

**Sentencing Council meeting:**  
**Paper number:**  
**Lead Council member:**  
**Lead official:**

**28 September 2018**  
**SC(18)SEP06 – Drugs revision**  
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## **1 ISSUE**

1.1 This is the first paper on the revision of the Drug Offences guideline and covers the scope of the project.

1.2 There are four further meetings scheduled to discuss these guidelines, including sign off of the draft guidelines for consultation at the March 2019 Council meeting. The consultation is currently scheduled to run from May to August 2019, and the definitive guideline to be published in May 2020. Depending on the scope of the revision, it may be possible to bring forward consultation and publication of the definitive guideline; we will keep the timetable under review.

1.3 Evidence to support the development of the new guideline is at **Annex A**. This annex contains volumes over time, sentence outcomes, ACSLs for adult offenders for the offences covered by the current guideline and included in the table below.

## **2 RECOMMENDATION**

- That the Council agrees the main offences to include within the guideline
- That the Council agrees to explore options for offences relating to supply of drugs in prisons
- That the Council agrees the most important purposes of sentencing for these offences
- That the Council agrees that, overall, the guideline shall aim to replicate current sentencing practice
- That the Council agrees not to produce a separate guideline for children and young people
- That the Council agrees to revise the current guidance on the statutory minimum sentence for Class A trafficking offences
- That the Council agrees to consider how to provide further guidance on confiscation orders and drug rehabilitation requirements

### 3 CONSIDERATION

3.1 The current Drug Offences Guideline came into force on 27 February 2012. It was one of the first Sentencing Council guidelines, developed following advice from the Sentencing Advisory Panel. It contains five separate guidelines, covering importation, supply/possession with intent to supply, permitting premises to be used, production/cultivation and possession offences. The evaluation of the guideline was published in June this year (see **Annex B**), and recommended that, whilst the Guideline had not had many unintended impacts, nevertheless, the changing nature of drug offending suggested that further revision may be necessary.

3.2 In addition, since publication of the Guideline, the Psychoactive Substances Act 2016 (PSA) has come into force, creating new offences for which there is currently no guideline. These offences mirror those in the Misuse of Drugs Act 1971 (MDA), although there is no offence of simple possession of a psychoactive substance other than possession in a custodial institution. The main difference between these new offences and those in the MDA is that psychoactive substances are defined by their characteristics in section 2 of the Act, thus there is no list of psychoactive substances equivalent to the lists in schedule 2 to the MDA. The psychoactive substances offences also have lower maximum penalties than the MDA offences. There have so far been few prosecutions and sentences for the offences under the PSA. In 2017, the first full year since the Act came into force, 141 adult offenders were sentenced for offences under the PSA, most (96) for possession with intent to supply. The Home Office has committed to reporting on the implementation of the Act by the end of this year; information from this review may feed into the development of the guideline.

3.3 The MDA offences are high volume. Annex A gives key data on volumes, disposal types and average custodial sentence lengths for the offences covered by the current Guideline, but the volumes of adult offenders sentenced in 2017 are summarised in the following table:

	<b>Total</b>	<b>Mags Courts</b>	<b>Crown Court</b>
Importation Class A	213	7	206
Importation Class B	66	8	58
Importation Class C	33	3	30
<b>Total Importation</b>	<b>312</b>	<b>18</b>	<b>294</b>
Supply Class A	2,405	16	2,389
Supply Class B	745	103	642
Supply Class C	34	11	23
<b>Total Supply</b>	<b>3,184</b>	<b>130</b>	<b>3,054</b>
PWITS Class A	4,105	32	4,073
PWITS Class B	2,266	418	1,848
PWITS Class C	61	14	47

<b>Total PWITS</b>	<b>6,432</b>	<b>464</b>	<b>5,968</b>
Permitting premises Class A	88	2	86
Permitting premises Class B	163	61	102
Permitting premises Class C	5	2	3
<b>Total Permitting premises</b>	<b>256</b>	<b>65</b>	<b>191</b>
Possession Class A	7,404	6,585	819
Possession Class B	14,228	13,304	924
Possession Class C	394	363	31
<b>Total Possession</b>	<b>22,026</b>	<b>20,252</b>	<b>1,774</b>
Production/Cultivation Class A	18	2	16
Production/Cultivation Class B	2,495	1,134	1,361
Production/Cultivation Class C	5	0	5
<b>Total Production/Cultivation</b>	<b>2,518</b>	<b>1,136</b>	<b>1,382</b>
<b>All Offences</b>	<b>34,728</b>	<b>22,065</b>	<b>12,663</b>

Note: the table above refers only to principal offence; in some cases the offender is also sentenced for a more serious offence (such as a serious assault or burglary) so the possession offence is not recorded above. Further detail on all offences, including secondary offences, will be available at a later meeting.

