.gov.gg/population)
[10] Estimates cited in Guernsey Justice Review Report (Do It Justice and Crest Advisory, 2019).
[11] Guernsey Prison 2018 Annual report
[12] Ministry of Justice Offender Management Statistic Quarterly October to December 2018 (25/4/19) https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2018

and 26.4 ± 4.9 for production (20-33). Statistical analysis showed that there were no significant differences in age between those individuals received for each offence types[13].

Drug offence types for imprisoned first-time offenders were available for 2017-2019. There were 11 first-time imprisoned drug offenders in 2017 (total number of first-time offenders = 36, 30.5%; census date 29/12/17); 11 in 2018 (n =59, 18.6%; 28/12/18); and 10 in 2019 (n = 36, 27.8%; at census 23/8/19).

Offence category	**2016**	**2017**	**2018**	**2019**	**Total offences (%)**
Possession[1]	10 (40.0)	12 (32.4)	11 (35.5)	6 (33.3)	**39 (35.1)**
Supply[2]	5 (20.0)	10 (27.0)	11 (35.5)	3 (16.7)	**29 (26.1)**
Importation	9 (36.0)	12 (32.4)	8 (25.8)	8 (44.4)	**37 (33.3)**
Production[3]	1 (4.0)	3 (8.1)	1 (3.2)	0	**5 (4.5)**
Other[4]	0	0	0	1 (5.6)	**1 (0.9)**
Total drug offences	**25 (22.5)**	**37 (33.3)**	**31 (27.9)**	**18 (16.2)**	**111**
Drug offenders as a percentage of total prison population (n)[5]	**27.1 (92)**	**40.7 (91)**	**31.0 (100)**	**(annual data not available)**	

Table 7-1 New drug related receptions into Guernsey prison, 2016-2019. [1] Including offences coded as possession of Class A and Class B drugs; [2] including possession with intent to supply; [3] including cultivation of cannabis; [4] offence not specified; [5] Annual average across all 12 months.

The sample included 13 individuals received on remand (1 female). Excluding these individuals, Figure 7-1 shows mean sentence length for the remaining 98 receptions. Due to changes in prison data reporting it is not possible to break down sentence lengths by drug Class. Note that these are much higher than sentence lengths shown in **Error! Reference source not found.** and Figure 3-1, as those ata referred to drug offences only rather than total sentence length.

[13] Kruskal-Wallis χ^2 (1) = 3.73,p = 0.443

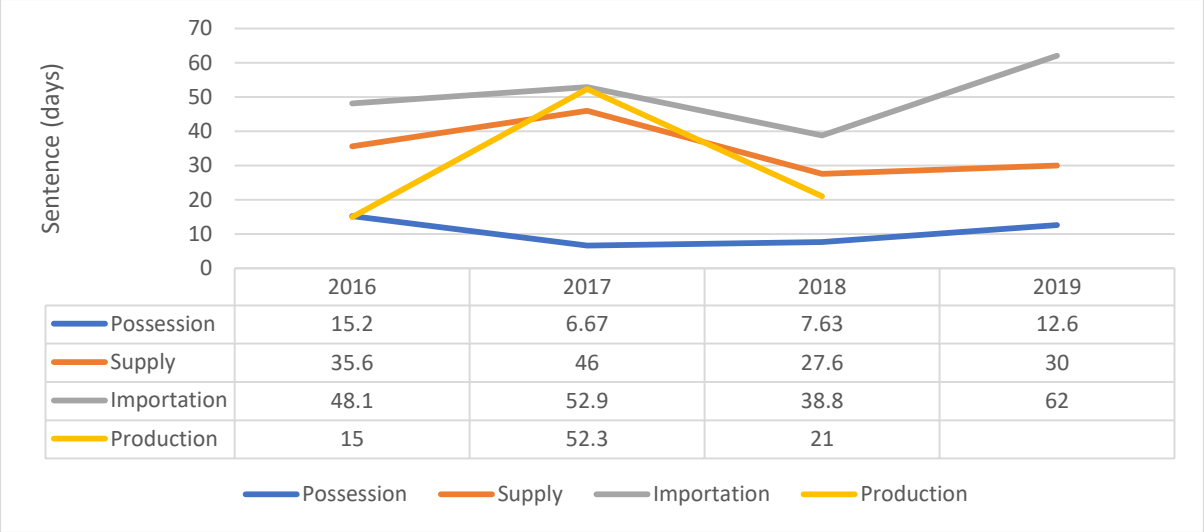


Figure 7-1 Mean custodial sentence (month) for drugs offences 2016-2019. No production offences had been recorded for 2019 at the time of report writing.

Although data was not available for inclusion in this report, the 2019 JSNA reported that the most frequently detected drugs identified in prison forensic screens prior to detention in Les Nicolles Prison were cannabis, followed by benzodiazepines, opioids, buprenorphine, amphetamines, cocaine, methadone, and methamphetamine.

8 The impact of a drug-related conviction on health and wellbeing

The health and social harms to individuals and communities associated with substance use and criminal markets are significant and well-characterised (Jones et al., 2011, EMCDDA, 2017b, Degenhardt et al., 2013, UKDPC, 2009). However, harms may also indirectly arise as a consequence of drug policy and the legal responses to drugs. These may be unintended, but require acknowledgment. Bretteville-Jensen and colleagues (2017) have discussed a number of relevant secondary harms of drug policy to both people who use substances and others, including (but not limited to) displacement of use to more harmful substances; increased attractiveness and profitability of the drug trade to organised crime groups; violence and intimidation; drug-related crime to fund drug purchases (e.g. thefts and burglaries); stigmatisation of users, family, and communities; reduced utilisation of health/social care and harm reduction services; and the breakdown in relationships between users and state structures.

Although the majority of offenders will have desisted from crime by the time they reach their mid-twenties, a criminal record associated with a drug related offence can have long-lasting consequences for an individual's life chances and wellbeing (UKDPC, 2010, UKDPC, 2009). This can include restrictions on employment, international travel, and residency. Out of court disposals such as cautions may also appear on enhanced background checks, which can limit some employment and travel opportunities. People with convictions may lose their job or access to housing, and find it difficult to regain these because of the impact of a criminal record or the associated stigma that this brings. Imprisonment has long-lasting effects upon the physical and mental health of individuals (Turney et al., 2013, Massoglia and Pridemore, 2015), particular for younger offenders (e.g. Schnittker and John (2007), Esposito et al. (2017), and the families and partners of prisoners (Lee et al., 2013, Wildeman et al., 2013, Lee et al., 2014). Having a parent who is in prison is categorised as an Adverse Childhood Experience (ACE), and this can increase the probability of adult offending (Ford et al., 2019). Similarly, early personal involvement in the criminal justice system is highly predictive of adult imprisonment (Ford et al., 2019, Gilman et al., 2015). Studies have shown that young people who are diverted from contact with the justice system have lower levels of offending, with positive impacts lasting well into adulthood (Wilson and Hoge, 2013, Wilson et al., 2018).

Reviews examining the impact of imprisonment on offending behaviour have suggested that punishment may reduce (re)offending through deterrence (i.e. by increasing the risk of crime), incapacitation (i.e. the individual is physically unable to commit another crime because they are imprisoned), or if the prospect of returning to prison provides a deterrent effect, especially those with stable jobs or relationships who have more to lose from imprisonment (see Sapouna et al. (2015) for

an overview of this topic). However, in general, other studies have found no discernible impact of imprisonment on future re-arrest, and in some cases it may increase the likelihood of reoffending through the weakening of positive social bonds and decreasing housing and employment stability. Those serving short sentences in particular have higher rates of reoffending. Although evidence is limited, other types of sentence including community disposals and suspended sentences have been shown to be more effective than short prison sentences at reducing reoffending.

9 Alternatives to coercive sanctions and punishment for simple drug possession offences

9.1 Key concepts and definitions

Depenalisation is the reduction of the level of penalties associated with drug offences, usually those for personal use or possession. For example, punitive sanctions may be replaced by warnings or cautions, opportunities for *diversion* into drug screening, education and/or treatment programmes, or there may be formal reductions in the length of custodial sentences through refinement of sentencing guidelines. Unlike *decriminalisation*, drug offences retain criminal status and do not require changes to legislation, which can lead to variability in application. Criminologists have also identified the risk of 'net widening' whereby more people receive a less intensive criminal justice intervention, thus placing additional burden on the criminal justice system. One of the most well-known example of a depenalisation approach to drug use is the *gedoogbeleid* [toleration in law] approach of the Netherlands, whereby possession of some drugs for personal use (e.g. cannabis) is tolerated, despite remaining a criminal offence.

Decriminalisation is the formal process of removal of criminal penalties from specific offences. In relation to controlled drugs, this usually refers to possession offences for personal use (or drug *use* in those territories where that action is an offence[14]), but has also been applied to low level supply offences. Production and supply offences retain criminal penalties. Under decriminalisation possessing a small amount of a controlled drug (thresholds vary between countries) no longer leads to an individual being punished through a criminal record or custodial sentence. Individuals may face no sanction at all, although non-criminal civil penalties such as fines may still be applied (e.g. similar to a motoring fine); and these are most appropriate for lower risk individuals. For repeat detections or those with more complex needs, individuals may be *diverted* towards further support (e.g. as seen in the Portuguese dissuasion committee model; Hughes and Stevens (2012),. However, under decriminalisation there are no legal means to purchase controlled drugs (without appropriate license) as production and supply remain punishable offences. There is no single approach to decriminalisation, but actions are sometimes classed as ***de jure*** which result from an amendment to criminal legislation, or ***de facto*** which are based on administrative decisions not to prosecute acts that remain against the law. **Table 9-1** compares these two systems and the range of models that could potentially be applied.

[14] e.g. smoking or otherwise use prepared opium under the *The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974*

	De jure decriminalisation				*De facto decriminalisation*		
	No offence	***Police discretion***	***Administrative decision***	***Criminal justice decision***	***No sanction***	***Police diversion***	***Criminal Justice Diversion***
Legal framework	Removal of criminal penalties from possession offence (for personal use)	Possession is an administrative offence only	Possession is an administrative offence only	Possession is an administrative offence only	Possession remains a criminal offence but police or prosecution given discretionary power not to intervene	Possession remains a criminal offence but alternative sanctions are available prior to court action – usually at the police station	Possession remains a criminal offence but alternative sanctions are available upon conviction
Police authority	No authority unless there is suspicion of intent to supply	Police determine the nature of offence, if a penalty notice is awarded, or if proceeds through the criminal justice system	Police can detain people in possession of a controlled substance, and can refer to a civil or administrative body. Criminal justice proceedings if suspicion of intent to supply	Police can detain people in possession of a controlled substance but offence referred to state prosecution service or to the judiciary for any further action	No authority to detain unless there is suspicion of intent to supply	Police (or specialist) determine the nature of the offence and decide the sanction	Police can detain people in possession of a controlled substance but offence referred to state prosecution service or to the judiciary for any further action
Judicial or administrative process	No further action unless there is intent to supply	No further action unless there is intent to supply	Civil or administrative body determines (non-punitive) health or social intervention	Only state prosecution service or judiciary can determine if act is within legal parameters of possession for personal use	No further action unless there is intent to supply	No further action unless there is intent to supply	Judiciary have the discretion to refer the individual to non-criminal sanctions such as treatment
Sanctions for possession of drugs for personal use	Confiscation of substance	Confiscation of substance; drug warning; penalty notice (fine)	Confiscation of substance; drug warning; penalty notice (fine); referral to health or social intervention; other administrative sanction	None applied	Confiscation of substance	Confiscation of substance; drug warning; penalty notice (fine); referral to health or social intervention; other administrative sanction	Confiscation of substance; warning; penalty notice (fine); community sentence; treatment as an alternative to custody/fine

Table 9-1 Comparison of responses under *de jure* and *de facto* models of controlled drug decriminalisation – possession offences (adapted from IDPC (2015), EMCDDA (2019b), EMCDDA (2017a), Eastwood et al. (2016), Hughes et al. (2018b)).

Legal regulation or **legalisation** of drugs is the removal of all criminal and non-criminal sanctions from current drug offences, although other regulations and laws may limit the extent of this. People would be able to buy and consume drugs without being subject to police attention. It would be legal to sell drugs, but as with alcohol and tobacco there may be still be rules and regulations on who can produce, sell, buy and use drugs, where from, and where (e.g. age restrictions, sales limited to licensed premises, bans on public consumption of drugs).

Diversionary activities can take place in the absence or presence of wider decriminalisation or legalisation actions (the act of drug possession remains against the law) and direct offenders away from conventional criminal justice processes, sometimes into educational, treatment, or other therapeutic programmes. They can take place at any stage of the criminal process, for example before arrest or formal charging, up to the point of sentencing.

9.2 Alternatives to punishment

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)[15] refers to 'alternatives to conviction or punishment' to refer to a broad range of policy responses and measures applied by the criminal justice system that aim to treat, educate, or socially reintegrate people who use drugs as an alternative or addition to conviction (e.g. prison sentence) or other punitive actions (e.g. fines, electronic tagging, community sentences) (EMCDDA, 2015a). These approaches have been applied to people detected for drug possession or low-level supply offences (e.g. 'social supply'; Coomber et al. (2018)), or where other criminal activity is associated with drug use (e.g. theft). Such approaches may retain punitive sanctions if any conditions of the alternative are not satisfied, so for example, an offender may still face court action if they fail to attend a required treatment service or if they commit further offences. For some (lower risk) offenders, minimal or no further action may be the most appropriate response to the detection of an offence. The most appropriate responses for a jurisdiction depend upon a number of factors including strategic priorities, community values and preferences, the nature and extent of drug related morbidity and mortality, the nature of drug markets and drug related (and associated crime), the capacity and support of key stakeholder organisations, and the feasibility of implementation. These contextual factors are discussed further in Section 9.12.

[15] The EMCDDA is a decentralised agency of the EU and provides the EU and its Member States with a factual overview of European drug problems and an evidence base to support development of drugs policy and the drugs debate http://www.emcdda.europa.eu/

The justification for alternatives to punishment, at least with regards to simple drug possession offences is to avoid the criminalisation of people (especially young people), to reduce the harms of contact with the criminal justice system, to provide opportunities for non-punitive intervention (e.g. to address drug related needs), and to reduce criminal justice costs (police, courts, prisons); freeing up resources that that could be otherwise allocated to more serious and harmful crime. These approaches are based on the assumption that there is less societal benefit in punishing people for possession offences, and that there are more (cost-) effective means of delivering those outcomes valued by stakeholders such, as reducing drug related harm or preventing more serious crime.

International drug conventions oblige signatories to make possession of controlled drugs a criminal offence, but this is subject to a country's 'constitutional principles and the basic concepts of its legal system', which has led to a lack of uniformity in responses across United Nations (UN) Member States (Bewley-Taylor, 2003). As clarified in the UN Commission for Narcotic Drugs Resolution 55/12[16] Member States are encouraged to provide treatment and other drug demand reduction activities as alternatives to imprisonment, and the international drug control conventions allow for the provision of alternative measures to punitive actions for personal possession offences[17]. Signatories may provide, either as an alternative to conviction or punishment or in addition to punishment, treatment, education, after-care, rehabilitation and social reintegration actions. These recommendations are in line with the UN Standard Minimum Rules for Non-custodial Measures (1990)[18] which encourage the development of non-custodial measures at all stages of criminal justice administration, from pre-trial to post-sentencing dispositions. The UN System Chief Executives Board for Coordination (CEB), which comprises 31 Executive Heads of the United Nations and its Funds and Programmes, has recently called for member states to "promote alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use" (p46) (UNCEBC, 2019). Legalisation of drugs remains in contravention of the UN drug conventions.

The EU Action Plan on Drugs 2017-2022[19] Objective 5 (*Enhance effective judicial cooperation and legislation within the EU*) Action 22 requires Members States to provide and apply, where appropriate

[16] The Commission on Narcotic Drugs (CND) Resolution 55/12 Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety. Available: https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2010-2019/2012/CND_Res-55-12.pdf

[17] Article 22, paragraph 2 of *UN Convention of Psychotropic Substances, 1971*; article 36, paragraph 1 (a) of the 1961 Convention as amended by the *Protocol amending the Single Convention on Narcotic Drugs, 1961*. Geneva, 25 March 1972 (article 36, paragraph 1 (b)); article 3, paragraph 4 (b) *United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances, 1988*

[18] Available from: https://www.ohchr.org/EN/ProfessionalInterest/Pages/TokyoRules.aspx

[19] Available from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XG0705%2801%29

and in accordance with their legal frameworks, alternatives to coercive sanctions for drug using offenders, including education, suspension of sentence with treatment, suspension of investigation or prosecution, rehabilitation and recovery, aftercare and social reintegration. Key indicators for these actions include increased availability and implementation of alternatives, and the evaluation of the effectiveness of these approaches, which is currently lacking in most member states.

9.3 Evidence on the effects of changing the law or introducing alternatives to punishment for drug possession offences

In general, and specifically in relation to drug possession offences, international reviews have identified a lack of high quality evidence on the effects of policy change, law enforcement actions, or imprisonment (or other types of sentence) on drug related outcomes or reoffending. Where evidence exists, and most studies have investigated cannabis policies, this has suggested that there is no clear association between changes in policy (including increasing, reducing, or removing criminal penalties) and a wide range of indicators (include drug use, harms, service utilisation), and that law enforcement actions and level of activity have little effect in deterring drug possession or reducing recidivism (see for example Babor et al. (2018), EMCDDA (2017a), Home Office (2014), Hughes et al. (2018a), Kotlaja and Carson (2019), Stevens (2019)). Overall, there is also no strong evidence that decriminalisation of possession of drug use alone leads to changes in drug use. Subsequently, there is a lack of evidence of the effects of decriminalisation on changes in drug related harms to both users and communities (e.g. an increase in the scale or violence of organised crime).

