

## Section 12

# Protecting children and young people from Drug Abuse

This section is in place to protect children and young people (those up to the age of 18) from the harmful effects of controlled drugs defined under the Misuse of Drugs Act 1971 ('The Act') like heroin and cannabis whilst in the care of the Diocese and its Parishes.

Those who are responsible for writing policy and/or have oversight of work with children and young people, together with all those working directly with children and young people need to be familiar with and implement the content.

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## 12.1 Introduction

- In addition to protecting children and young people from the harmful effects of controlled drugs this section offers guidance on protection for priests, project managers, youth and children's workers, employees, volunteers and all those working with children and young people (hereafter called 'workers'). The Act says that anyone in charge of premises who knowingly allows a range of drug-related activities to take place in them commits a criminal offence for which the penalty can be a jail sentence. Under the Act, the word "knowingly" has a much more extensive meaning than it does in everyday language and includes closing ones eyes to the obvious or not caring whether an offence may be taking place.
- The Act applies with equal force to adults. Workers operating projects for adults where drug taking is a possibility are advised to follow the guidance in this section.
- This section provides guidance so that local drug abuse policies can be drawn up that take account of local circumstances, are locally owned and effectively operated, monitored and reviewed.
- The Diocese accepts the evidence published by the relevant authorities in the West Midlands, including the Police, that drug use amongst children and young people is widespread. It is sensible, therefore, to take precautions and implement local drug abuse policies.
- The need for explicit procedures to be adopted is emphasised, so that, if a drug related incident occurs, everyone concerned, including children and young people, workers, and if necessary the Police, know what the measured response will be. For this to happen effectively, training for some workers may be required.

## 12.2 Purpose of this Section

The purposes of this section are to:

- Protect children and young people (who are defined in The Children Act, 1989 as those between birth and 18 years of age) whilst in the care of the Diocese and its Parishes from drug abuse.
- Enable workers to avoid committing a criminal offence under the Misuse of Drugs Act 1971 ("the Act").
- Protect the excellent reputation of the Diocese and its Parishes for child protection. A rigorous policy to deal effectively with any drug incidents that may arise involving children and young people in its care will help protect and enhance this reputation.

All those responsible for a project or for premises where children and young people are the responsibility of a Parish or the Diocese must adopt and implement a drugs abuse policy.

When considering working with other organisations in the lead for similar purposes, Parishes and Diocesan Departments should assure themselves that appropriate arrangements for the prevention of drug abuse are, or will be, in place before committing themselves to partnership working. Diocesan schools should adopt their own policy for the reasons given in Section 12.5

## 12.3 The Law on Drugs

### Who is responsible if drug abuse takes place on the premises?

- For practical purposes the relevant legislation is contained in Section 8 of the Act and subsequent case law made under it, including the judgement made by the Appeals Court in the Crown v. Wyner and Brock case. The significance of this case is explained later.
- The Act says:

"A person commits an offence if, being the occupier or concerned in the management of any premises, he *knowingly permits or suffers* any of the following activities to take place on these premises, that is to say:

- a. Producing or attempting to produce a controlled drug
- b. Supplying or attempting to supply a controlled drug to another or offering to supply a controlled drug to another
- c. Preparing opium for smoking
- d. Smoking cannabis, cannabis resin or opium".

### Interpretation

- The words "knowingly permits or suffers" have a legal meaning, which is not the same as the everyday meaning.
- The " person " in Section 8 of the Act was interpreted by the Court in the Wyner and Brock case to mean: " directors, managers, deputy managers and team leaders and possibly anyone in some sort of control of the premises..." So anyone in a supervisory position, (i.e. the definition could extend to volunteers and caseworkers) who knowingly permits or suffers anyone else to produce, prepare or use a controlled drug, is guilty of a criminal offence.

### How does a person "know" if drugs are being produced or used?

- The word "knowingly" in Section 8 of the Act can mean:
  - a. Actual knowledge, or
  - b. Knowledge of circumstances which gives someone a suspicion or

- c. Knowledge of circumstance so it could be said they had shut their eyes to the obvious, or
- d. Had allowed something to go on not caring whether an offence took place or not.

So “knowingly” does not have to mean absolute certainty; it can mean closing your eyes to the obvious or even to the likelihood of drug dealing.

