

Proposed amendments to the Psycho-active Substances Bill Committee

Creating statutory aggravating factors to protect children and young people from psycho-active substances

Amendment: Making supply of a psychoactive substance to children or outside accommodation for vulnerable children aggravating factors

Clause 6 should be amended as follows:

Page 3, line 16 leave out “If condition A or B is met” and insert “If condition A, B, C or D is met”

After subsection (5) insert

“(6) Condition C is that the offence was committed on or in the vicinity of any premises intended to locate any vulnerable child

(7) in this section –

“vulnerable child” means any person aged under 18 and

(a) accommodated in regulated residential care or unregulated accommodation under section 17, 20, 25 or 31 of The Children Act 1989, or,

(b) accommodated in independent or semi-independent accommodation under part 7 of the Housing Act 1996

(8) Condition D is that the offender supplies a psychoactive substance to any persons under the age 18

Protecting children from the consequences of psycho-active substances

We are asking Parliament to amend the Psycho-active Substances Bill to make the supply of psycho-active substances to children, or in the vicinity of premises where vulnerable children reside, an aggravating factor of offence.

This will put supply to children, or in the vicinity of premises where vulnerable children reside, on the same footing as supply outside a school, which the Bill already makes an aggravating factor.

Why are these statutory aggravating factors necessary?

‘Legal highs’ are increasingly becoming a factor in our work with England’s most vulnerable children and young people. A recent national poll we conducted of 16- and 17-year olds found that 6% said they had taken a ‘legal high’. And 4% said they had felt pressured to take legal highs.

For the most vulnerable children, however, the consequences of using legal highs can be much more serious resulting in possible criminal and sexual exploitation. Evidence from our practitioners suggests that ‘legal highs’ are increasingly being used by offenders as part of the grooming and exploitation process.

The case study below was reported to us by one of our projects in the North of England:

A group of 16- and 17-year-old boys were living in a hostel where they were targeted by older men looking to exploit them through criminal activity. The men gave them legal highs, seemingly for free, but then claimed the boys must repay them the cost of the legal highs, with interest. Living in a hostel and with little money the boys could not repay their debts. The men forced the boys to start on-street begging and shop-lifting to repay them whilst continuing to provide them with further legal highs

The Bill already makes the supply of psycho-active substances outside a school an aggravating factor, meaning courts must take this into consideration when deciding the seriousness of the offence. This reflects existing provision related to the supply of controlled drugs in the Misuse of Drugs Act 1971.

We are calling for this to be extended to supply outside residential children's homes and supported accommodation – such as hostels, foyers or night stops – used to house 16- and 17-year-old children. We are also calling for supply of substances to a child under the age of 18 to be an aggravating factor.

How do we define accommodation for vulnerable children?

The amendment intends for 'accommodation for vulnerable children' to capture both residential care and supported accommodation in which a local authority may place a child under the age of 18. There is a growing body of evidence that demonstrates that children in these types of accommodation are more at risk of exploitation than others.

Children living in residential care often find themselves at high risk of exploitation. The Children's Commissioner's Inquiry into Child Sexual Exploitation in Groups and Gangs found that a disproportionate number of children who are sexually exploited are living in residential care. Of the 16,500 children were found to be at high to sexual exploitation, more than a third (35%) where children living in residential care.¹

And the APPG on Missing and Runaways Adults inquiry into children missing from care found that perpetrators have specifically targeted children's homes because of the vulnerability of the children.²

There are, however, many other vulnerable young people who are not children looked-after by their local authority. This group can include 16- and 17-year-olds who find themselves homeless or are at risk, but who have refused to become looked after children. These children may be accommodated under other provisions, such as the Housing Act 1996.

These young people are often placed in 'supported accommodation'. Supported accommodation is unregulated and can include places like foyers, supported lodgings, nightstops, crashpads, hostels or training or moving on flats.

Our recent report, 'Getting the house in order' found that every year around 12,000 16- and 17-year-olds go to their local authority for help with homelessness, and many are placed in unregulated supported accommodation that leaves them at risk. Our report detailed some of the serious safeguarding failures that could lead to exploitation.

Protecting children from other controlled drugs

The Psycho-active Substances Bill is an opportunity to extend this protection to other controlled drugs. As well as the more recent use of 'legal highs', other already controlled drugs have been used as part of the grooming and exploitation process of children.

Sentencing Council guidelines on the supply of controlled drugs currently include 'targeting of any premises intended to locate vulnerable individuals or supply to such individuals and/or supply to those under 18' as a non-statutory aggravating factor. But as a non-statutory factor, it is only an "additional factual elements providing context" that courts are not required to consider.

¹ The Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation In Gangs and Groups Interim report (November 2012)

² The APPG for Runaway and Missing Children and Adults and the APPG for Looked After Children and Care Leavers Report from the joint inquiry into children who go missing from care

Making these statutory aggravating factors will mean courts must take them into account when considering the seriousness of the offence, putting them on the same footing as support outside a school. This is appropriate given the serious potential harm to children of controlled drugs themselves, and of their potential role in exploitation.

Amendment: Making supply of a controlled drug to a child or outside accommodation for vulnerable children aggravating factors

Schedule 4 should be amended as follows

After section 7 (Policing and Crime Act) insert –

“Misuse of Drugs Act 1971

8 (1) The Misuse of Drugs Act 1971 is amended as follows.

(2) In section 4A (Aggravation of offence of supply of controlled drug) after subsection (4) insert –

“(5) The third condition is that the offence was committed on or in the vicinity of any premises intended to locate any person aged under 18 who is accommodated under section 17, 20, 25 or 31 of The Children Act 1989 or part 7 of the Housing Act 2004

(6) The fourth condition is that the offender supplies a controlled drug to any persons under the age of 18”

About

The Children’s Society has helped change children’s stories for over a century. We expose injustice and address hard truths, tackling child poverty and neglect head-on. We fight for change based on the experiences of every child we work with and the solid evidence we gather. Through our campaigning, commitment and care, we are determined to give every child in this country the greatest possible chance in life.

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