This is not to conclude that current/alternative approaches are ineffective, but that the necessary research has not been undertaken. Therefore, research and evaluation should be embedded in all drug policy development activities. Where impact has been studied after introducing alternatives to punishment, this has been in relation to reductions in the number of people processed by courts or receiving custodial sentences, leading to a reduction in criminal justice costs. Effects on drug use outcomes have been recorded in some US study populations already in controlled 'closed systems' such as the criminal justice system, where (the threat of further) sanctions (e.g. restriction of privileges, increased custodial time, recall to prison) can act as a deterrent to offending. However, incapacitation itself (i.e. imprisonment) does not have significant impact on population levels of drug use and drug possession offences because the proportion of offenders who are deterred from committing crime, arrested and punished is so low. In the US, for example, which has a very high imprisonment rate of 738/100,000 people (cf Guernsey 142/100,000), only 15-20% of the total demand for cocaine, is estimated to be deterred or incapacitated by law enforcement activity (Babor et al., 2018). One of the reasons for this is that law enforcement activity is often targeted at the most

serious offenders, and most imprisoned drug possession offenders in the US are also involved in more serious crimes such as supply.

More positive findings have been reported for those approaches that divert people away from the criminal justice system and into additional health and social support, particularly in those people experiencing drug-related harms. The sections below summarise the most frequently implemented approaches and evidence of impact.

9.4 Categories of alternatives to punishment

In their review of alternatives to punitive sanctions for drug law offences and drug-related crime in European Member States[20], Kruithof et al. (2016) identified 108 different types of actions that had been implemented, which were subsequently grouped into 13 categories of relevant activity (Table 9-2). Policies typically comprised multiple actions, with alternative actions offered at the end stages of the criminal justice systems, most frequently a (quasi-compulsory) drug treatment order (i.e. suspension of punitive action dependent upon treatment entry and completion), followed by suspension of procedure with a treatment element. Alternatives can be applied at any stage of the criminal justice system, but few Member States offer them earlier in the criminal justice process (although see Table 9-3 for examples of alternative approaches to possession offences), and few evaluations have been undertaken on the effectiveness of these approaches, or how they might be optimised for delivery at different stages of the process (see Section 9.12).

Alternative approach	Description
1. Drug caution/warning/no action	Alternative to prosecution with written notice that may include specific conditions such as education, demand reduction, or treatment.
2. Diversionary measure	Actions designed to divert offender away from criminal justice system into other services such as education, prevention, or treatment.
3. Dissuasion Committees	Only currently delivered in Portugal. Administrative authority that deals with drug consumption and possession offences.
4. Drug treatment	Any form of drug treatment available at any stage of the criminal justice system.
5. Suspension of investigation/prosecution	Suspension of case during investigation or prosecution stage; sometimes with specific conditions.

[20] Drug-related crime includes offences not covered in drug laws (e.g. possession and supply offences), but which are clearly related to the acquisition, production, and supply of controlled substances. In this context, alternatives to punishment would be most relevant to use-related (e.g. behaviour after consuming drugs), and economic-related crime (e.g. acquisitive crime to fund personal drug purchases).

with a drug treatment element	
6. Suspension of court proceedings with a drug treatment element	Suspension of case during the court action stage; sometimes with specific conditions.
7. Suspension of sentence with a drug treatment element	Once a defendant has been found guilty, suspension of sentence with a treatment alternative; sometimes with specific conditions.
8. Drug Court	Special courts providing diversionary alternatives to traditional case processing, coupling community-based drug treatment with regular judicial supervision. Used as a mechanism to deliver alternative actions.
9. Probation order with a drug treatment element	Supervision of offenders in the community
10. Community order with a drug treatment element	Unpaid work in the community
11. Restriction of liberty with a drug treatment element	Restriction placed on offender's movement such as home arrest and electronic monitoring
12. Intermittent custody/release with a drug treatment element	Interrupted duration of detention in a secure settings with community based release
13. Parole/early release with a drug treatment element	Temporary or permanent release from prison with specific conditions

Table 9-2 Categories of alternatives to punishment delivered in the EU. Derived from Kruithof et al (2016).

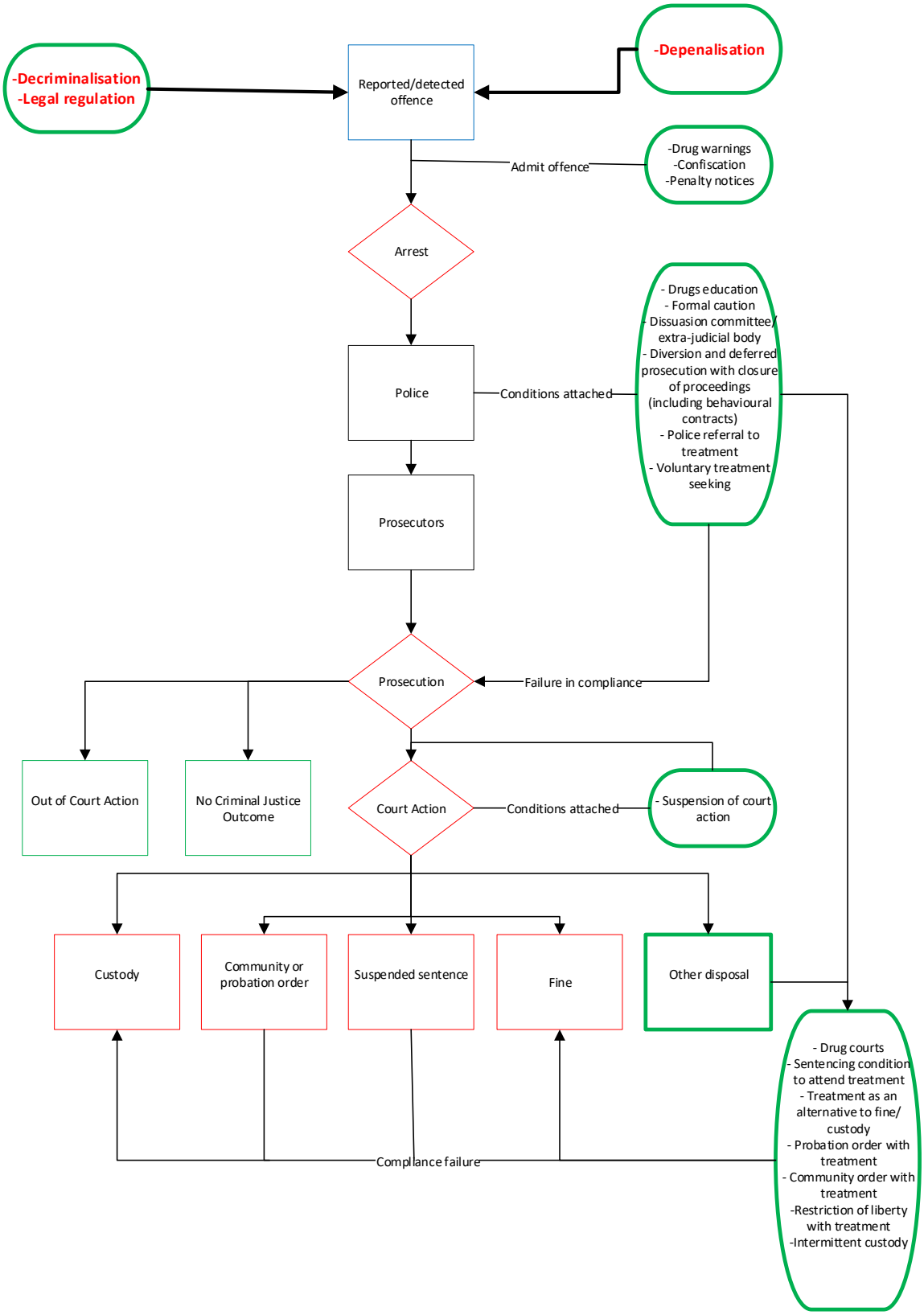


Figure 9-1 Pathways through a simplified model of a generic criminal justice system illustrating opportunities for diversion and alternative action at key points. Red bordered boxes show the usual stages and outcomes between detection and arrest and, if found guilty, disposal outcomes. Green bordered boxes contain alternative actions relevant at each stage in the system. Note that in practice alternative actions can be delivered at any system stage.

Figure 9-1 presents a simplified schematic of stages in generic criminal justice system/process, and where alternative actions may be applied. Typically, if an offence is detected and a person arrested, a decision on prosecution is made. At prosecution stage, for all offence types, the prosecutor may decide to take an out of court action or to close the case. For those cases proceeding to court, and where defendants are found guilty, there are a number of dispersal options available. These include fines, community and probation orders, suspended sentences, or imposition of a custodial sentence. Alternative actions for drug-offences may be available at all stages of the process. In the Figure, broad actions are labelled in accordance with the categories described in **Table 9-2**, but other descriptors may be used. Overarching policies of ***decriminalisation***, ***depenalisation***, or ***legal regulation*** determine which drug offences remain in law, and which are removed, ignored, or closed before prosecution. For offences that remain in statute, a ***drug warning*** or ***penalty notice***[21] may be issued (with conditions) and/or substances ***confiscated*** without an offender being arrested. After arrest, but prior to formal prosecution, offenders may be ***diverted*** into ***drugs education or preventive interventions*;** be issued with a ***formal caution***; or be referred to an extra judicial administrative body such as a ***dissuasion committee*** (as in Portugal). Police may decide ***defer prosecution***[22], with the potential of case closure, on the basis of ***attendance at a treatment programme***, ***completion of a behavioural contract***, or ***voluntary attendance at a treatment programme*** by the offender. There may be conditions attached to these programmes and failure to comply may lead to re-entry into the criminal justice system and prosecution. If a case proceeds to court and an offender is found guilty, alternative disposal options include a ***treatment order as a condition or alternative*** to custody, probation/community order or fine; ***restriction of liberty with a treatment order*** (for example house arrest and electronic monitoring of movement); or an ***intermittent custodial order***, whereby the offender spends part of the week in custody, and the other in the community where they may be required to attend a treatment service. A defendant may also be referred to a dedicated ***drugs court*** either as an alternative to the case being heard in a court, or upon a guilty verdict. Drugs courts act as a system by which alternatives to punishment are imposed, although failure to comply with drug court conditions may lead to a punitive sentence or referral to a mainstream court.

[21] A *penalty notice* is typically a fine or equivalent penalty issued by police officers to people aged 18 years or older for certain offences. If paid within the specified time-limit, all liability for the offence is discharged and the offence does not form part of an individual criminal record.

[22] A *deferred prosecution* is an agreement reached between a prosecutor and an individual who is charged with an offence and could be prosecuted, under the supervision of a judge. The agreement allows a prosecution to be formally suspended for a defined period provided the individual meets certain specified conditions.

Hughes and colleagues (2018) present six generic typologies of alternate approaches to possession offence. A final blended model combines elements of all of these, and actions are implemented depending upon the nature of the offence, target group, and the health and social needs of the offender.

1. *Depenalisation*: in accordance with the definition above, depenalisation aims to avoid the criminalisation of people, especially young people, to free up resources to target more serious crime, and to reduce the number of convictions and criminal justice costs. Depenalisation is based on the assumption that possession offences do not warrant a sanction, or that contact with the criminal justice system or imposition of a punishment is disproportionate to the severity and harms of the offence and may produce more harms to the individual than the offence itself. Conditions of depenalisation may relate to the number of permissible offences (e.g. a warning for the first two offence, prosecution for the third), the drug involved (e.g. cannabis/khat warnings in the UK), and the amount of drug detected (e.g. personal thresholds, see Section 9.6).

2. *Police diversion (de facto)* and 3. *Police diversion (de jure)*: these approaches are discussed in more detail in Section 9.7. The rationale for these types of approach is that that drug use (and therefore drug possession) should be seen more as a health or social issue rather than a criminal justice one, and therefore people should not be arrested. However, unlike depenalisation, diversion is based on the view that drug possession is not an ignorable offence. Instead, the goal is to provide a point of early intervention and to direct people away from the criminal justice system into services that might benefit them and be useful in addressing and problems they might have in relation to their drug use or offending behaviour. The threat of prosecution can be retained, and conditions applied to participation in the diversionary activity. As *de facto* approaches are discretionary there needs to be full and shared understanding of eligibility criteria and the purposes and benefits of diversion, so that referring police make appropriate use of the action and that there are no inequalities in opportunities for offender participation. *De jure* approaches remove this discretion and therefore all offenders should receive the same opportunities for participation.

4. *Decriminalisation with no sanctions attached* and 5. *Decriminalisation with civil or administrative sanctions*: These approaches have been described in Table 9-1. Like depenalisation, they are based on the assumption that drug possession should not be a crime, but when (non-criminal) sanctions are applied, indicate that it should not be ignored. Unlike depenalisation, decriminalisation results in the removal of the offence from law, thus removing discretionary application. Decriminalisation may apply

to some or all drugs, and thresholds for possession amounts, or the number of permittable detections might also apply. Under decriminalisation, where sanctions are applied they are equivalent to other low-level offences, such as those available for low-level motoring offences (e.g. small fine, restrictions on license). This differentiates this approach from Model 6 (decriminalisation with targeted diversion) as the majority of people who use substances do not require formal intervention (although they may still benefit from informal and brief advice/education). Sanctions may be retained if policy makers believe that it is important that powers should be provided to intervene with harmful patterns of drug use. This requires an administrative system to process, deliver, and monitor.

It is theorised that removal of criminal penalties may increase the likelihood of people seeking support for substance use as there is a removal of barriers to treatment such as the fear of criminalisation and associated loss of employment and other support. Decriminalisation may lead to a reduction in public and internal stigma, as the introduction of the policy indicates that whereas there may not be approval of drug use, in keeping with attitudes towards other substances, there is a societal belief that people should not be punished for it.

6. ***Decriminalisation with diversion to specialist health and social services.*** This model is similar to the decriminalisation with sanctions, but instead of a civil or administrative penalty, higher risk individuals are referred into appropriate support services to address substance use. Diversion can be offered to all offenders, but this may overburden services with clients who do not need support. Or a mixed decriminalisation model may be implemented, whereby only some groups such as young people, people with harmful patterns of substance use, or repeat offenders are diverted. Other types of offender may receive a civil sanction or no penalty at all. As with police-led diversionary approaches, this model provides an opportunity to support the minority of possession offenders at higher risk of experiencing drug-related harm without criminalising them. It is theorised that this type of approach may offset the potential risk of increased numbers of people using drugs after decriminalisation.

9.5 Alternatives to punishment currently available for drug possession offences in Guernsey and Alderney.

None of the specialised alternatives to drug possession offences discussed in this Section are currently being delivered in Guernsey and Alderney. Other powers are available which provide an opportunity to divert offenders away from the criminal justice system. The Criminal Justice Strategy 2013-2020 action plan included a priority to divert appropriate cases away from the court, but no evidence was available on how frequently these approaches are used for drug possession offences. Police can use

their discretion not to lay a charge for an offence or to take an informal approach to an offence that does not require formal processing through the criminal justice system. Out of court disposals such as community resolutions, cautions, and penalty notices are available to the police. In 2018, 4% of all crimes resulted in a formal out of court disposal, 3% in an informal out of court disposal; and 2% of prosecutions were prevented from proceeding as they were viewed as not being in the public interest[23]. The Justice Review identified that there was no evidence available to indicate how well this system works to reduce (re)offending and harm (Do It Justice and Crest Advisory, 2019)

The Criminal Prosecution Team Code of Guidance on the Decision to Prosecute[24] states that:

2.8 [However], *it has never been the rule that suspected criminal offences must automatically be the subject of criminal proceedings. A prosecution might therefore not take place where the matter can be dealt with properly by some other means, such as a formal caution being given or, in the case of a young person, through action taken by the Children's Convenor.*

2.9 Prosecutors must balance carefully the public interest factors for and against prosecution. Assessing the public interest is not a simple matter of adding up the number of factors on each side of the line; prosecutors must instead decide the importance of each public interest factor in the particular circumstances of each case and then make an overall assessment. In some cases one factor alone that is in favour of prosecution may outweigh a number of other factors that point the other way.

Examples provided in the guidance of common public interest factors tending against prosecution does not include any directly related to drug use, but with respect to the models presented throughout Section 9, includes relevant items such as the court is likely to impose a very small or nominal penalty; the seriousness and the consequences of the offending can be appropriately dealt with by an out-of-court disposal; the defendant's age and antecedent history; the suspect has been subject to appropriate regulatory proceedings or a punitive civil penalty that adequately addresses the seriousness of the offending; the suspect is, or was, suffering from significant mental or physical ill health.

The Child, Youth & Community Tribunal system was introduced through enactment of The Children (Guernsey and Alderney) Law 2008. It established two independent systems to respond to concerns

[23] 2018 Law Enforcement Annual Report
[24] http://www.guernseylawofficers.gg/CHttpHandler.ashx?id=110804&p=0

about young people (aged under 18). The Children's Convenor has responsibility for considering cases where there is concern about a child or young person. This system provides an opportunity to divert young offenders, including drug offenders, away from the mainstream criminal justice system (and prison) and into appropriate support services, including Action for Children and Youth Justice. If the Convenor decides that grounds set out in the law may be met, the case can be referred to the Child Youth and Community Tribunal. The most common reason for referral to the Convenor in 2018 was offending behaviour (58% of referrals) (Convenor and Tribunal Board, 2018). As shown in Section 6, 18 young people (2.9% of all possession offences) were referred to the Children's Convenor from the criminal justice system for drug possession offences. However, available data do not show what subsequently happened to those young people, and if they were referred to the Tribunal what the outcome of that process was. Overall, during 2018, 357 referrals were received by the Convenor and 60 (16.8%) referrals resulted in a Tribunal hearing; 81 were referred onto HM Procureur (22.7%), and 31 to restorative justice (8.7%).