- In the Wyner and Brock case there was a failure to deal with drug dealing because of the wish to maintain an "open door " policy and a failure to ban, or keep to bans of known drug dealers. There was also a policy of confidentiality about clients so as not to discourage drug abusers working with the project to eliminate drug dependency. The Court held that the good intentions towards the client group were *no defence* for not stopping the dealing, and that the use of the confidentiality policy was not appropriate in the circumstances because it would lead to breaking the law.
- The Diocese and its Parishes are most unlikely to be involved in projects as inherently risky as the project in the Brock and Wyner case. Additional legal advice to this guidance would be required if such a project was envisaged (see 12.5 below), because of the likelihood of a custodial sentence being the price to pay by employees and volunteers if drugs were sold on the premises.
- The Act lists the drugs that it is an offence to possess, supply, offer to supply or produce without authorisation and classifies these according to the danger they pose:
  - a. **Class A:** Including heroin, opium derivatives, cocaine, LSD, and ecstasy and amphetamine prepared for injection
  - b. **Class B:** Including cannabis, barbiturates, and oral preparations of amphetamines
  - c. **Class C:** Including tranquillisers such as Valium, sleeping pills and less harmful Amphetamines.

## 12.4 Drug Abuse involving Adults

- This guidance is provided specifically to protect children and young people in the care of the Diocese and its Parishes and those managers, employees and volunteers responsible for them. The Act does, of course, apply with equal rigour to everybody over 18 years of age, including the provisions about the responsibilities of managers and others of premises under Section 8 of the Act (as explained in section 12.3 above).
- If there are activities in and around Church premises for adults where there are grounds for suspecting that drug abuse could take place, even if this is unlikely, then adapting this guidance to apply to these activities as well is strongly recommended. The statistical correlation between homeless young adults and drug taking, for instance, is so high that unless there is irrefutable evidence to the contrary it would be wise to operate on the basis that drug use is going on.

## 12.5 Practical Application

- This section needs to be applied to protect children and young people and employees and volunteers in projects. It should be amended to suit local circumstances and the nature of the activity in the project, but it would be important to obtain legal advice if substantive derogations from this guidance are intended.
- The Diocese has the following categories of projects, although the list is not intended to be exhaustive:
  - a. Projects working exclusively with children and young people within a school environment. Drug abuse in schools is a matter for the schools themselves to cover in their health and safety policies, and specific drug abuse policies where appropriate, that take account of prevailing guidance issued by the Department for Education and Employment, Ofsted and the Drugs Action Team. It will be for the project's management to decide whether these existing arrangements adequately protect children and young people and workers in the particular context of the project. Where there is any doubt about this, the Bishop's Advisor for Youth Ministry should be consulted.
  - b.
    - i) Most other projects working with children and young people outside of a school environment. This section is specifically written to cover them.
    - ii) Particular projects outside of a school environment where:
      - Drugs have already been identified as a problem
      - It can reasonably be expected that such a problem could arise
      - Children and young people are in a residential setting

For category b) ii, specialist advice will be required beyond the scope of this guidance. The Bishop's Advisor for Youth Ministry can provide information on legal specialists to approach and should be sent a copy of the policy when ratified by the PCC or appropriate management body (see section 12.10).

## 12.6 A Sense of Proportion

- The list of considerations to take into account when developing a drugs abuse policy of the kind recommended here may seem daunting. Moreover it may not bear any relation to most of the children and young people that workers would recognise. Indeed the children and young people themselves might be distressed to think that these considerations were supposed to be even only a partial portrait of them. Please bear in mind that:
  - a. It is to be hoped that drug abuse will not be encountered at all but, like fire prevention precautions for people in buildings, it pays to be prepared.
  - b. The West Midlands Police Force and all of the Education Authorities in the West Midlands conurbation have jointly and publicly said *"within schools there is sufficient anecdotal*

*evidence and empiric observation to suggest that no school can be regarded as free from any drugs".*

## **12.7 Procedures to be adopted**

- The primary users of a project, (the young people in a youth club say), must know that:
  - a. A policy relating to the use and abuse of drugs is in force
  - b. The local police have been made aware of this
  - c. What is likely to happen to them if drugs are found in their possession or they are found to be selling them (see paragraphs 29 and 30) below).
- Similarly, all workers in a project (management, staff and volunteers) must be aware of the policy.

One way of achieving this necessary awareness is to ensure that notices about the policy are prominently displayed in the reception area to the club or project and in the room or hall in which activities are being conducted. This is especially necessary when there is an "open door" policy associated with the project. An example of such a notice is given in Appendix X.