9.6 Approaches to drug possession offences in the EU: at a glance

All EU Member States currently treat possession of drugs for personal use as an offence, but not all include a prison sentence as an option[25]. The EMCDDA reports that since 2000 there has been a trend to reduce the likelihood of imprisonment for possession offences in the EU, especially for small quantities of cannabis (EMCDDA, 2017a, EMCDDA, 2015a). Punitive responses to possession differ, and these are determined by factors such as the substance involved, legal classification (e.g. equivalents of the A, B, C system), the quantity involved in the offence, previous convictions, and aggravating circumstances (e.g. possession near schools or in prisons). Some countries operate guidelines that suggest quantity thresholds, but there is little consistency between countries, and thresholds differ by drug, weight, number of 'doses', or monetary value of the seizure. Possession may be punished through imprisonment and/or a fine, even for a first offence, whereas other counties impose imprisonment only after the second or third conviction, in relation to possession of some categories of drugs, or when the seizure threshold are exceeded. Where a seizure is below specified thresholds, the case may be suspended, diverted, or closed, or dealt with outside the criminal-justice system (e.g. in Austria possession offences may be reported to relevant health authorities rather than public prosecutors).

[25] For a useful overview of alternative approaches to drug possession offences internationally, including legal model adopted, implementation, activities included, and thresholds and sanctions, please see the online resource available at: https://www.talkingdrugs.org/drug-decriminalisation. Please note that the accuracy of all the included information has not been verified in this review.

Cannabis is usually treated differently to other substances and given the lowest prosecution priority, even when retaining criminal penalties. In some Member States possession may be resolved through out of court disposals including street warnings, penalty notices, and fines. Punishments for cannabis are typically less than those for other controlled substances, and when compared to drugs in the same legal class. Twelve EU countries do not currently allow custodial sentences for possession of small quantities of cannabis (Bulgaria; Croatia; Czech Republic; Ireland; Italy; Latvia; Lithuania; Luxembourg; Netherlands; Portugal; Slovenia; Spain) and in some countries (Bulgaria, Croatia, the Czech Republic, Italy, Malta, Portugal, Slovenia and Spain) this also extends to other (but not necessarily all) drugs. In 2019 Luxembourg announced preparation of draft legislation that would provide for the legal regulation of cannabis, the first such market in the EU. Proposed restrictions include a ban on sales to non-residents and home-growing, and a personal possession threshold of 5g.

Country	Punishment for possession	Examples of alternatives to punishment available	Notes
Austria	Punishable by imprisonment or a fine.	The law allows for temporary withdrawal of the charge or the criminal proceedings with a probationary period of 1-2 years, and where necessary these may include an agreement to go to treatment. If successful, the proceedings are permanently closed.	No differentiation between types of drug ('psychotropic' and 'narcotic' substances)
Belgium	Punishable by imprisonment or a fine. Possession of cannabis for personal use, without aggravating factors may receive a fine, but with imprisonment for any offence within one year from a second conviction. Possession of cannabis for personal use considered the lowest prosecution priority.	Offences committed by people with substance use disorders of problem drug users may be settled with therapeutic intervention	Threshold for personal possession of cannabis set at 3g or 1 plant
Bulgaria	Punishable by imprisonment or a fine. Punishment varies by type of drug and whether classed as 'high risk' or 'risk' substances and preparations. Minor cases (lower quantities and 'risk drugs') punished by a fine	Compulsory treatment may be imposed as an addition, rather than an alternative to, punishment.	
Croatia	Possession is decriminalised and punishable by a fine	Compulsory treatment and intervention lasting from three months to one year for offenders with or without substance use disorders. Fine removed on successful completion.	
Cyprus	Punishable by imprisonment (defined by quantity limits), differentiated by Class of drug. No more than one year in prison for a first time offender aged under 25.	The Law provides alternatives to punishment, but this is currently inactive due to lack of support	
Czech Republic	Possession is decriminalised, and a (non-criminal) misdemeanour, punishable by a fine. Exceeding personal thresholds (based on drug) is a criminal offence which is punishable by imprisonment	Probationary measures provided in criminal law, including conditional discontinuation of prosecution with or without probation. This may include compulsory treatment	
Denmark	Punishable by imprisonment or a fine (sentence based on drug). A warning may be issued, including for those with a substance use disorder for minor possession offences	At the sentencing stage, probationary measures can be applied if the court finds punishment unnecessary, including compulsory treatment.	Threshold for personal possession of cannabis set at 100g.
Estonia	Possession is decriminalised, and a (non-criminal) misdemeanour, punishable by a fine or administrative detention (at a police station) for up to 30 days. Thresholds apply (based on doses).	No alternatives to punishment are available for minor possession offences. Possibility of substitution of a prison sentence by treatment if the original offence was caused by a substance use disorder.	Threshold for personal possession of all drugs is set at up to 10 doses.
Finland	Punishable by imprisonment or a fine. Penalty may be waived if the offence is deemed minor on basis of type and quantity of substance, and aggravating factors	Charges or penalty may be waived if the perpetrator has sought treatment approved by the Ministry of Social Affairs and Health. Penal Code. Accepted that treatment, and therefore the waiver, may need be sought several times	
France	Punishable by imprisonment or a fine. Penalty determined by Class of drug.	A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed. Diversionary activities (drugs awareness course) may be offered for a first offence, or a court or prosecutor may offer a (voluntary) treatment intervention people with substance use disorders	Offenders have to pay the costs of drug awareness courses (up to €450)
Germany	Punishable by imprisonment or a fine. However, if the offence is considered minor and not in the public interest, prosecution can be	A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed.	Thresholds for waiver differ between German states on the basis of substance and amount

	closed (depenalisation). This also applies to sentencing decisions. The court may also abstain from sentencing on the same premises.		
Greece	Punishable by imprisonment but can be unpunished on the court's discretion, taking into account mitigating factors, including drug and amount.	The prosecution or court proceedings may be suspended for the purpose of treatment, and discontinued if successfully completed.	Thresholds set by expert opinion or judicial precedent.
Hungary	Punishable by imprisonment	The prosecution or trial may be suspended prior to sentencing if an offender can present evidence of participation in a treatment or prevention intervention	
Ireland	Possession of cannabis is punished by a fine. A third or subsequent offence may be punishable by fine and/or imprisonment. Possession of drugs other than cannabis is punished by imprisonment.	A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed. Arrest referral options available.	
Italy	Possession of drugs is decriminalised. Punished by various administrative sanctions (e.g. suspension of driving license, firearms license, passport, residential permit). Thresholds established by Ministries of Health and Justice, In case of a first offence, a warning might be issued.	A treatment intervention may be offered in addition to administrative sanctions. There is no obligation for intervention providers to notify authorities of breaches of these programmes.	The administrative sanction must be completed before a treatment intervention is offered, leading to low rates of take up
Latvia	Possession partially decriminalised and punished by a warning of fine. Thresholds apply, repeat offences and breaches punished by imprisonment.	Voluntary attendance at a treatment or prevention programmes provides exemption from administrative punishment. A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed.	
Lithuania	Punishable by imprisonment or a fine. Possession of small quantities may be punished by a fine.	The prosecution or court proceedings may be suspended for the purpose of treatment, and discontinued if successfully completed.	Criminal prosecution begins at 0.25g cannabis
Luxembourg	Possession of cannabis decriminalised and punishable by a fine. Possession of other drugs punishable by fine or imprisonment	The prosecution or court proceedings may be suspended for the purpose of treatment, and discontinued if successfully completed.	Luxembourg announced in 2019 that it would lay draft legislation for a legally regulated cannabis market which would remove all punishments and sanctions for possession (below thresholds)
Malta	Possession is partially decriminalised and punishable by a fine. Thresholds apply, and breaching is a criminal offence, punishable by imprisonment or a fine.	Offenders arrested of a second personal possession offence of a drug other than cannabis within two years, or of crimes 'substantially attributed to drug dependence', may be referred to the extra-judiciary Drug Offenders Rehabilitation Board for up to 18 months supervision. Where an offender is considered 'in need of care and assistance for his rehabilitation from dependence', the court make a treatment order as an alternative to punishment.	
Netherlands	Possession of drugs punishable by imprisonment. Prosecutor guidelines state possession of cannabis products up to 5 grams should incur a police dismissal and not be investigated. Possession of up to 30 grams should be dismissed or charged as a misdemeanour punishable by a fine. Diversion to treatment offered to offenders in possession of up to 0.5g of other controlled substances	Lower sentences imposed for smaller amounts of drug. Punishment suspended for adhering to abstention order or compulsory treatment.	
Norway	Punishable by imprisonment or a fine. Thresholds apply	Sentencing may include a supervised treatment order	
Poland	Punishable by imprisonment. The prosecutor has an option not to pursue criminal proceedings in case of possession of small quantities of controlled substances (depenalisation)	Prosecution or court proceedings may be suspended for the purpose of voluntary treatment seeking, and discontinued if successfully completed, leading to imposition of a probation period of up to 2 years.	

Portugal	Possession is partially decriminalised and is an administrative offence, punished with a fine or administrative sanctions for 'non-addicted' users, or administrative sanctions for 'addicted' users. Thresholds apply, and breaches considered a crime, punishable by imprisonment or fine	Personal possession up to threshold settled with treatment or counselling.	Threshold is up to 10 days of average individual consumption.
Romania	Punishable by imprisonment.	A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed.	
Slovakia	Punishable by imprisonment or a fine	A sentence may be suspended for the purpose of treatment, and discontinued if successfully completed.	Assessment for eligibility can take place at in-patient facilities, with a length of stay of up to two months.
Slovenia	Possession is partially decriminalised. Possession of controlled substances is punished by a fine but possession of a small quantity for one-off personal use is considered a misdemeanour, punished by a smaller fine.	Voluntarily attendance at a treatment or counselling programme may lead to a more lenient punishment	Thresholds set by expert opinion or judicial precedent.
Spain	Possession decriminalised, punished by a fine.	Suspension of punishment if offender submits to a treatment intervention (if required).	
Sweden	Punishable by imprisonment or fine. Sentencing thresholds on basis of drug, quantity and other circumstances.	Some compulsory treatment measures may be imposed as part of sentencing or probation orders.	
United Kingdom	Punishable by imprisonment or a fine. Penalty determined by drug Class and whether sentencing is at a Magistrates or Crown Court. Police guidelines specify giving a verbal warning for a first possession offence of cannabis or khat (leading to no further action), increasing to a fine on a second occasion, and arrest on a third.	Deferred prosecution (with closure of proceedings), and diversion into treatment or prevention intervention (some with behavioural conditions). Prosecution or court proceedings may be suspended for the purpose of voluntary treatment seeking. Option of sentencing to treatment orders available.	

Table 9-3 Summary of punitive sanctions and alternatives to punishment for possession offences currently operating in EU Member States and Norway. Derived from information provided in EMCDDA (2017a), EMCDDA (2015a), EMCDDA (2019b).

9.7 Spotlight on diversionary measures

Diversionary measures aim to divert offender away from various stages of the criminal justice system into other services including, but not limited to, education, prevention, or treatment programmes (Hughes et al., 2019). They can be delivered under all policy conditions (criminalisation, decriminalisation, depenalisation), and may be established as either *de facto* or *de jure* actions. Although not requiring legal change, *de facto* approaches still require the development of new police procedures and programme processes such as agreed eligibility criteria, referral pathways, and partner service/intervention development, which may lead to large set up costs (although diversion is cost saving in the long term). Aims of diversionary approaches may be therapeutic, whereby offenders receive support for substance use, or a package of educational and preventive measures, including screening and referral to more specialist support where necessary. The approach may also include support that targets offending behaviour and social reintegration more broadly (Hughes et al., 2018b). These are often police-led initiatives as this group is the first and main point of contact between drug offenders and the criminal justice system.

Overall, the aim of diversionary approaches is to minimise contact with the formal criminal justice system in order to provide specialised (external) opportunities to address those factors underlying drug use and/or offending. The deterrent threat of prosecution is often retained for failure to attend or engage with the referred activity. These measures are not specific to substance use offenders, and have shown to be successfully applied and effective at reducing reoffending in other population groups compared to conventional judicial interventions, including young offenders (e.g. Wilson et al. (2018), Wilson and Hoge (2013) and offenders with mental ill health (e.g. Bird Schucan et al. (2017). For young people, schemes that were implemented prior to charge were more effective (Wilson and Hoge, 2013), and for lower risk youth, caution programmes were more effective than structured interventions, with the opposite being true for medium- and higher risk youth. A USA economic analysis of pre-arrest diversionary programmes for young people estimated that programme placement cost an average of $573 (£445) per participant, but was associated with savings of $2,393 (£1,860). For adults, facing charges for low-severity offences, pre-arrest diversion cost $556 (£432) per participant, but was associated with savings of $3,905 (£3035).

Although there are several international examples, recently implemented diversionary models in the UK include local police-led diversion schemes provided by ***Thames Valley Police*** and the ***Avon and Somerset Police Drugs Education Programme*** (DEP); and the ***Durham Checkpoint*** behavioural contract programme. These are all examples of *de facto* approaches. At the time of writing, several

police forces in England were currently in the process of implementing diversionary approaches for low level offenders (Association of Police and Crime Commissioners, 2020).

Thames Valley Police have operated a pre-arrest drug-possession diversion scheme since December 2018. People of any age, who are found in possession of any substance, are provided with an appointment with the local drug service. The scheme is eligible to people regardless of offending history, and if a substance is discovered as part of another investigation (e.g. theft) then the drugs offence will be diverted, whilst the other offence is investigated. A community resolution, not recorded on standard Disclosure and Barring Service checks is applied on the street (or if necessary, in custody), and the individual is referred to a drug service. Referral does not require admission of guilt. There are plans to extend the scheme to educational settings so that school safeguarding staff can directly refer students involved in drug related incidents to the scheme without involving the police, with the aim of reducing exclusions. Attendance at the drug service is voluntary, and individuals receive assessment and targeted education. Internal evaluation of the first three months of operation[26] indicated that whilst 78% of young people complete the whole course, only 29% of adults completed; although this is comparable to other types of community resolution attendance rates.

The **DEP** is an out of court disposal that provides a single opportunity for drug offenders (usually possession offences) to attend a one-day educational drugs awareness course facilitated by specialist drug workers. Referral is independent of offending history, but if at the point of arrest an individual is willing to receive the intervention, then they can be referred to the DEP at the officer's discretion. The DEP is a one-day mixed gender group session, comprising participants with varied offending histories. Young people attend separate one-to-one sessions. Content focuses on health-effects of drug use and drug law, and voluntary signposting/referral is provided to those individuals who might benefit from further support. Failure to attend leads to charge to court by postal requisition and the opportunity for referral is not offered again. Similarly, if the offender attends the DEP and re-offends then they do not receive a second referral. Upon successful completion, the individual will not receive a criminal justice outcome and the offence will be recorded as a 'no further action'. Although no full evaluation of DEP has been undertaken, evaluation of the pilot DEP programme suggested participants were less likely to re-offend compared to those who had gone through the criminal justice system during the baseline period (Luckwell, 2017).

Checkpoint is a voluntary adult offender deferred prosecution programme operating in Durham Constabulary. It targets low-level offenders (< 3 previous offences, trigger offence suitable for an out of court disposal) entering the criminal justice system by providing an alternative to criminal

[26] Email to author from Thames Valley Police (2019)

prosecution. Eligible offences include possession of drugs and programme entry is prior to the entry of a plea or admission. Checkpoint activities are agreed through a behavioural contract, and target individually assessed needs and other factors that underpin offending behaviour. Participants are supported through the programme over a four-month period by independent Navigators who offer substantial and meaningful contact, and encourage them to engage with services. Checkpoint contracts include up to five conditions, including a commitment not to reoffend, restorative action, community voluntary work, services and interventions addressing behavioural determinants of offending, and wearing a GPS tag. If participants re-offend or do not engage with Navigators and services then the contract is breached, prosecution is re-activated, and the offender receives a referral to court notice. If the conditions of the contract are satisfied then the matter is resolved by the way of a community resolution (a non-statutory disposal that is not disclosed on background checks).

Evaluation of the early implementation phase of the programmes suggested that Checkpoint achieved high retention (90%; n = 464) of the participating cohort (n = 519), and participants achieved a lower re-arrest and reoffending rate in comparison to a pre-Checkpoint sample receiving an out of court disposal in the force area, and reduced harm (severity of offence and individual harms such as identified issues with substances, and accommodation), and costs (Weir et al., 2019). Internal evaluation of an earlier scheme with similar components, Turning Point, delivered in the West Midlands of England to lower risk offenders with no more than one conviction showed similar benefits (summarised by Hughes et al. (2018b)). Compared to a group of offenders who were prosecuted as normal, Turning Point participants were just as likely to re-offend, but there was lower recidivism for violent offences. Fewer cases proceeded to court (68% less), and overall, participation was associated with a saving of £1000 per case. Victims with cases in the Turning Point sample were also 43% more satisfied than those victims with cases sent to court. Victims thought that Turning Point was more likely to stop the offender from reoffending, and it was found that how the programme was explained to them was important in explaining satisfaction. Around 30% of cases that otherwise proceeded to court were dismissed, and guilty outcomes often received only a fine or conditional discharge. The structured programme of activities delivered as part of Turning Point were thought to help address determinants of offending, and were not considered an 'easy' alternative.