- The project will have to ensure there are adequate resources to enforce the policy and make it clear to all project users that this is the case. This may include supervision extending to areas like porches and gardens within the curtilidge of the buildings being used because the Act applies to these areas too.
- Another recommendation is that each project prepares a short leaflet to give to young people, (and their parents), explaining their drugs abuse policy. Where drug abuse is already recognised as a problem for a project, the leaflet could be accompanied by a short, but not legally enforceable, agreement between the project and the young person. This will usually be in English but another language should be used where appropriate. An example of such an agreement is given at Appendix Y.
- The written message will need to be re-enforced in other ways. This will be especially necessary where the children and young people involved include under-achievers at school and those for whom English is a second language. These ways can include:
  - a. Occasional talks by suitably trained youth workers or West Midlands Police Drugs Advice Officers
  - b. Consistent application of the policy by employees and volunteers.
- The policy will need to have a sanction so that it is clear it will be enforced firmly and fairly as a measured response to the seriousness of the offence. Parishes are not expected to become experts in the subject but workers involved should be able to distinguish between most Class A, Class B and Class C drugs. But to protect employees and volunteers the sanction for dealing or producing drugs on the premises should take the form of:

- a. Exclusion from the project
- b. A report to the police.

These may seem unduly harsh measures. However, imposing short bans and then finding out that the person banned had engaged in further dealing after the ban ended, without having reporting the matter to the police, was a practice which was heavily criticised in the Brock and Wyner case. If the project is able to bring in the support of Social Services, parents and the Police, then the child or young person may continue to attend the project if this is seen as part of an overall strategy. But it has to be understood that:

- a. The police will be involved if dealing in or production of drugs takes place
  - b. Repeated offences will result in a total ban.
- When the project objective itself includes reaching out to children and young people who are already regarded as excluded, the ban should, where possible, be accompanied by other ways of keeping in touch and by referrals to other agencies. Where breach of the policy falls short of dealing or producing drugs on the premises, for example by turning up under the influence of drugs, the sanction may be a ban for a limited period of time.
  - Accurate documentation on all children and young people banned from a project for drug use should be fully recorded. This should include:
    - a. The name of the person banned
    - b. The reason for the ban
    - c. Other steps taken
    - d. When the ban commenced
    - e. Who imposed the ban
    - f. Whether the police were informed (in cases of dealing, the Police should always be informed).

This documentation should conform to the published guidance on data protection whether kept on a computer or not.

- If it becomes necessary for a child or young person to be removed from a youth club or project immediately, an assessment of how this is to be achieved will have to be made. Depending on the age of the child, his or her perceived state of health and any aggression being displayed, these options will include:
  - a. Inviting a parent to collect them
  - b. Seeking first aid
  - c. Phoning for an ambulance
  - d. Phoning the police.

These and any other relevant options should be spelt out in the policy and the required telephone numbers should be to hand to assist prompt action.

- Following a drug-related incident, there may be materials at the scene in the form of hypodermic needles, foils, tablets and vomit etc. It will be important to preserve these for two reasons. First, they may help decide upon appropriate medical treatment. Second, they may constitute forensic evidence. Equally importantly, hypodermic needles should be treated with care because of the communicable diseases they could transmit.

## **12.8 Physical Restraint of a child or young person**

- Removal of a child or young person from a project, it will be clear from the paragraph above, may exceptionally involve restraint. This is an area requiring specialist knowledge and can raise other child protection issues. Broadly speaking, if it can be shown that there is a significant risk of a child or young person injuring themselves or others by their actions, then they can legally be restrained, whenever possible in the presence of at least one other adult.

## **12.9 The Importance of training**

- For a drug abuse policy to be effective, some training for the employees and volunteers of a youth club or project will be necessary. A judgement will have to be made about how many staff will need training and how detailed this should be. It would be neither practicable nor necessary for any staff to become experts in this field. Training is available through Birmingham City Council for the Birmingham area of the Diocese and Hope UK. The Bishop's Adviser for Youth Ministry can also offer advice on training opportunities. The minimum requirement of this training is that:
  - a. The law under Section 8 of the Act is understood as it applies in everyday situations
  - b. The main symptoms of drug use behaviour and appearance are recognised
  - c. The more commonly used controlled substances can be identified
  - d. The circumstances where it is reasonable to believe that drug-related activity may be going on are understood and, crucially, what then to do about it.

## **12.10 Monitoring, evaluating and review**

- The guidance in this section and local drug abuse policies will need to be subject to monitoring, evaluation and review to ensure that they are achieving their objectives and takes into account any changes in the law and best practice.

- It will be a Parish responsibility to ensure that its policy meets prevailing legal requirements at all times. Because of this it is recommended that the policy be initially ratified by the PCC and or management body, which should be provided with an annual report thereafter.