Based on their review of international approaches to drug possession offences, Hughes and colleagues (2018) identified a number of potential advantages and disadvantages of diversionary schemes. Potential advantages include a reduction in the number of convictions; increased number of referrals to drug treatment and other services; reductions in substance use (studies have primarily assessed cannabis); improvements in physical and mental health; improvements in actions targeting underlying determinants of offending behaviour (e.g. employment, training, legitimate income); reduction in

social and economic harms caused by a criminal record; reductions in criminal justice costs; and reduced recidivism. For example, participation in the US Law Enforcement Assisted Diversion (LEAD) programme which provided case management support, drug treatment and social support for people detected for minor drug offences, was associated with significant improvements in housing, employment, and legitimate income, and reduced reoffending rates (Collins et al., 2017b, Collins et al., 2015). A stakeholder consultation and review of data from Australian police-led diversion for cannabis use or possession offences, where such schemes have been running since 1999, confirmed the potential for positive outcomes, and noted that clients on diversion programmes tended to be younger, complied well with conditions, and would otherwise not have accessed drug treatment or other support services (Hughes et al., 2019). The success of these programmes was dependent upon a number of factors, including increasing levels of public support for non-criminal penalties for possession of all types of drugs. One important aspect which strengthened support amongst professional stakeholders was that diversionary schemes were estimated to be between 6-15 times less expensive than normal charging procedures, and saved significant police time.

Potential disadvantages of diversionary schemes include political and media opposition (perceptions of 'going soft on crime'); large set-up costs that may not be recouped for several years (including additional costs for partner agencies); difficulties in establishing inclusion criteria (e.g. targeted offences; thresholds for drug possession amounts, which may lead to over-representation of some types of drugs); professional and cultural resistance; low levels of client engagement and high levels of drop out with voluntary schemes; overly complex referral processes and variable implementation (e.g. on the basis of geography or client group) due to the discretionary nature of *de facto* approaches. The success of diversion is also dependent upon the interventions and services that clients are referred into, the quality of their delivery, and intervention capacity and coverage. Other studies suggest that client factors (e.g. substance use and offending histories) may determine outcomes such as reoffending after participation in a diversionary scheme, and so an escalating programme of support may be required, which will have additional cost implications (Shanahan et al., 2017).

Internationally, and in contrast to process- and criminal justice related outcomes, there is a general lack of research on these types of diversionary approach on use of drugs other than cannabis and other health outcomes. There may also be a risk of unintended or unexpected consequences. An evaluation of outcomes in 4,000 French drug offenders participating in a programme diverting offenders into drug education and prevention found little impact on cannabis use behaviours (the most frequent referral offence), partly because the intervention was considered to lack personalisation (EMCDDA, 2015a). Around one-fifth of participants stated they would not change their substance use behaviour except to avoid being caught again, and although two-thirds said they would

stop or reduce drug consumption, the majority of those had already started to reconsider their behaviour immediately following arrest, and before the education programme started.

Legislated, or *de jure*, approaches to diversion have been less commonly implemented, but have been delivered in some Australian states and territories (Hughes et al., 2019). The main advantage of this type of approach (in addition to those described above for *de facto* schemes) is that because the action is based in law, there is less variability in implementation. However, narrow eligibility criteria can limit access and undermine (potential) success, and as is seen in other health domains, repeated access by eligible individuals (if permitted) can result in high resource utilisation.

The final diversionary model discussed in this section is the *de jure* reform delivered in Portugal. Law 30/2000 (Decriminalisation of Drug Use Act), adopted in November 2000, but in place since July 2001, decriminalised consumption, acquisition and possession of all drugs for personal consumption (EMCDDA, 2011). Subsequently, specific regulations defined what quantities constituted 'personal consumption', but on average, this represents a maximum of 10 days consumption. So, for example, this would be equivalent to around 25g of cannabis, 1g of heroin, 2g of cocaine, or 1g of MDMA (equivalent to around 3 ecstasy tablets). Other drug offences such as supply and production were retained, although supply of drugs in order to fund personal drug purchases remained a lesser offence. The legislation provided a framework whereby a person caught using or possessing less than the maximum allowed amount of a drug for personal use, where there was no suspicion of involvement in supply, is referred by police for an evaluation by a regionally convened *Commission for Dissuasion of Drug Addiction* (CDT). The CDT comprises three members, two of whom must be either a medical doctor, psychologist, sociologist or social worker, whilst a third is a legal expert. The CDT undertakes an individual assessment before delivering its ruling. Punitive sanctions can be applied, but the main objective is to explore the need for further support, and so clients can be referred to local services, including drug treatment, (mental) health and social care, employment, education, and child protection. Available sanctions include (but are not limited to) warnings, suspended sentences, community sentences, requirements for attendance at services (drug treatment or other types), loss of driving license, and fines. As the primary objective of the CDT is to identify people experiencing problems with their drug use and to make referrals into treatment, most attendees receive a suspended sentence. In 2017, for example, 72% of drug law offences in Portugal related to possession, primarily for cannabis (EMCDDA, 2019c). In 2013 (date of last publicly available data), the CDTs assessed 7,528 people, and 70% of these referrals resulted in suspended sentences; 12% in suspended sentences with a condition of referral into treatment; and 11% led to punitive outcomes, including mandatory service attendance (EMCDDA, 2015b).

The impact of legislative change in Portugal has been frequently discussed in popular media, albeit often inaccurately referred to as 'legalisation' and with mischaracterisation of the work of the CDTs (Laqueur, 2015). Importantly, legal change was accompanied by investment in drug prevention, treatment, recovery and harm reduction services; and an expansion of social welfare and social reintegration support (e.g. education, training, and supported employment). The change in Portuguese law in 2001 represented a codification of previous practice (e.g. few people were imprisoned for drug possession offences prior to 2001), and was broadly in line with contemporaneous depenalisation activities in other European countries. Several evaluations and datasets provide some insights into changes in the drug use situation in Portugal since 2001 (e.g. Laqueur (2015), EMCDDA (2019a), Hughes and Stevens (2012), Felix et al. (2017), Pomba and da Costa (2016), Gonçalves et al. (2015)). In summary, these suggest that since 2001:

- There were unclear effects on drug use prevalence, with some increases in lifetime measures of use in some age groups, rather than an increase in recent, regular, or heavy use. In general, drug use prevalence in Portugal has always been lower than the European average, and patterns and trends in use have not been substantially different to elsewhere.
- In line with the objective of referring people into drug treatment, there has been an overall increase in treatment presentations (~94% up to 2013), and in keeping with other European countries, crack cocaine presentations have recently increased;
- The number of police contacts with people who use drugs did not change, suggesting that there was not 'net widening' whereby changes in legislation made it easier for police to sanction offenders compared to the previous system that required more burdensome arrest and criminal booking procedures;
- Arrests and imprisonments for all types of drug offences decreased, including for supply/trafficking, leading to a reduction in the prison population;
- There was a short term increase in the total number of homicides (not just drug-related), although this returned to pre-2001 levels by 2011;
- The number of drug seizures fell, although weight increased. Street drug prices fell, although this was in keeping with prices in geographical neighbours;
- There was a continuation of the pre-2001 trend of reduced drug-related deaths, tuberculosis, HIV, and viral hepatitis infections. Data suggested that injecting drug use had also fallen;
- There has been a reduction in drug-related societal costs due to increases in expenditure on drug treatment being offset by savings in drug-related criminal justice costs, freeing up of courts to prosecute other non-drug offences, and treatment of adverse health outcomes (e.g.

blood borne viral infections; HIV/AIDS). The reduction in expenditure was estimated to be 18% between 2000 and 2010.

Since changes to the Portuguese legal framework and the introduction of the CDTs were introduced as part of a broader drug policy strategy, underpinned by substantial investments in services, these changes should not be interpreted as effects of legal changes alone.

9.8 Spotlight on arrest referral

Arrest referral schemes are partnerships between police and drug services that uses the point of arrest within custody suites at police stations as an opportunity for a drugs worker to assess drug users and, if necessary, refer them to drug treatment services (Mair and Millings, 2013, Hunter et al., 2005). Three models of arrest referral have been described, based on information provision (leaflets and signposting to services), proactivity (involving specialist workers in the police stations), and coercion (cautioning an arrestee to seek advice from a drugs worker) (Edmunds et al., 1998). Arrest referral is not an alternative to prosecution but a platform for engaging with people who use drugs.

Arrest referral was introduced in the UK in 2003/4 as part of the Drug Interventions Programme (DIP). People who have been arrested for 'trigger' offences such as drug possession or supply, or associated offences such as fraud or acquisitive crime, are saliva tested in the custody suite in the police station ('test on arrest) for the presence of opioid and cocaine metabolites (Collins et al., 2017a). A positive test leads to a referral into drug treatment services. There may be a sanction for failure to be tested or to attend assessments. The justification for the approach is that early identification of people who are committing crimes associated with drug use (or those not charged, as a preventive measure) can be referred into drug treatment. National funding for DIP ceased in 2013 when drug and alcohol commissioning moved from the National Health Service (NHS) to local authorities, although many police force areas continued to operate the scheme under different names, and sometimes without the test on arrest component. In 2017/18, 2% of new referrals into English drug treatment services were via arrest referral/DIP schemes, compared with 14% from criminal justice services overall (Public Health England, 2018) .

Early evaluations of DIP in England and Wales suggested that arrest referral approaches were associated with significant reductions in reconviction rates (Hough et al., 2003). In a separate analysis of a 2005 DIP cohort of 7,727 offenders there was a 26% reduction in volume of offending in the 6 months post-intervention, with around half the cohort reducing offending by 79% (Skodbo et al.,

2007). In a casefile study examining DIP client outcomes, whilst a minority of clients achieved positive outcomes; clients with heavier use of substances were retained in treatment for longer than those using opioids and crack less frequently or in lower quantities (Best et al., 2008). Collins and colleagues investigated the cost-effectiveness of delivery of DIP in Wirral (2013), a borough of Merseyside located in the NW of England that has high rates of use of opioid and crack cocaine use (Collins et al., 2017a). Overall, there was a 52% reduction in the volume of offending and a 43% reduction in crime costs associated with DIP. However, there was no overall change in the total number of offences. There was also a significant improvement in quality of life and physical health. The cost of the programme was £942 per person (drug testing staff; lab costs; GP and prescribing costs; admin costs; police costs), but this was based on the mean cost of the whole programme, and so included costs of testing people who did not test positive for drugs. Overall, DIP was found to be cost effective in this area, with an average net cost saving of £668 per participating client (or £6,207 when one case of homicide was included in the calculations).

9.9 Spotlight on drug court models

'Drug courts' are a model of therapeutic jurisprudence that provide an alternative to traditional case processing in the criminal justice system and order offenders to a programme of ongoing supervision and community-based drug treatment administered in a non-adversarial setting (McIvor, 2013). Although different implementation models exist, this type of programme can be offered as a diversionary alternative to court adjudication, with criminal charges waived upon successful completion, or as an alternative to a custodial sentence after a guilty plea or verdict. Orders are delivered through a multi-agency partnership, and mandated activities can include completion of an approved treatment programme, periodic biological testing ('drug testing'), and community supervision. Sanctions (fines, community supervision, custodial sentences) or small non-monetary incentives (praise, advancement) may also be applied for (non-)compliance with conditions.

Systematic reviews of the impact of adult drug courts on outcomes such as such as recidivism, completion and adherence of treatment, and levels of substance use have identified few high quality studies on their effects (Brown, 2010, Wittouck et al., 2013, Mitchell et al., 2012, Sevigny et al., 2013, Shaffer, 2011, Wilson et al., 2006, Hayhurst et al., 2015, Werb et al., 2016). Relatively higher quality studies are primarily from the USA with methamphetamine users, and these suffer from weaknesses such as small sample sizes, high attrition rate, non-randomised allocation, and short-term follow-ups, and so generalisability to other geographies is limited. Data supports the use of courts in addressing general and drug-offence related recidivism, but not necessarily the average amount of time that

offenders spend imprisoned as long sentences were often imposed on participants who did not comply with court requirements. Features such as programme intensity and available resources, the quality of treatment provided, clarity of in-programme sanctions, consistency in judicial supervision, staff characteristics, compliance burdens placed on offenders (e.g. people 'set up to fail' with unrealistic demands) and the profile of clients (e.g. repeat offenders have a greater rate of attrition) are important determinants of drug court outcomes. There is a lack of evidence on these approaches on substance use or other health-related outcomes, although some studies have identified short-term benefits in relation to drug-related life domains (e.g. social relationships, employment, or health) during active participation in drug court-mandated treatment programmes.

A cost-benefit analysis of 72 drug court studies conducted in the USA estimated that the approach cost, on average, approximately $5022 (£4040) per participant, but this was offset by benefits of $9149 (£7360) for each participant. This included a saving of $4973 (£4000) to the taxpayer, and $9198 (£7400) to others (Washington State Institute for Public Policy, 2018).

Although there have been a small number of pilots of drug courts in the UK, these have differed from international models as courts were not awarded additional powers, and built on actions already available at the time such as drug treatment and testing orders (DTTO)[27], that have similar features such as regular biological testing and judicial review. There has been a lack of evaluation of the effectiveness of UK pilots although some process evaluations have been undertaken. These have highlighted the importance of effective structures and processes to facilitate inter-agency working and the promotion of a shared agenda with common goals (McIvor, 2013). Evaluation of English and Welsh drug court pilots delivered through magistrate courts found that the approach was viewed by staff and offenders to help facilitate multi-partnership working and to help facilitate more efficient use of resources (Kerr et al., 2011). The schemes were perceived to provide structure and clear goals for offenders, raised their self-esteem, and provided a degree of accountability for offenders about their action. Although the evaluation was not intended to assess outcomes, perceived mechanisms of success included the personal qualities and expertise of the judiciary, the nature of the judiciary-offender relationship, and the strategic relationships developed between delivery agencies. Estimates of operating a pilot drug court in Leeds, UK, suggested additional costs of £4,633 for a 12-month order compared with a non-drug court imposed drug and rehabilitation requirement (Matrix Knowledge Group, 2008). Evaluation of Scottish drug court programmes suggested that they were supported by

[27] A court imposed community sentence order where individuals whose offending is linked to substance use are required to submit to regular drug testing, to attend intensive treatment and support programmes and progress reviewed regularly by the courts. These are still available to Scottish Courts, but have been largely replaced in England by Drug Rehabilitation Requirements, which serve the same function.

programme staff and other stakeholders, and provided a way of 'fast tracking' people to treatment, leading to reductions in substance use (McIvor, 2013). However, later analysis suggested that they had no impact on offending behaviour and reconvictions (Scottish Government, 2010). Furthermore, implementing orders through the drug courts cost more per order compared to similar actions implemented by other types of courts, although this may have been partly due to the complex and challenging client profile. In Scotland, the cost of a drug court order was estimated as being £4,401 more than a non-drug court issued DTTO (total cost of drug court order = £18,486 in 2001-2004; *cf* contemporary cost of a 6 month prison sentence of £15,336). Evaluation researchers noted that weekly reductions in substance expenditure (£402) and property crime (£1,200) should also be factored into these calculations (McIvor et al., 2006).

9.10 Spotlight on sentencing with a drug treatment component

Court-imposed treatment orders, sometimes termed quasi-compulsory or coerced treatment (QCT) are treatment activities that are motivated, ordered, or supervised by the criminal justice system, but that take place in a non-prison context (Schaub et al., 2010). The approach differs from drug courts as they are delivered outside of a dedicated court framework, are not limited to drug law offenders, do not include intensive supervision and review, and may include repeat offenders who might otherwise be excluded from criteria for participation in drug courts. Although not discussed here, QCT approaches differ from compulsory or mandatory drug treatment, as individuals are provided with a choice, however narrow, to refuse treatment (Werb et al., 2016). Internationally, although the number of countries that implement some form of mandatory treatment has decreased over the last two decades, there has been a concomitant increase in the total number of cases processed and the mean length of treatment orders (Israelsson and Gerdner, 2012).

As shown in Table 9-3, a number of different QCT systems are in operation in Europe. They can be delivered at any stage of the criminal justice system, but with respect to pre-sentencing or post-conviction are broadly categorised into those that suspend prosecution or sentence (e.g. imprisonment) to offenders that enter treatment; or where sentencing that includes a treatment order as an alternative to another sentence (i.e. the sentence in not suspended). Failure to comply with a QCT usually results in punitive sanctions, such as imprisonment, depending upon the nature of the offence and/or the suspended sentence.

In England, for example, Drug Rehabilitation Requirements (DRR) were introduced in 2005 as a replacement to DTTOs (see Section 6.7 above), and were available to less serious offenders. The Requirement comprises structured treatment and regular drug testing, is available to courts as a

sentencing option and can be made as part of a community order or a suspended sentence order[28]. The amount and intensity of the drug treatment delivered under the DRR is tailored to individual needs regardless of the seriousness of the offence. Before making a DRR the court must be satisfied that the offender meets four criteria; i) they are dependent on, or have the propensity to use illegal drugs; ii) the offender requires and would benefit from treatment iii) necessary arrangements have been or can be made for treatment; and iv) the offender expresses willingness to comply with the requirement (i.e. the quasi-compulsory component). The DRR lasts between three and thirty six months and those delivered as part of a community order can be reviewed by the court. Failure to adhere to the treatment plan can result in a return to court for breach of the order, which may result in re-sentencing. In 2018/19 (latest available data), around 1% of all treatment referrals, and 5% of all criminal justice referrals were DRRs (Public Health England, 2019).

In general, although the quality of evidence is relatively weak, international studies (including study sites in the UK) have suggested that court QCT is at least as effective as voluntary treatment in reducing substance use and crime (Schaub et al., 2010, Werb et al., 2016, Stevens, 2010, Bright and Martire, 2013). There have been no assessments of the cost-effectiveness of these approaches when delivered at the pre-sentencing stage. Considering the high risk of resumption of substance use and criminal activity after prison release, QCT may be an effective alternative to imprisonment for people with drug use- and offending related needs.

For example, one pan-EU quasi-experimental study compared QCT with voluntary treatment in Austria, Germany, Italy, Switzerland, and the UK, and found that overall, client outcomes were similar across both treatment types (substance use, criminality, physical health, employment) (Schaub et al., 2010). Higher reductions in substance use were found in the first 6 months after treatment entry, compared to later follow up periods, and in-patient treatment led to higher reductions compared to community treatment. Further analysis of predictors of retention in these QCT models found that only perceived pressure from medical authorities (i.e. treatment services) predicted retention (Schaub et al., 2011). In contrast, perceived pressure from legal authorities to stay in treatment was not a significant predictor. This suggested that factors including the quality of the services provided and the therapeutic alliance may be more important in the success of these approaches rather than the fact that they were mandated by courts. Other predictors suggested that individual client factors were important determinants of retention, and was positively associated with a higher number of working

[28] See NOMS (2014) Supporting Community Order Treatment Requirements (available online https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/426676/Supporting_CO_Treatment_Reqs.pdf; last accessed 25/11/19) for an overview.

days in the previous month, while use of heroin, crack, and multiple drugs, psychiatric problems in the previous month, and lifetime depression were negatively associated with treatment retention.

9.11 Spotlight on supervised drug consumption facilities

Supervised drug consumption facilities (SDCF), sometimes known as Safer/Supervised Injection Facilities, Overdose Prevention Sites, or Drug Consumption Rooms (Alexander et al., 2018), are health care settings that aim to provide an environment whereby pre-obtained drugs can be (self-) administered in safer and more hygienic conditions, and under the supervision of medically-trained staff (ACMD; 2016; EMCDDA, 2018; Jauffret-Roustide & Cailbault, 2018).

Supervised drug consumption facilities are included in this report as whilst operation is consistent with the UN Conventions[29], a legal framework is necessary to provide exemption from a number of offences under national drugs legislation that might be committed in its operation, including drug possession offences. These include potential offences directly related to possession of the drug in question (including possession by service users, possession of discarded controlled substances by staff, traces of substances on paraphernalia such as injecting equipment); staff assisting or facilitating a service users' possession of the drug; production of a drug in preparation for self-administration; a facility manager permitting or suffering (with knowledge) the client to produce the drug on the premises and, (e) related legislation such as anti-smoking laws (Fortson, 2017).

Around 100 DCRs have been established internationally, including in Europe, Canada, and Australia (EMCDDA, 2018; Lloyd, 2017; Jauffret-Roustide & Cailbault, 2018), although much of the evidence base is derived from research conducted in facilities operating in a small number of cities in Australia, Canada, Denmark, and Spain (Potier et al, 2014). Literature reviews and evidence syntheses conclude that these facilities are successful at attracting some of the most vulnerable and marginalised people who inject drugs, and tentatively conclude that they may be effective in reducing overdose morbidity and mortality, promote safer injection conditions and practices, and enhance access to other health services, including referral to formal drug treatment (e.g. MacArthur et al., 2014; May et al., 2018; McNeil et al., 2014; Potier et al., 2014). Primary studies suggest that crime (including drug dealing) does not increase in surrounding areas and implementation has been associated with reductions in street-based drug use and discarded drug paraphernalia (Potier et al, 2014). Furthermore, public acceptance, including local businesses, also increases over time (Thein et al., 2005). Modelling studies suggest that SDCF can be cost-effective, with the short-term cost of establishing them (which can be

[29] Provided the facility aims at "effectively reducing the negative consequences of drug abuse and lead to treatment and rehabilitation, without condoning or encouraging drug abuse and drug trafficking."

high) offset by long-term savings made from preventing infections among people who inject drugs, and drug related deaths (Des Jarlais et al, 2008). However, initial set-up costs, resource utilisation, and potential cost savings are highly dependent upon model assumptions, including factors such as service utilisation rates; client substance use behaviours (including injection risk factors for blood borne viruses (BBV); and background incidence of BBV).

In Ireland, for example, the Misuse of Drugs Act Supervised Injection Facilities 2017 was passed to enable licensing and regulation of SDCF, although a planned pilot site has yet to be opened at the time of writing (2019). Internationally, SDCF have been established prior to implementation of a formal legal framework. In Germany, several cities introduced SDCF as a response to local drug related harm, several years prior to amendments to national law (Lloyd et al., 2017). These initiatives proceeded as part of multi-agency collaborations, including police, local politicians, and social and healthcare services, leading to agreed protocols and terms of engagement, and discretion on behalf of prosecutors on the basis of public interest. However, legal commentators have noted that there is no absolute discretion in an authority charged with enforcing the law, and the legality of SDCF could be subject to legal challenge (including under civil action) regardless of local partnership agreements (Fortson, 2017). In the UK, the UK Government Advisory Council on the Misuse of Drugs (ACMD) have recommended the introduction of SDCF as one approach to reduce drug related deaths (ACMD, 2016). In response to high levels of drug-related harm, the NHS Greater Glasgow and Clyde Health Board developed proposals for a "*pilot safer injecting facility in the city centre, to address the unacceptable burden of health and social harms caused by public injecting*" and the co-location of a heroin-assisted treatment service (NHSGCC, 2016:5). The plans were backed by the local city, council police, and the Scottish Parliament. However, the pilot has been rejected by the UK Government, primarily due to a lack of appropriate legal framework.

9.12 What mechanisms and processes underpin the outcomes of alternatives to punishment for drug possession?

Assessment of the potential outcomes of policy change (including unintended outcomes) requires an understandings of the mechanisms of action of the proposed action and the socio-political contexts in which change occurs (Pawson and Tilley, 1997). Context in this regard includes such features as drug trends and availability of substances; political structures and legal frameworks; and political, public and other stakeholder preferences.

Stevens and colleagues (2019) have described putative mechanisms underpinning outcomes seen after introduction of alternative approaches to criminalisation of drug possession. Whilst their work had a similar focus to the current review, terminology and categorisation of approaches differed. However, they present useful models and theories that help understandings of how alternative measures might work, and so these have been adopted for this report. Their model is summarised here, and then using data emerging from the stakeholder event and analyses presented herein, discussed in relation to the context of drug use in Guernsey (Table 9-4). This underpins the presentation of options in Section 11 of the report.

In summary, they describe how the structural and cultural properties of social systems influence the institutional contexts in which alternative measures operate. The implementation of alternative measures in these contexts triggers mechanisms through three causal pathways (labelled by these authors as *normative*, *criminal justice*, and *health and social service,* described below). Alternative approaches operate within complex combinations of contexts and mechanisms to produce different (potential) outcomes. The choice of alternative is important, as each may be associated with differences in the levels of support from key stakeholders such as the public, police, and politicians. Choices also require different levels of resource investment, and this is partly based on the availability, capacity, and quality of existing services, systems and structures.

The *context* component of the model includes two important sets of components; i) the *conditions* of a system which enable or disable particular causal mechanisms that allow alternatives to operate; and ii) the *institutions* in which alternative measures operate. For Stevens and colleagues, *conditions* can be broadly divided into *structural* and *cultural* categories. These provide a lens through which to better understand how policy is developed, who is involved in that process, and what power relationships, values and preferences are important in policy development. In Guernsey for example, the identification of particular priority areas in the current drug strategy (2015-2020), and a move towards a combined substance misuse strategy suggests ways in which 'problems' related to drug use have

historically been understood by policy makers and other stakeholders, the values that stakeholders believe are important when considering responses to drug use, and what particular outcomes are chosen to demonstrate success or failure. Transference of responsibility for the BDAS to the HSC and the commissioning of this review (and parallel reviews into the justice system and cannabis based medicinal products) also suggests that there is a broader process of change taking place in terms of the governance of substance use policy and the direction of travel.

Institutional factors include the nature of the legal system, its history, the changes (if any) that are needed to support new responses, or the requirements for new legal frameworks (and the likely barriers and facilitators of those action). This also includes political factors, which may be influenced by political strategy, moral orientation, election cycles (e.g. voters want a government that is 'tough' on crime where levels of crime are perceived to be high; parties wish to appeal to a broad range of voters, including those who value alternatives to punishment), interest-group campaigns, and backroom negotiations and inter-departmental power dynamics. Resistance and support from institutions such as the police and the wider criminal justice system, and (public) health sector are also important. There may be differences in the professional cultures and priorities that lead to disagreement between sectors on the best ways to respond to an issue. The operation of multiagency responses may be limited by the readiness, willingness, and capacity of some partners to help deliver new approaches, and disagreements on funding arrangements. This may also lead to differences not only in the acceptability of alternative approaches *per se* (particularly *de facto* approaches, which rely on discretionary implementation), but also the form that they take, including characteristics such as thresholds for referral to diversionary schemes, what offences and drugs (and what amounts) are included, and what sanctions are applied for breach of any imposed conditions.

Stevens and colleagues also highlighted that the nature of the drug market, drug-related crime, and levels of population drug use and associated harms should also be taken into account. Some types of drug market are more harmful than others and are associated with higher social and financial costs (e.g. those associated with particular drugs and with the involvement of serious and organised crime groups; a predominant heroin market vs diversion of prescribed drugs). There may be also be differential benefits with regards police resources depending upon rates of drug-related offending; areas with high levels of possession offences will see greater benefits that those with lower rates. Drug offender profiles may differ with the types of crime committed, or the health and social needs of offenders. This is important to take into account when considering political readiness and public acceptability of change, as *who* uses drugs may be just as important as what they use, and what the effects of use are. There may be less willingness to punish young people, or those of high social status,

compared to those people whose drug use seems more 'problematic', or related to criminal activity and other socially unacceptable behaviour.

Finally, research and evaluation capacity will determine how well implementation of the new policy can be monitored, and whether outcomes can be assessed. This is not only important in relation to understanding how well the system is working, or whether it is considered a success or not (depending upon the criteria used), but also in refining the approach or supporting decision making with regards to continuation (e.g. fixed period policy 'sunset-clauses').

Mechanisms are triggered when the intervention (i.e. the alternative to punishment) interacts with the contexts described above. These form pathways, comprising multiple overlapping mechanisms, to produce (un)intended outcomes. Different alternatives may activate different pathways. Based upon their review of international literature Stevens and colleagues identified three main interacting pathways of relevance, which they labelled i) *normative*; ii) *criminal justice*; and iii) *health and social service* mechanisms. They apply generally across different territories and legislations, but the relative importance of particular mechanisms depends upon the context in which they are located.

Normative mechanisms reflect to the social norms, attitudes, beliefs, and 'messages' that the law gives about the acceptability of particular behaviours, and the restrictions places on them. In relation to drug possession offences, introducing an alternative to punishment may 'give the message' that drug possession – and by extension, drug use – is safe and acceptable, which may lead to increased use, or use in ways that would otherwise be considered socially unacceptable, such as street-based/public drug use. Members of the public who do not use drugs, but believe that use is harmful and/or possession should be punished, may interpret a change in law to signify that police and judiciary do not view the offence as a priority, or that it reflects a wider 'softening' of approaches to crime. Normative processes closely overlap with *criminal justice* mechanisms. Punishment, or fear of punishment, may act as a deterrent to some people contemplating drug use, and imprisonment may incapacitate people from committing further offences. For people experiencing problems with their drug use, an arrest may act as a motivation to accept a referral into treatment services that they may not have voluntarily considered (health and social service mechanisms).

Alternatively, punitive responses to drug possession offences may discourage other people from voluntarily seeking assistance or entering drug treatment services (*health and social service* mechanisms), because of the fear of the consequences of prosecution, or being given the stigmatising label of a 'drug user', which can have long-term impacts on recovery and social reintegration (UKDPC, 2010). Furthermore, research indicates that retention in drug treatment, a strong predictor of positive outcomes, may be more closely related to service and practitioner level factors, rather than the

motivation provided the source of referral (Schaub et al., 2011). Hence, whilst involvement in the criminal justice system may provide opportunities to refer people into treatment, it does not necessarily lead to better outcomes, and those opportunities might be outweighed by the (inadvertent) harm associated with criminalisation. Drug policy researchers have argued that because such a small proportion of the total number of people who use drugs come to the attention of the criminal justice system, then it is unlikely to have a significant impact on levels of use (Babor et al., 2018). Criminologists have also argued that being labelled as a 'criminal' may lead to cyclical behaviour, whereby an individual begins to disregard social norms as a result of negative societal reaction to offending behaviour, and commits further crime in order to restore self-esteem (Kaplan, 1980). As discussed in Section 8, criminal justice processes are associated with significant costs: to i) the offender, in terms of health, liberty, and life opportunities; and ii) to the state with respect to the resources required, and the costs associated with further criminality, loss of employment, or exposure to criminal networks. Furthermore, as seen with other substances such as tobacco and alcohol, and as applied within less punitive approaches to drug possession offences internationally, additional restrictions and offences can be retained, such as prohibiting the use of substances in public spaces, punishing harmful behaviours associated with substance use such as driving whilst intoxicated, or imposing monitored abstention orders on violent or repeat offenders (Bainbridge, 2019).

Finally, in addition to interaction with the two other pathways, *health and social service* mechanisms help to explain how the processes that lead to increased opportunities for contact with services (e.g. through diversion activities) may lead to better health and social outcomes compared with contact with the criminal justice system alone. Screening and triage is an essential component of this mechanism and ensure that individuals receive the most appropriate and effective programme of support for their use of drugs. For some people this may mean minimal or no intervention, but for others this may mean a targeted and graduated system of support. Decision makers need to consider whether this system is available, what other development activities/resources are needed, and whether there will be buy-in from relevant stakeholders. The success of health and social service pathways depends not only on the functioning of the pathway, but also what services and support are offered to recipients, the effectiveness of those services, and the acceptability to service users.

Participants at the professional stakeholder event were asked to identify and discuss some of these contextual factors and the outcomes that they expected from drug policy, and these are summarised in Table 9-4 below alongside other evidence included in the review.

Table 9-4 Contexts and outcomes of alternative approaches to drug possession offences relevant to Guernsey and Alderney. Framework based on the work of Stevens et al 2019[1] Identified through stakeholder discussion, and evidence presented in this review

Factor	Description	Examples from the Guernsey & Alderney context[1]	Further comments
Context			
Structural	How policy is developed, who is involved in that process (and who is not), and what relationships, values and preferences are important	• Transference of responsibility for drug strategy to the HSC • Commissioning of the Justice Review, this review, and the medicinal cannabis review suggests that stakeholders are open to change • Development of a Combined Substance Misuse Strategy	
Cultural	The wider societal values that determine whether policy change will be accepted and what change looks like	• Recent public surveys suggest a majority of respondents think that sentences for drug possession are too strict, and that criminal records shouldn't be given for minor offences if it affects future life-chances	Unknown how the public interprets 'minor offence' or levels of support and understanding of the different alternatives to possession offences described in the review
Political environment	The political context into which change is delivered, and the likely windows of opportunities and levers of change	• Combined Substance Use Strategy driven by the Committee for Health& Social Care, with a specific instruction to commission this report	
Legal system	The legislation and system of law required to implement activities	• Major changes to legislation would be required for some alternatives, including amendments to the Misuse of Drugs Law 1974 • New offences may be required to cover possession offences not exempted by changes in law • *De facto* diversion approaches and depenalisation would not require legal change • Administrative law structure already in place	Clear guidelines required on *de facto* approaches (e.g. police-led diversion) with strong buy-in from relevant services to ensure consistency of implementation
Illicit market for drugs	The nature of the drugs market, demand for drugs, and patterns of use and harm	• Unique drug situation that is different to other territories that have implemented alternative approaches to possession • Relatively low levels of drug-related crime • Majority of drug use and drug possession offences relate to cannabis, which may be considered a relatively lower-risk drug	Most international approaches have targeted cannabis use, so good potential for learning from existing models; Relatively low levels of drug-related crime (e.g. acquisitive crime) suggests that the majority of possession offenders needs could be served by interventions and activities focusing on their

			substance use (i.e. advice, education, and treatment), rather than more complex programmes addressing offending behaviour.
Use of criminal sanctions	Resource utilisation for prosecuting drug possession offences	• Relatively high number of drug possession offences include a custodial component • Relatively high overall rate of imprisonment compared to relevant jurisdictions	Data availability limits assessment of this factor. No data available on costs of prosecuting and resolving drug possession offences
Culture and priorities of police and prosecutors	Professional cultures that support or oppose the use of alternative approaches. Beliefs and values of role of the criminal justice system in addressing drug related harm	• Criminal justice sector valued as partner in approaches to reducing drug related harms • Use of out of court disposals and other available powers is currently low • Possession offences sometimes seen as useful tool in targeting more serious offenders	Further work is required to better understand whether police and prosecutors would support alternatives to possession offences, and if this would support prioritisation of other offences
Healthcare and welfare systems	Demand reduction, harm reduction, treatment/recovery support already available for people who drugs, and the capacity and quality of that system. New service/capacity requirements	• Existing portfolio of services suitable for delivery of diversionary activities • Referral pathways and resourcing of diversionary activities would need to be reviewed • Some services will need to be reoriented towards referral from community, and away from the criminal justice system	Evaluations of international systems have concluded that capacity, quality, and resourcing of necessary referral services should be established prior to change
Research/evaluation capacity	Data collection and reporting systems that monitor delivery, utilisation, and outcomes from the system. Capacity and resource to (independently) evaluate policy outcomes, and to help refine approach	• There are domestic health and criminal justice monitoring systems, and annual key indicator surveys • Sufficient internal capacity for monitoring process activities and throughput, but lack of specialist local evaluation expertise (this review was externally commissioned) • New systems to monitor delivery of alternative approaches would have to be developed	Stakeholders noted the need for a unified drug treatment monitoring system; refinement of existing data collection systems would be required to adequately capture new activities for purposes of evaluation
Mechanisms			
Normative	Social norms (acceptability), attitudes, and beliefs about drugs and the role of the law in responding to drug use	• A third of secondary school students know someone who uses drugs • 18% of secondary school students have been offered cannabis • 11% of adults have used cannabis in the last 12 months, 11% are 'involved' in the use of drugs, primarily cannabis • 50% of adults think that drugs are a major cause of crime in Guernsey	No data availability of local population risk/harm perception of drug use, acceptability of use, or whether police should prioritise prosecution of possession offences

		• JSNA focus groups identified difficulties of recovery and social reintegration in a small, close-knit community	
Criminal Justice	Categorisation of permitted and criminalised activities, criminal justice priorities, and the positive and negative impact of criminal justice intervention	• The number of arrests, and custodial sentences for drug possession offences is stable • Around one-third of imprisoned offenders (including first time imprisoned offenders) are serving time for drug offences • Half of adults believe sentences for personal drug use are too high • Provision of drug treatment services within the Criminal Justice System and Prison (Criminal Justice Substance Service)	No data available on reoffending and reimprisonment rates for drug possession offences. No data available on the outcomes of prison-based drug treatment programmes No data available on the impact of contact with the criminal justice system or imprisonment on offender health and well-being
Health and Social Service	Access, availability, quality, and outcomes of health and social care services	• JSNA Focus Groups identified lack of awareness amongst non-specialist professionals of referral pathways and support available for substance use • Tiered provision of primary/secondary health care and community based prevention, education, and treatment services, including universal, low threshold and specialised support • Substitute prescribing services available, but number of people receiving opioid agonist therapies (and dose) decreasing, and no prescribing of methadone. Clients are either prescribed buprenorphine (Suboxone) or dihydrocodeine. Support for methadone evident in JSNA Focus Groups and Melichar report on OST (2018) • Some provision of psychosocial and recovery/social reintegration services. Lack of services for people with co-existing mental health and substance use conditions (dual diagnosis services) • General availability of social care and support services	No data available on outcomes of drug treatment (e.g successful completions). JSNA Focus Groups highlighted perceived risk of relapse upon release after in- prison detox. JSNA Focus Groups identified lack of mental health and wellbeing support out of normal working hours placed additional burdens on emergency care; high thresholds for entry into specialised psychiatric care
Outcomes			
Direct	Health, social, and community outcomes directly related to the activities delivered, and which are directly related to drug possession offences	• Some relevant outcomes are already included in the Drug and Alcohol Strategy 2015-2020 • Reporting mechanisms already in place: key indicators and monitoring reported in the annual Drug Strategy, Police, Law	Selected outcomes should be related to the activities delivered, the mechanisms underpinning alternative approaches, and should be feasible and measurable - i.e. the system should not be 'set up to fail' through unrealistic expectations, lack of data, or evaluation
Indirect	Health, social, and community outcomes indirectly related to the activities delivered, and which are indirectly related to drug possession offences		

		Enforcement, Children's Convenor Reports, and in the 2019 Joint Strategic Needs Assessment and annual in the • Relevant baseline data already available for outcome monitoring/evaluation purposes	based on outcomes that are not relevant to possession offences. The 'signals' that introduction of alternative approaches may give may lead to unexpected outcomes, such as greater willingness to declare drug use in prevalence surveys, or 'net widening' by police Alternative approaches to possession may contribute to broad strategic aims, but should only be considered alongside, and as part of, a whole system of activity. There may be feedback loops between different activities and outcomes, so that failure and success in one part of the system (e.g. drug seizures, effective prevention programmes) may affect another. Outcomes can improve or worsen, but these may be related to factors external to the policy change, or related to the way in which the policy is implemented. Depending upon the approach adopted, direct outcomes may include indicators such as drug use prevalence, types of drugs used, and frequency and amount of drug use; arrests, prosecutions, criminal convictions and imprisonment; referrals into treatment or other support services such as housing and employment; the total economic cost of drug-related crime. Depending upon the approach adopted, indirect outcomes may include indicators such as drug-related hospitalisations and deaths; treatment outcomes; social functioning; public perceptions and stigma towards people who use drugs; recorded offences for other types of crime (as police time is freed up)

10 Public support and opinion on the acceptability of alternative approaches to drug possession offences

There is little contemporary research evidence on public opinion towards alternatives to drug possession offences. Public opinion research in the drugs policy field tends to focus on three main areas; support and willingness to pay for drug treatment; specific intervention activities in response to localised drug issues (e.g. support for heroin assisted therapy, naloxone, or drug consumption rooms); or general approaches towards drug policy (e.g. legalisation/regulation of drugs) (e.g. Matheson et al. (2014), Berrigan (2018), Kulesza et al. (2015), Barry et al. (2019), Kolla et al. (2017), The Scottish Government (2016), UKDPC (2010)). These types of studies are often difficult to generalise to other countries and points in time, and findings may better reflect level of understanding of drugs issues, underlying public attitudes to people who use drugs, political preferences, and other contemporaneous policy discussions (e.g. welfare, crime and disorder). Some opinion surveys are also commissioned by campaigning groups and undertaken by professional polling companies, leaving questions over the validity of the methods used and interpretation of data.

As part of the 2019 Committee for Home Affairs' Justice Policy review, a consultation exercise, including a public survey, was undertaken in Guernsey to assess public and professional views on the local justice system (Do It Justice and Crest Advisory, 2019). The survey addressed a broad range of justice priorities, but included some questions of relevance to the current review.

'Drug dependency' (not defined) was rated as the fourth most important concern facing Guernsey, behind 'alcohol abuse', 'poverty/inequality', and 'domestic abuse'. Over 50% of respondents agreed with the statement "*sentences for personal drug use are too high*" although public knowledge and understanding of custodial punishments was not assessed. Sixty four percent of respondents disagreed with the statement "*adults who commit minor offences should be given a criminal record even if it may affect their chances of getting a job*"; and over 50% (precise percentages not reported) disagreed with the statements "*very short prison sentences (of less than three months) should be given by courts even if they may not work to prevent future offending*" and "*short prison sentences (of less than 12 months) should be given by courts even if they may not work to prevent future offending*".

This was a self-selected sample and so cannot be considered representative of the general population, but the findings suggest that for participants of this survey there was majority support for lowering personal drug possession sentences. As the average custodial sentence for drug possession offences in Guernsey is 1.8 months (**Table 6-6**), survey findings suggest that the majority of this sample would not support imprisonment if it could not be shown to reduce re-offending. It is not known whether respondents viewed drug possession as a 'minor offence' or if opinions would differ between different

types of drug or offender (e.g. cannabis vs heroin; first time offence vs repeat offence), but these results suggest that if possession offences were viewed as minor then a majority of respondents would not want offenders to receive a criminal record.

The 2015 Crime and Justice Survey (reported in Section 5.1.1.2) included some questions on criminal justice responses to offending. 61% of respondents had heard that drug and alcohol treatment conditions were available for offenders found guilty of a crime (55.5% in 2013). In comparison, 95.0% had heard of community service orders (88.1%); 82.5% probation orders (73.7%); 90% suspended sentence orders (73.4%); and 89.0% fines and compensation orders (79.7%). 35.5% of respondents thought that a history of substance use should be taken into account when considering a custodial sentence (41.9% in 2013) (other relevant endorsed factors included mental health (61.8%); and personal circumstances (38.9%)). 87.1% thought that drug and alcohol treatment should be available in prisons (82.7% in 2013). There was some coherence in response between the findings of this survey and that conducted for the Justice Review (above). Although most respondents (72.2%) thought that the purpose of custodial sentences should be to 'punish' an offender (no data was collected on the nature of the punishment), since 2013 the proportion of respondents viewing 'rehabilitation' (interpreted as including actions to reduce reoffending) as important increased from 53.5% to 65.8%.

Internationally, the Australian National Drug Strategy Household Survey (NDSHS) is one of the only high quality nationally representative surveys that regularly asks respondents (aged 14 years and older) what they think should happen to people found in possession of small quantities of drugs (the CSEW does not ask this in the UK) (AIHW, 2017). In the 2016 survey (latest data available, the 2019 survey report has not yet been published), for all drugs except cannabis, most support was given for referral to treatment or an education program, while for cannabis the most popular action was a caution, warning, or no action. This had risen from 47% in 2013 to 42% in 2016. Support differed depending on the age of respondent and drug involved. For example, younger respondents were less in favour of punitive actions, and 24% thought that possession of methamphetamine (a drug of high concern in Australia) should result in a prison sentence, compared with 5% for cannabis. Figure 10-1 summarises these findings.

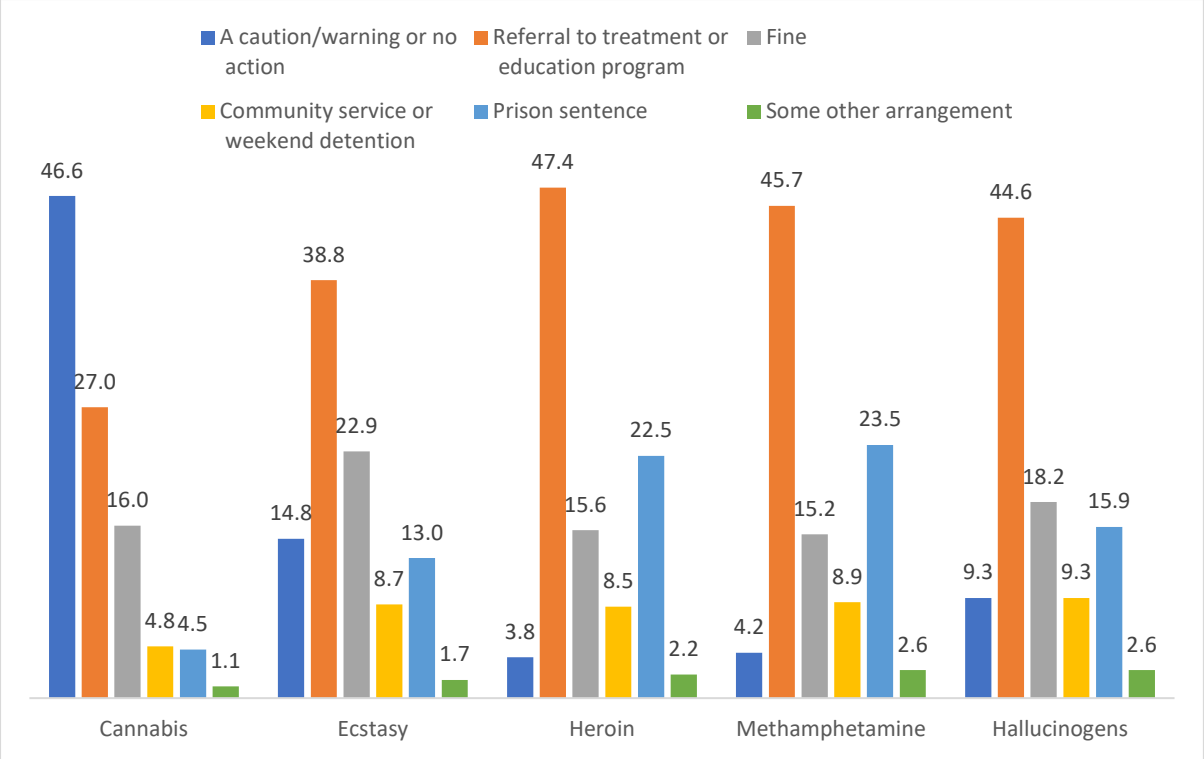


Figure 10-1 Australian public support (aged 14+) for actions taken against people found in possession of selected illicit drugs for personal use. Shown are percentages. Data from 2016 NDSHS (AIHW, 2017).

The Flash Eurobarometer opinion surveys (https://ec.europa.eu/commfrontoffice/publicopinion/archives/flash_arch_en.htm) are *ad hoc* thematic opinion surveys that are commissioned at the request of services of the European Commission. Flash Eurobarometer 401 (2014) surveyed the use of drugs, and opinions on response to drugs in 13,128 participants from EU 28 countries. Respondents were asked what they thought would be the three most effective ways for authorities to reduce drugs problems[30]. More than half (57%) thought there should be tough measure against drug dealers and traffickers, but only a quarter (25%) thought that tough measures should also be targeted at people who use drugs. Tough measures targeting either dealers (-7 percentage points) and users (-8) received less support than when previously asked in 2011 (Flash Eurobarometer 330). With respect to other measures, 43% mentioned information and prevention campaigns, 36% thought more sport, entertainment and cultural activities for young people should be offered; and 22% thought that poverty and unemployment should be reduced. One third though that treatment and rehabilitation of drug users (33%) was the most

[30] *What do you think would be the three most effective ways for public authorities to reduce drugs problems? Tough measures against drug dealers and traffickers; Information and prevention campaigns; Offering more sport, entertainment and cultural activities for young people; Treatment and rehabilitation of drug users; Tough measures against drug users; Reduction of poverty and unemployment; Making drugs legal*

effective response to reduce drugs problems. In the UK, the most frequently endorsed response (47%) was tough measures against dealers and traffickers, whilst tough measures against users was supported by around a quarter of respondents (24%; the fourth most popular response).

A single item poll conducted with British panel members by YouGov in August 2019 coincided with media reporting on an Avon and Somerset Police (UK) diversion scheme for young drug supply offenders, similar to the DEP approach for possession offenders described in Section 9.7. [31] A large majority of respondents (70%) supported the scheme, whilst 17% thought it was a 'bad idea', and 13% didn't know.

Public opinion polls commissioned by drug policy campaign groups in the UK have suggested that a majority of adults support less punitive approaches towards people in possession of controlled drugs. A 2019 YouGov Survey commissioned by the Conservative Drug Policy Reform Group (a non-party affiliated campaigning group established by a Conservative Party MP) is a recent example of this type of work (YouGov and CDPRG, 2019). Findings suggested that 76% of a nationally representative sample of respondents (Great Britain) thought that the threat of criminal punishment (criminal record; prison sentence) was not effective at deterring individuals who unlawfully use drugs (11% thought punishment was effective; 13% did not know). 53% thought that drug use was best viewed as a health issue that should be dealt with by health care professionals; and 31% that drug use was a criminal activity that should be dealt with by the police. Health orientated responses tended to be better supported by younger respondents, and criminal justice led responses by those who identified as being politically conservative. Views on the effectiveness of punitive responses were similar across both factors.

Unlike the NDSHS, this survey, in keeping with other opinion polls, didn't ask respondents what *form* they thought health/criminal justice/alternative responses should take. Furthermore, as shown in the overview of models presented in Section 9 there could be a mixture of responses depending upon, for example, the nature of the offence, or the people (e.g. young people vs adults), drugs (e.g. cannabis vs heroin), and health and social harms (e.g. substance use disorder) involved. A preference for a criminal justice response to drugs could be expressed, for example, but this might be led by the police in collaboration with healthcare professionals, including referral to health services where appropriate and necessary (see Section 8.5).

In public opinion research on unfamiliar topics, it is important that respondents are provided with information that can support their preference decisions. This is because the general public usually

[31] https://yougov.co.uk/topics/travel/survey-results/daily/2019/08/29/e9638/2

have limited prior knowledge of specialist topics such as drug policy, and so preference decisions are not made from an informed position. Research focusing on 'controversial' policy topics (e.g. alcohol minimum unit pricing; diversion for cannabis offences) has shown that public acceptability and policy preference is dependent on both respondent factors such as demographics or the relationship between personal and targeted behaviour (e.g. own use of substances vs others use of a substance), and the perceived effectiveness of the approach (Reynolds et al., 2020). These studies also demonstrate that provision of information on the likely effectiveness of the approach or the costs of achieving a particular policy objective are important determinants of policy support (Diepeveen et al., 2013, Pechey et al., 2014, Shanahan et al., 2014).

However, people do not just rely on rational and informed 'cost-benefit' decisions when expressing policy preferences (Cohn, 2016). Factors such as how policies have been historically framed (how they have been presented to the public through platforms such as media, and relationships to other policy); individual beliefs and values (including support for the overall objectives of a policy, regardless of whether it is believed to be effective); moral preferences (e.g. drug use as a moral choice); or how the public attribute responsibility and make sense of an issue (e.g. attributing substance use to personal choices rather than a constrained choice because of external social and environment factors) are also important.

Surveys of substance use policy preference should therefore, at a minimum, clearly explain the range of possible approaches, how these might be implemented, what type of offences/offenders they would target, and what the desired outcomes of the policy are. This type of detail is often difficult to include in general population surveys when opportunities for inclusion of additional text and questions are limited (and expensive), and are more suited to public consultations on specific policy proposals.

11 Options for Guernsey and Alderney

A narrow selection of options for further consideration are presented in Table 11-1. These have been selected on the basis of the original review questions, commissioner and stakeholder discussion, and the evidence presented this report. This assumes that policy on alternative approaches to possession offences will be developed, but this report makes no specific recommendations on which approach(es) should be adopted, as this is a political and public preference decision, and the evidence base is too underdeveloped to draw strong conclusions about the impact of any particular approach, and how it might improve on current approaches. This summary is therefore intended to inform the discussions and decisions of stakeholders developing drug policy. Although models are presented separately, multi-component models have been adopted internationally that incorporate several different actions depending upon legislative requirements and the flexibility of the legal system, or upon the nature of the offence (e.g. cannabis vs other drugs; first time vs repeat offence) and the drug-related needs of the offender.

There focus here is on those approaches to possession offences that are not currently available in Guernsey and Alderney. Existing powers, outcomes and dispersals such as community orders or referral to the Children's Convenor are not considered here, although greater use might be made of these in future. Similarly, although specialist criminal justice based treatment responses such as arrest referral (Section 9.8) and the use of drug courts (Section 9.9) have been described in the text, these are not appropriate for the majority of drug possession offenders (i.e. cannabis), and are typically delivered within punitive systems to more problematic substance use in those individuals who have also been charged with a range of offences.

The table describes each approach, identifies (new) resources that are required for delivery, summarises key process points, and lists outputs and potential outcomes identified in the international literature (see Section 9 for more detail).

Approach	Description	Resources required	Processes	Outputs	Potential Outcomes	Notes
Depenalisation of drug possession	Reduction of the level of penalties associated with drug possession offences	No change in law required, but training and guidelines required for police officers to ensure consistency in implementation	Escalating penalties based on number of offences and aggravating factors ranging from no action/confiscation → warning/confiscation → penalty notice (street-issued or in custody) → arrest	Fewer offenders in contact with or processed by the criminal justice system	Reduction in criminal justice and court costs Reduction in individual harms associated with contact with the criminal justice system Increase in voluntary presentations to community-based treatment services Decrease in the number of clients receiving treatment in the criminal justice system Freeing of policing resource to target other more serious crime	Drug type and amount thresholds limits may apply Historical lack of sentencing guidelines for drugs offences may prove a challenge Availability may depend upon offender characteristics (including compliance, age and offending history), and aggravating and mitigating factors, including location of use, and co-occurring offences Warnings may be disclosed as part of an enhanced Disclosure and Baring Service check General public support reducing sentences for

						simple drug possession offences
Police-led diversionary measure	Possession offenders diverted pre- or post-arrest into educational, therapeutic and/or support services Implementation may be at the discretion of officers, or specified by law and offered to all possession offenders	New guidelines and police procedures required (including implementation, and monitoring of referral/throughput and outcomes) Education, treatment, and support services able to accept and deliver an increased number of referrals from diversionary Funding and set-up costs for novel services and programmes Monitoring and evaluation of impact of diversionary activity of health, social, and offending outcomes to ensure effective activities are offered	Offenders referred to generic support, or a structured programme. Officers not required to make decision on support required where the receiving service provides screening, assessment and/or onward referral	Increase in the number of possession offenders receiving advice and education, and depending upon the model, therapeutic and formal support for drug use and related needs Fewer offenders in contact with or processed by the criminal justice system	Increase in presentations to community-based treatment services Decrease in the number of clients receiving treatment in the criminal justice system Freeing of policing resource to target other more serious crime Improvement in individual harms associated with contact with the criminal justice system Models found to be cost-saving	Drug type and amount thresholds limits may apply Availability may depend upon offender characteristics (including compliance, age and offending history), and aggravating and mitigating factors, including location of use, and co-occurring offences Acceptance and/or completion of diversionary activity may be voluntary or mandated, with threat of further sanction or reactivation of criminal justice process in condition of order not met

						Diversion may lead to an out of court settlement, no further action, but could be disclosed as part of an enhanced Disclosure and Baring Service check unless specifically excluded
Decriminalisation of drug possession						
With no further action	Complete removal of drug possession offences from the statute	Formal legal change required New guidelines and police procedures required Public education required to ensure i) awareness of new approach and boundaries, ii) counteract possible pro-drug norms resulting from removal of criminal penalties	No arrests made for simple possession offences	Fewer offenders in contact with or processed by the criminal justice system Increase in voluntary presentations to community-based treatment services	Reduction in criminal justice and court costs Reduction in number of people receiving a criminal record, and associated harms and stigmatisation Reduction in individual harms associated with reduced contact with the criminal justice system Improvement in drug –related harms associated with treatment attendance	Drug type and amount thresholds limits may apply Availability may depend upon offender characteristics (including compliance, age and offending history), and aggravating and mitigating factors, including location of use, and co-occurring offences

					Decrease in the number of clients receiving treatment in the criminal justice system Freeing of policing resource to target other more serious crime	
With civil or administrative sanction	Criminal penalties for drug possession formally replaced with a civil or administrative sanction	Formal legal change required, with updating of civil/administrative law New guidelines and procedures required System required to administer, deliver, and monitor alternative sanctions Public education required to ensure awareness of new approach and boundaries	No arrests made for simple possession offences but sanctions issued by police officer or other civil enforcement officers	Fewer offenders in contact with or processed by the criminal justice system Offenders pay fines	Points above, and: Retention of civil/administrative penalties to help counteract possible pro-drug norms Small increase in revenue from fines Models found to be cost saving	Points above, and: Sanctions may be issued at the point of contact with authorised officer, or may be suspended upon completion of required action Failure to comply with civil/administrative sanction may result in arrest and activation of criminal proceedings relating to non-compliance
With targeted diversion	Criminal penalties for drug possession replaced with referral to	Formal legal change required, with updating of	No arrests made for simple possession offences, but depending upon	Increase in number of higher-risk individuals referred into drug	Points above, and: Potentially greater reduction in drug	Points above, and: To optimise potential benefits

	assessment board or directly to drug treatment, health, social, and offender services	civil/administrative law New guidelines and police procedures required Referral, screening, and assessment processes required. Without establishment of a dedicated assessment panel, officers require training and support for screening and referral activities System required to administer, deliver, and monitor processes Public education required to ensure i) awareness of new approach and boundaries, ii) counteract pro-drug norms resulting from removal of criminal penalties	nature of offence and offender needs, police officer or other civil enforcement officers: i) issue civil/administrative sanctions ii) provide onward referral to specialist services	treatment and other support services Increase in number of lower-risk individuals receiving drug education and other brief preventative/intervention activities	related harm due to higher risk individuals receiving treatment support	of referral, higher risk individuals need to receive high quality, evidence based support. Screening and appropriate referral essential to avoid overburdening of services and mismatch between individual need and services offered

Table 11-1 Options for alternatives to punishment for possession offences for consideration in Guernsey and Alderney.

12 Concluding remarks

This report has presented evidence on the drug situation in Guernsey and Alderney, with a particular focus on contact with the criminal justice system. A lack of relevant data or primary research studies means that it is difficult to estimate the total burden of drug-related harms, or draw conclusions on how effective the criminal justice and treatment systems have been in reducing these. Based on available indicators (drug use prevalence, drug seizures, treatment contact, drug related mortality and morbidity) drug use and associated harms are comparatively low compared to the UK or other European comparators. However, it is noted a high number of possession offenders who have received custodial components to their sentences, a relatively long length of custodial sentences for possession offences, an apparent under-use of alternative dispersals for possession offences, and some evidence for public support for adopting less punitive approaches for possession offences.

A number of different models providing non-punitive (or alternatives to punitive) approaches to possession offences have been presented. Some of these have been in operation for many years in several countries, including the UK, and provide good opportunities for learning, and refinement of actions to ensure complementarity with the Guernsey and Alderney context, and the structures and systems required to deliver them. Importantly, all the approaches presented in this report are compatible with international drug control Conventions, and contemporary international drug policy norms in comparator countries, that have been moving towards less punitive approaches to possession offences over the last few decades. Some of the described approaches require legal change, but others, such as some types of diversionary approach, can be delivered under existing legislation or require relatively minor legal change. A common feature of many international models is that although punitive responses are removed/minimised, or alternatives introduced, punishments for other drug-related offences can be retained if necessary, and new offences created (including civil and administrative punishments) for those behaviours that fall out of scope of policy change, or where there are mitigating factors such as repeat offences or failure to adhere to any conditions of a non-punitive response.

There is no definitive evidence that adopting non-punitive alternative approaches to drug possession offences leads to a reduction in overall drug use and related harms, either to the person who uses drugs or to others. This reflects a lack of high quality research, rather than research showing of a lack of impact of these approaches. However, it is also important to note that there is a similar lack of evidence to support the use of existing punitive approaches in reducing drug-related harms. There is also evidence that despite not reducing drug-related harms, contact with the criminal justice system

and punishment for drug related offences can lead to long-lasting negative effects on health, wellbeing and life-chances.

It is not possible to provide a counterfactual comparison, as no alternative (specialised) approaches to possession offences have ever been implemented, and existing non-punitive powers are relatively under-utilised for drug offences. There is, however, emerging evidence from a number of countries that introduction of alternative approaches may be associated with a number of benefits. When introduced as part of a comprehensive system of support, alternative approaches can lead to reduced criminal justice costs, and an increase in the number of referrals to support services for those individuals who need it. Importantly, when the intent of policy change is clearly explained, and stakeholders are involved in the policy process, these approaches are supported by the public and professional groups, including the police and courts. Existing international evidence also suggests that introduction of alternative approaches to possession offences does not appear to increase drug use and related harms (and therefore societal costs) by 'giving the message' that drug use is 'acceptable'. In many countries, the adoption of alternative approaches aligned with changes in public preferences and values around drug use and the best ways to respond to use. Similar, in countries such as Portugal, legal change was used as one means of fostering greater public support towards the objectives of national drug strategy which prioritised reduction of stigmatisation, and promotion of social reintegration of people who used drugs.

In the absence of strong and direct evidence of the effects of adoption, policy makers considering the introduction of non-punitive or alternative responses to possession offences should instead consider the potential benefits, harms, and unintended consequences of change. Reference to the contexts, systems, and structures through which these approaches will be delivered, and the likely mechanisms of action linking change with desired outcomes will support decision-making. Section 9.12 of the report has identified and described some of these factors and processes.

Based upon the evidence and understandings gained through conducting this review, five alternatives could feasibly be introduced in Guernsey and Alderney (described in sections 9 & 11, summarised below). A number of advantages and disadvantages have also been identified. Analysis of the Guernsey and Alderney context suggests that whilst the local drug situation might be considered unique, there are several structural, cultural, and institutional factors that align with those of territories that have successfully introduced these approaches. These include, but are not limited to, the relatively low levels of Class A and harmful drug use, the relatively high numbers of drug

possession outcomes that include a custodial outcome, existing opportunities for out of court disposals, minority public support for punishment of minor offences that affect people's life chances, and the availability of community and clinical services that can provide support for a range of drug-related and offending needs.

1. Depenalisation of drug possession – whereby there would be reduction in the level of penalties associated with possession offences, including reduction in custodial sentence lengths, and the use of street warnings, penalty notices, and out of court dispersals.
2. Police-led diversionary measures – whereby possession offenders are diverted pre- or post-arrest away from the criminal justice system and into educational, therapeutic and/or support services according to the level of offender need. As *de facto* approaches are delivered at the discretion of officers, to avoid inequality in opportunity, consideration should also be given to legislating for diversionary approaches, which means that they would be offered to all offenders.

Decriminalisation – where legislative acts remove drug possession offences from the statute, and which may be accompanied by:

3. No further action – whereby no arrests are made for simple possession, and no further action is taken, unless legislation specifically includes aggravating factors;

4. Civil or administrative sanctions – whereby possession does not result in an arrest, but individuals receive a civil or administrative penalty issued by a police officer or other empowered civil enforcement officer

5. With targeted diversion – whereby individuals are not arrested, but are screened on the basis of drug- and other related needs, and are referred accordingly to educational, therapeutic, offending or social support services. Some international models include the use of specially convened panels that make these assessments, and the option to specify no further action in order to avoid inappropriate referrals to specialist services.

Decision makers should identify, and prioritise those outcomes they would expect from the introduction of these alternative approaches to drug possession offences in accordance with the mechanisms identified in this report. The reasons why particular outcomes are valued should also be considered. For example, a comparison of perceived deterrent effects of retaining possession offences, compared with the potential savings on criminal justice costs and reduction of harms related

to criminal justice contact and increased voluntary presentation to services. These outcomes should be aligned with the strategic priorities of the Combined Substance Misuse Strategy.

As described in Section 10 of the report, if a public consultation on any proposed policy change is undertaken, this should take into account public understanding of the determinants and consequences of drug use, attitudes towards people who use drugs (and those who need support), and awareness and understanding of current responses to drug use in Guernsey and Alderney. A clear description of the policy proposal should be provided, including justification for change, and accompanied by the likely advantages, disadvantages, and unknowns. Although Guernsey and Alderney may be considered unique in many respects, where possible, relevant evidence from similar territories where the approach has been previously introduced should be presented.

In parallel to public consultation, consultation with those professional groups currently delivering drug strategy actions should be undertaken. Introduction of alternative approaches to drug possession may pose challenges to professional cultures, and beliefs about the 'best' way of responding to drug use, or which professional groups should lead activities. In some countries, changes in policy and practice has been driven by those sectors that have traditional led punitive responses to drug possession offences (e.g. police, prosecutors). Alternative approaches may require new resources, referral pathways and agreements, and service development. Unless new funding is available, this can lead to reallocation of resources away from leads, although deprioritisation of drug possession offences may free up those resources to be used elsewhere within the system leading to no overall reduction.

Although it is acknowledged that there is limited research infrastructure in Guernsey and Alderney, if decision makers decide to introduce new approaches to possession offences, then monitoring and evaluation should be embedded in policy development and delivery. Firstly, this is because policy change in 'controversial' areas that includes a commitment to evaluate and review progress (e.g. with the inclusion of a sunset clause), may be more likely to gain stakeholder support. Secondly, this would help to improve the limited international evidence base on the impact of policy change. This would require some changes to the current data infrastructure Guernsey and Alderney, which will have resource implications.

13 References

ACMD 2016. Reducing opioid-related deaths in the UK. London, UK: Home Office.

Aihw 2017. National Drug Strategy Household Survey 2016. Canberra, Australia: Australian Institute for Health and Welfare.

Association of Police and Crime Commissioners 2020. Alcohol and Drugs in Focus. London, UK: Association of Police and Crime Commissioners.

Babor, T. F., Caulkins, J. P., Fischer, B., Foxcroft, D. R., Humphreys, K., Medina, M. E., Obot, I. S., Rehm, J., Reuter, P., Room, R., Rossow, I. & Strang, J. 2018. *Drug Policy and the Public Good,* Oxford, UK, Oxford University Press.

Bainbridge, L. 2019. Transferring 24/7 sobriety from South Dakota to South London: the case of MOPAC's Alcohol Abstinence Monitoring Requirement Pilot. *Addiction,* 114**,** 1696-1705.

Barry, C. L., Sherman, S. G., Stone, E., Kennedy-Hendricks, A., Niederdeppe, J., Linden, S. & Mcginty, E. E. 2019. Arguments supporting and opposing legalization of safe consumption sites in the U.S. *International Journal of Drug Policy,* 63**,** 18-22.

Berrigan, P. 2018. A review of literature assessing public opinion of heroin assisted treatment. *Heroin Addiction and Related Clinical Problems,* 20**,** 13-18.

Best, D., Day, E., Homayoun, S., Lenton, H., Moverley, R. & Openshaw, M. 2008. Treatment retention in the Drug Intervention Programme: Do primary drug users fare better than primary offenders? *Drugs: education, prevention and policy,* 15**,** 201-209.

Bewley-Taylor, D. R. 2003. Challenging the UN drug control conventions: problems and possibilities. *International Journal of Drug Policy,* 14**,** 171-179.

Bird Schucan, K., Vigurs, C. A. & Quy, K. 2017. Police pre-arrest diversion of people with mental health issues: a systematic review of the impacts on crime and mental health. *What works: crime reduction systematic review series.* London: EPPI Centre, UCL Department of Social Science, University College London.

Bright, D. A. & Martire, K. A. 2013. Does Coerced Treatment of Substance-Using Offenders Lead to Improvements in Substance Use and Recidivism? A Review of the Treatment Efficacy Literature. *Australian Psychologist,* 48**,** 69-81.

Brown, R. T. 2010. Systematic review of the impact of adult drug-treatment courts. *Translational research : the journal of laboratory and clinical medicine,* 155**,** 263-274.

Cohn, S. 2016. Reconceptualising public acceptability: A study of the ways people respond to policies aimed to reduce alcohol consumption. *Health (London, England : 1997),* 20**,** 203-219.

Collins, B. J., Cuddy, K. & Martin, A. P. 2017a. Assessing the effectiveness and cost-effectiveness of drug intervention programs: UK case study. *Journal of Addictive Diseases,* 36**,** 5-13.

Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. 2015. LEAD program evaluation: Recidivism report. Washintgon, USA: University of Washington.

Collins, S. E., Lonczak, H. S. & Clifasefi, S. L. 2017b. Seattle's Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism outcomes. *Evaluation and Program Planning,* 64**,** 49-56.

Convenor and Tribunal Board 2018. Annual Report 2018. St Martins, Guernsey: Children's Convenor.

Coomber, R., Moyle, L., Belackova, V., Decorte, T., Hakkarainen, P., Hathaway, A., Laidler, K. J., Lenton, S., Murphy, S., Scott, J., Stefunkova, M., Van De Ven, K., Vlaemynck, M. & Werse, B. 2018. The burgeoning recognition and accommodation of the social supply of drugs in international criminal justice systems: An eleven-nation comparative overview. *Int J Drug Policy,* 58**,** 93-103.

Degenhardt, L., Whiteford, H. A., Ferrari, A. J., Baxter, A. J., Charlson, F. J., Hall, W. D., Freedman, G., Burstein, R., Johns, N., Engell, R. E., Flaxman, A. D., Murray, C. J. L. & Vos, T. 2013. Global burden of disease attributable to illicit drug use and dependence: findings from the Global Burden of Disease Study 2010. *The Lancet,* 382**,** 1564-1574.

Diepeveen, S., Ling, T., Suhrcke, M., Roland, M. & Marteau, T. M. 2013. Public acceptability of government intervention to change health-related behaviours: a systematic review and narrative synthesis. *BMC Public Health,* 13.

Do It Justice & Crest Advisory 2019. Guernsey Justice Review. Guernsey: Commitee for Home Affairs.

Eastwood, N., Fox, E. & Rosmarin, A. 2016. A Quiet Revolution: Drug Decriminalisation Across the Globe. London: Release.

Edmunds, M., May, T., Hearnden, I. & Hough, M. 1998. Arrest referral: Emerging lessons from research. *DPI Paper.* London, UK: Home Office.

EMCDDA 2011. Drug policy profiles: Portugal. Luxembourg: Publications Office of the European Union.

EMCDDA 2015a. Alternatives to punishment for drug-using offender. Luxembourg: European Union.

EMCDDA 2015b. National Report 2014: Portugal. Lisbon, Portugal: EMCDDA.

EMCDDA 2017a. Cannabis legislation in Europe: an overview. Luxembourg: Publications Office of the European Union.

EMCDDA 2017b. Health and social responses to drug problems: A European guide. Lisbon, Portugal: EMCDDA.

EMCDDA 2019a. European Drug Report 2019: Trends and Developments. Luxembourg: Publishing Office of the European Union.

EMCDDA. 2019b. *Penalties for drug law offences in Europe at a glance* [Online]. Available: http://www.emcdda.europa.eu/publications/topic-overviews/content/drug-law-penalties-at-a-glance_en#section5 [Accessed 20/8/19].

EMCDDA 2019c. Portugal Country Drug Report 2019. Lisbon, Portugal: EMCDDA.

Esposito, M. H., Lee, H., Hicken, M. T., Porter, L. C. & Herting, J. R. 2017. The Consequences of Contact with the Criminal Justice System for Health in the Transition to Adulthood. *Longit Life Course Stud,* 8**,** 57-74.

Felix, S., Portugal, P. & Tavares, A. 2017. Going after the Addiction, Not the Addicted: The Impact of Drug Decriminalization in Portugal. *IZA DP.* Bonn, Germany: Institute of Labor Economics.

Ford, K., Barton, E. R., Newbury, A., Hughes, K., Bezeczky, Z., Roderick, J. & Bellis, M. A. 2019. Understanding the prevalence of adverse childhood experiences (ACEs) in a male offender population in Wales: . Cardiff, UK: Public Health Wales.

Fortson, R. 2017. Setting Up a Drug Consumption Room Legal Issues. *Queen Mary School of Law Legal Studies Research Paper.* London, UK: Queen Mary School of Law.

Gilman, A. B., Hill, K. G. & Hawkins, J. D. 2015. When is youths' debt to society paid off? Examining the long-term consequences of juvenile incarceration for adult functioning. *J Dev Life Course Criminol,* 1**,** 33-47.

Gonçalves, R., Lourenco, A. & Silva, S. N. 2015. A social cost perspective in the wake of the Portuguese strategy for the fight against drugs. *Int J Drug Policy,* 26**,** 199-209.

Hayhurst, K. P., Leitner, M., Davies, L., Flentje, R., Millar, T., Jones, A., King, C., Donmall, M., Farrell, M., Fazel, S., Harris, R., Hickman, M., Lennox, C., Mayet, S., Senior, J. & Shaw, J. 2015. The effectiveness and cost-effectiveness of diversion and aftercare programmes for offenders using class A drugs: a systematic review and economic evaluation. *Health Technology Assessment (Winchester, England),* 19**,** 1-168, vii-viii.

Home Office 2014. Drugs: International Comparators.

Hough, M., Clancy, A., Mcsweeney, T. & Turnbull, P. J. 2003. *The impact of Drug Treatment and Testing Orders on offending: two-year reconviction results*, Home Office. Research, Development and Statistics Directorate.

Hughes, B., Matias, J. & Griffiths, P. 2018a. Inconsistencies in the assumptions linking punitive sanctions and use of cannabis and new psychoactive substances in Europe. *Addiction,* 113**,** 2155-2157.

Hughes, C., Seear, K., Ritter, A. & Mazerolle, L. 2019. Criminal Justice responses relating to personal use and possession of illicit drugs: the reach of Australian drug diversion programs and barriers and facilitators to expansion. Sydney, Australia: NDARC, UNSW.

Hughes, C., Stevens, A., Hulme, S. & Cassidy, R. 2018b. Review of approaches taken in Ireland and in other jurisdictions to simple posession drug offences. UNSW Australia and University of Kent UK.

Hughes, C. E. & Stevens, A. 2012. A resounding success or a disastrous failure: re-examining the interpretation of evidence on the Portuguese decriminalisation of illicit drugs. *Drug Alcohol Rev,* 31**,** 101-13.

Hunter, G., Mcsweeney, T. & Turnbull, P. J. 2005. The introduction of drug Arrest Referral schemes in London: A partnership between drug services and the police. *International Journal of Drug Policy,* 16**,** 343-352.

IDPC. 2015. *Comparing models of drug decriminalisation: An e-tool by IDPC* [Online]. Available: http://decrim.idpc.net/ [Accessed 23/7 2019].

Israelsson, M. & Gerdner, A. 2012. Compulsory Commitment to Care of Substance Misusers: International Trends during 25 Years. *European Addiction Research,* 18**,** 302-321.

Jones, L., Bates, G., Bellis, M. A., Beynon, C., Duffy, P., Evans-Brown, M., Mackridge, A., Mccoy, E., Sumnall, H. & Mcveigh, J. 2011. A summary of the health harms of drugs. London: Public Health England.

Kaplan, H. B. 1980. *Deviant behavior in defense of self*, Academic Press New York.

Kerr, J., Tompkins, C., Tomaszewski, W., Dickens, S., Grimshaw, R., Wright, N. & Barnard, M. 2011. The Dedicated Drug Courts Pilot Evaluation Process Study. London, UK: Ministry of Justice.

Kolla, G., Strike, C., Watson, T. M., Jairam, J., Fischer, B. & Bayoumi, A. M. 2017. Risk creating and risk reducing: Community perceptions of supervised consumption facilities for illicit drug use. *Health, Risk & Society,* 19**,** 91-111.

Kotlaja, M. M. & Carson, J. V. 2019. Cannabis Prevalence and National Drug Policy in 27 Countries: An Analysis of Adolescent Substance Use. *Int J Offender Ther Comp Criminol,* 63**,** 1082-1099.

Kruithof, K., Davies, M., Disley, E., Strang, L. & Ito, K. 2016. Study on alternatives to coercive sanctions as response to drug law offences and drug-related crimes. Brussels, Belgium: European Commission: DG General Migration and Home Affairs.

Kulesza, M., Teachman, B. A., Werntz, A. J., Gasser, M. L. & Lindgren, K. P. 2015. Correlates of public support toward federal funding for harm reduction strategies. *Substance Abuse Treatment, Prevention, and Policy,* 10**,** 25.

Laqueur, H. 2015. Uses and Abuses of Drug Decriminalization in Portugal. *Law & Social Inquiry,* 40**,** 746-781.

Lee, H., Wildeman, C., Wang, E. A., Matusko, N. & Jackson, J. S. 2014. A heavy burden: the cardiovascular health consequences of having a family member incarcerated. *Am J Public Health,* 104**,** 421-7.

Lee, R. D., Fang, X. & Luo, F. 2013. The impact of parental incarceration on the physical and mental health of young adults. *Pediatrics,* 131**,** e1188-95.

Lloyd, C., Stöver, H., Zurhold, H. & Hunt, N. 2017. Similar problems, divergent responses: drug consumption room policies in the UK and Germany. *Journal of Substance Use,* 22**,** 66-70.

Luckwell, J. 2017. Drug Education Programme Pilot: Evaluation Report. Avon and Somerset Constabulary.

Mair, G. & Millings, M. 2013. Arrest referral and drug testing. *In:* HUCKLESBY, A. & WINCUP, E. (eds.) *Drug Interventions in Criminal Justice.* Maidenhead, UK: Open University Press.

Massoglia, M. & Pridemore, W. A. 2015. Incarceration and Health. *Annu Rev Sociol,* 41**,** 291-310.

Matheson, C., Jaffray, M., Ryan, M., Bond, C. M., Fraser, K., Kirk, M. & Liddell, D. 2014. Public opinion of drug treatment policy: exploring the public's attitudes, knowledge, experience and willingness to pay for drug treatment strategies. *Int J Drug Policy,* 25**,** 407-15.

Matrix Knowledge Group 2008. Dedicated Drug Court Pilots: A process report. London, UK: Ministry of Justice.

Mcivor, G. 2013. Drug Courts: lessons from the UK and beyond. *In:* HUCKLESBY, A. & WINCUP, E. (eds.) *Drug Interventiosn in Criminal Justice.* Maidenhead, UK: Open University Press.

Mcivor, G., Barnsdale, L., Malloch, M., Eley, S. & Yates, R. 2006. The Operation and Effectiveness of the Scottish Drug Courts Pilot. Edinburgh, UK: Scottish Executive Social Research.

Mitchell, O., Wilson, D. B., Eggers, A. & Mackenzie, D. L. 2012. Assessing the effectiveness of drug courts on recidivism: A meta-analytic review of traditional and non-traditional drug courts. *Journal of Criminal Justice,* 40**,** 60-71.

NHS Digital 2019. Smoking, drinking and drug use among young people in England 2018. London: NHS Digital.

Pawson, R. & Tilley, N. 1997. *Realistic Evaluation,* London, Sage Publications.

Pechey, R., Burge, P., Mentzakis, E., Suhrcke, M. & Marteau, T. M. 2014. Public acceptability of population-level interventions to reduce alcohol consumption: A discrete choice experiment. *Social Science & Medicine,* 113**,** 104-109.

Pomba, S. & Da Costa, N. F. 2016. Heroin Addiction Patterns of Treatment-Seeking Patients, 1992-2013: Comparison between Pre- and Post-Drug Policy Reform in Portugal. *Heroin Addiction and Related Clinical Problems,* 18**,** 51-60.

Public Health England 2018. Adult substance misuse statistics from the National Drug Treatment Monitoring System (NDTMS). 1 April 2017 to 31 March 2018. London, UK: Public Health England.

Public Health England 2019. Adult substance misuse statistics 2018 to 2019: report. London, UK: Public Health England.

Public Health Intelligence Unit 2016. Deaths Related to Drug Poisoning in Guernsey and Alderney. Guernsey: States of Guernsey Public Health Unit.

Reynolds, J. P., Stautz, K., Pilling, M., Linden, S. V. D. & Marteau, T. M. 2020. Communicating the effectiveness and ineffectiveness of government policies and their impact on public support: a systematic review with meta-analysis. *Royal Society Open Science,* 7**,** 190522.

Sapouna, M., Bisset, C., Conlong, A.-M. & Matthews, B. 2015. What Works to Reduce Reoffending: A Summary of the Evidence. Edinburgh, UK: Scottish Government.

Schaub, M., Stevens, A., Berto, D., Hunt, N., Kerschl, V., Mcsweeney, T., Oeuvray, K., Puppo, I., Santa Maria, A., Trinkl, B., Werdenich, W. & Uchtenhagen, A. 2010. Comparing outcomes of 'voluntary' and 'quasi-compulsory' treatment of substance dependence in Europe. *Eur Addict Res,* 16**,** 53-60.

Schaub, M., Stevens, A., Haug, S., Berto, D., Hunt, N., Kerschl, V., Mcsweeney, T., Oeuvray, K., Puppo, I., Santa Maria, A., Trinkl, B., Werdenich, W. & Uchtenhagen, A. 2011. Predictors of retention in the 'voluntary' and 'quasi-compulsory' treatment of substance dependence in europe. *Eur Addict Res,* 17**,** 97-105.

Schnittker, J. & John, A. 2007. Enduring stigma: the long-term effects of incarceration on health. *J Health Soc Behav,* 48**,** 115-30.

Schools Health Education Unit 2019a. The Guernsey Young People's Survey 2019: Primary Schools. Exeter, UK: Schools Health Education Unit.

Schools Health Education Unit 2019b. The Guernsey Young People's Survey 2019: Secondary Schools. Exeter, UK: Schools Health Education Unit.

Scottish Government 2010. Review of the Drug Courts in Glasgow and Fife Sheriff Courts conducted by the Community Justice Services Division of the Scottish Government. Edinburgh, UK: Scottish Government.

Sevigny, E. L., Fuleihan, B. K. & Ferdik, F. V. 2013. Do drug courts reduce the use of incarceration?: A meta-analysis. *Journal of Criminal Justice,* 41**,** 416-425.

Shaffer, D. K. 2011. Looking Inside the Black Box of Drug Courts: A Meta-Analytic Review. *Justice Quarterly,* 28**,** 493-521.

Shanahan, M., Gerard, K. & Ritter, A. 2014. Preferences for policy options for cannabis in an Australian general population: A discrete choice experiment. *International Journal of Drug Policy,* 25**,** 682-690.

Shanahan, M., Hughes, C. & Mcsweeney, T. 2017. Police diversion for cannabis offences: Assessing outcomes and cost-effectiveness. *Trends and Issues in Crime and Criminal Justice.* Canberra, Australia: Australian Institute of Criminology.

Skodbo, S., Brown, G., Deacon, S., Cooper, A., Hall, A., Millar, T., Smith, J. & Whitham, K. 2007. The Drug Interventions Programme (DIP): addressing drug use and offending through 'Tough Choices.'. *Research report 2.* London: Home Office. Research, Development and Statistics Directorate.

Stevens, A. 2010. Treatment sentences for drug users: contexts, mechanisms, and outcomes. *In:* HUCKLESBY, A. & WINCUP, E. (eds.) *Drug Interventions in Criminal Justice.* Maidenhead, Berkshire: Open University Press.

Stevens, A. 2019. Is policy 'liberalization' associated with higher odds of adolescent cannabis use? A re-analysis of data from 38 countries. *International Journal of Drug Policy,* 66**,** 94-99.

Stevens, A., Hughes, C. E., Hulme, S. & Cassidy, R. 2019. Depenalisation, diversion and decriminalisation: A realist review and programme theory of alternatives to criminalisation for simple drug possession. *European Journal of Criminology,* 0.

Sturge, G. 2019. UK Prison Population Statistics. Briefing Paper CBP-04334. London, UK: House of Commons Library.

The Health Improvement Commission for Guernsey & Alderney Lbg 2018. Bailiwick Drug & Alcohol Strategy 2018 Report

Guernsey: Health Improvement Commission for Guernsey and Alderney LBG

The Scottish Government 2016. 2016 Scottish Public Attitudes Towards People with Drug Dependence and People in Recovery Edinburgh, UK: The Scottish Government.

Thein, H.-H., Kimber, J., Maher, L., Macdonald, M. & Kaldor, J. 2005. Public opinion towards Supervised Injecting Centres and the community impact of Sydney Medically Supervised Injecting Centre. *International Journal of Drug Policy,* 16**,** 275-280.

Turney, K., Lee, H. & Comfort, M. 2013. Discrimination and psychological distress among recently released male prisoners. *Am J Mens Health,* 7**,** 482-93.

UKDPC 2009. Refocusing Drug-Related Law Enforcement to Address Harms: Full review report. London: UKDPC.

UKDPC 2010. Getting serious about stigma: the problem with stigmatising drug users. London, UK: UK Drug Policy Commission.

Uncebc 2019. UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters. What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters Geneva, Swizterland: United Nations.

Washington State Institute for Public Policy 2018. Drug Courts (Adult Criminal Justice): benefit-cost analysis. Washington: USA: Washington State Institute for Public Policy.

Weir, K., Routledge, G. & Kilili, S. 2019. Checkpoint: An Innovative Programme to Navigate People Away from the Cycle of Reoffending: Implementation Phase Evaluation. *Policing: A Journal of Policy and Practice*.

Werb, D., Kamarulzaman, A., Meacham, M. C., Rafful, C., Fischer, B., Strathdee, S. A. & Wood, E. 2016. The effectiveness of compulsory drug treatment: A systematic review. *The International journal on drug policy,* 28**,** 1-9.

Wildeman, C., Lee, H. & Comfort, M. 2013. A new vulnerable population? The health of female partners of men recently released from prison. *Womens Health Issues,* 23**,** e335-40.

Wilson, D. B., Brennan, I. & Olaghere, A. 2018. Police-initiated diversion for youth to prevent future delinquent behavior: a systematic review. *Campbell Systematic Reviews,* 14**,** 1-88.

Wilson, D. B., Mitchell, O. & Mackenzie, D. L. 2006. A systematic review of drug court effects on recidivism. *Journal of Experimental Criminology,* 2**,** 459-487.

Wilson, H. A. & Hoge, R. D. 2013. The Effect of Youth Diversion Programs on Recidivism:A Meta-Analytic Review. *Criminal Justice and Behavior,* 40**,** 497-518.

Wittouck, C., Dekkers, A., De Ruyver, B., Vanderplasschen, W. & Vander Laenen, F. 2013. The Impact of Drug Treatment Courts on Recovery: A Systematic Review. *The Scientific World Journal,* 2013**,** 12.

YouGov & CDPRG 2019. Public Attitudes to Drugs in the UK. London, UK: Conservative Drug Policy Reform Group.

Appendix 1 Stakeholder consultation list

Attendees at stakeholder consultation event held on 6/12/19

Dr Nicola Brink - Director of Public Health

John De Carteret - Acting Prison Governor

Inspector Clare Cuthbert, Guernsey Police

Tracey Rear – Independence charity

Anna Williams, Neal Burden – Community Drug and Alcohol Team

Andrea Nightingale – Drug & Alcohol Strategy Coordinator, Chari – Gamblers Support Group, Guernsey

Kerry Tardif – OMU at Guernsey Prison/Probation

Dr Paul Williams – G.P.

Aimee Lihou – Clinical Governance Lead – St John Ambulance

Roy Lee – Law Office

Aaron Davies – Youth Commission

Heather Ewert – Programme Manager, Public Health

Dr Jo Le Noury – Associate Specialist, Public Health

Yvonne Le Page - Public Health Business Manager

Mike Bane – Health Improvement Commission

Neil Wright – Consultant Psychiatrist

Matt Mason – Youth Justice

Becky Falla – Guernsey Border Agency

Simon Sebire – Health Improvement Commission