3.4 As can be seen from the table above, the majority of offenders sentenced for possession offences were sentenced in the magistrates' courts, as the majority of these offences relate to class B drugs (mostly cannabis). Nearly half of production/cultivation offences (again mostly relating to cannabis) were sentenced in the magistrates' courts. Most of the importation, supply and PWITS offences relate to Class A drugs and are sentenced in the Crown Court.

3.5 The government published its Drug Strategy in 2017, focusing on reducing demand for drugs, restricting supply of drugs, building recovery for addicts and taking action against drugs internationally. The strategy does not propose any new offences or legislative changes which would affect the offences covered by the guideline, though it may prompt change in behaviour by (for example) the police, which could lead to changes in the nature and number of cases coming before the courts. Some legislative changes are proposed in the strategy, which do not directly involve the drug offences themselves but would affect the enforcement of fines/compensation orders and other offences relating to drug offending such as money laundering.

3.6 The main areas where the Drug Strategy could affect our revised guideline is in relation to drug treatment and to the supply of drugs in prisons. The strategy contains a separate section on drugs in prisons (see 3.13 below) and, separately, it explicitly refers (at page 24) to increasing the use of drug rehabilitation requirements:

Alongside punitive sanctions, the criminal justice system should consider use of health-based, rehabilitative interventions to address the drivers behind the crime and help prevent further substance misuse and offending. The Drug Rehabilitation Requirement (alongside the Alcohol Treatment Requirement and Mental Health Treatment Requirement) is available for use by courts when imposing a community order and suspended sentence order and should be applied, where appropriate, and reinforced by frequent testing to ensure compliance.

3.7 Changes to probation services will also have an effect on the availability of DRRs and other aspects of community sentences. Whilst legislation in this area is unlikely in the near future, we will keep in touch with the MoJ and Home Office throughout the development of this guideline to ensure we understand potential implications of the government's Drug Strategy and probation reforms.

3.8 The National Crime Agency (NCA) has published a Strategic Threat Assessment for 2018 covering all areas of serious and organised crime within its remit, including drugs. It highlights several growing threats relating to drug offences:

- Increase in use and supply of synthetic opioids such as fentanyl
- County lines supply methods, associated with violence and exploitation of vulnerable people.
- High demand for all drug types, and a worrying increase in demand for crack cocaine.
- Threat from use of new technologies, including encrypted online market places through which the main commodity sold is drugs
- Use by drug importers of fast parcel and post services
- Corruption of officials at borders facilitating smuggling of Class A drugs into the UK

3.9 To inform the scope of the revision of the guideline, I have spoken to several key stakeholders including the police, drug expert witnesses, National Crime Agency and the Home Office. We have also had some initial discussions with Crown Court judges at Birmingham and Canterbury (two courts with large numbers of drug offences) to gauge their views on how the guideline is working. We will be doing further work to seek the views of magistrates over the next few weeks.

3.10 Information from the evaluation of the drugs guideline, together with the discussions with judges and information in particular from the NCA suggests that, whilst some changes to the guideline are necessary, many aspects of the guideline are working well.

*Offences recommended to be in scope*

3.11 The offences covered by the current Drug Offences guideline continue to be the most frequently sentenced drug offences, and I propose that they remain the core of the revised guideline. In addition, I am proposing that we include offence-specific guidelines on those offences in the Psychoactive Substances Act which mirror the MDA offences in the guideline. I therefore propose that the guideline covers the following offences:

<b>Legislation</b>	<b>Description</b>	<b>Maximum penalty</b>	<b>In current guideline?</b>
Misuse of Drugs Act 1971 (s3)	Importation/Exportation of controlled drugs	Class A – Life Class B – 14 yrs Class C – 14 yrs	Yes
Customs and Excise Management Act 1979 s170(2)	Importation/Exportation of controlled drugs	Class A – Life Class B – 14 yrs Class C – 14 yrs	Yes
MDA 1971 s4(3)	Supplying or offering to supply a controlled drug	Class A – Life Class B – 14 yrs Class C – 14 yrs	Yes
MDA 1971 s5(3)	Possession with intent to supply a controlled drug	Class A – Life Class B – 14 yrs Class C – 14 yrs	Yes
MDA 1971 s4(2)(a) or (b)	Production of a controlled drug	Class A – Life Class B – 14 yrs Class C – 14 yrs	Yes
MDA 1971 s6(2)	Cultivation of cannabis plant	14 yrs	Yes
MDA 1971 s8	Permitting premises to be used	14 yrs	Yes
MDA 1971 s5(2)	Possession of a controlled drug	Class A – 7 yrs Class B – 5 yrs Class C – 2 yrs	Yes
Psychoactive Substances Act 2016 s4(1)	Producing a psychoactive substance	7 yrs	No
PSA 2016 s 5(1)	Supplying or offering to supply a psychoactive substance	7 yrs	No
PSA 2016 s7(1)	Possession of a psychoactive substance with intent to supply	7 yrs	No
PSA 2016 s8(1)	Importing or exporting a psychoactive substance	7 yrs	No
PSA 2016 s9(1)	Possession of a psychoactive substance in a custodial institution	2 yrs	No

3.12 Although I propose that the revised guideline include offence specific guidelines for the new PSA offences, it may be that these can be incorporated within the analogous MDA offence guidelines, with some additions for the new offences (such as separate sentencing levels). Further consideration will be given to this as we develop the guideline.

***Question One: Does the Council agree that the revised guideline should cover all the above offences? Are there any additional offences that the Council would like to consider for inclusion?***

*Supply of drugs in prisons*

3.13 The Crown Court judges we have spoken to so far highlighted the problem of drugs, including psychoactive substances, in prisons and the need for sentencing guidelines to address this problem more specifically. The supply of drugs in prisons is a serious problem identified by the government's drug strategy. Tackling drug supply in prisons is also central to the MoJ's prison strategy, and one of the key aspects of its recently announced 10 prisons project. The current guideline contains specific guidance on supply of drugs into prison by a prison employee, but not by any other type of offender (such as drugs brought in by family members or friends of prisoners) which judges said was a particular problem. As well as the general drug supply/PWITS offences, there are specific offences of conveying prohibited articles into prisons under s40 of the Prisons Act 1952, which can cover controlled drugs and psychoactive substances. I do not propose at this stage to develop a separate offence specific guideline for these offences, but I would like to explore what guidance we can give within the overall Drug Offences guideline (such as short narrative guidance), particularly as the Council has no immediate plans to produce guidelines on prison offences more generally. If the Council agrees with this, I will present options for how to include this type of offending at a later meeting.

***Question Two: Does the Council agree to exploring ways in which the guideline can include offences relating to supply of drugs in prisons?***

*Orders*

3.14 There are two types of orders which are particularly relevant in cases of drug offences: confiscation orders and community orders/suspended sentence orders with drug rehabilitation requirements. Evidence from Crown Court judges, the NCA, and the police is that, for the more serious supply and importation offences, the threat of a prison term is sometimes accepted as part of the drugs business, and that seizure of the drugs, or other materials, and associated loss of profits is a far greater concern to the offenders. There have also been some changes to confiscation orders in the Serious Crime Act 2015, since publication of the current guideline. I would therefore like to explore how further information and/or signposting can be given on confiscation orders, either in an annex or as further detail within the guideline steps, particularly for the supply/PWITS, importation and production/cultivation offences.

**Question Three: Does the Council agree to consider whether the revised guideline should provide additional information on confiscation orders?**

3.15 As noted above, there is good evidence that drug rehabilitation requirements, as part of a community order or suspended sentence, can work well in rehabilitating offenders and prevent reoffending. The MoJ has been piloting increased use of such requirements in 5 areas, and I would like to see how information from those pilots can be used to bolster the guidance on drug treatment requirements given by the guideline. The current guideline already includes some guidance on this in the text above the sentence levels tables, which reads:

Where the defendant is dependent on or has a propensity to misuse drugs and there is sufficient prospect of success, a community order with a drug rehabilitation requirement under section 209 of the Criminal Justice Act 2003 can be a proper alternative to a short or moderate length custodial sentence.

3.16 However, it may be possible to emphasise this by changing the wording and position of this guidance, particularly in the digital guidelines, and I propose to consider how drug treatment requirements are being used (analysing case transcripts and using information from the MoJ pilots) in developing a way to make this guidance clearer.

**Question Four: Does the Council agree to including additional guidance on use of drug rehabilitation requirements?**

*Sentencing of children and young people*

3.17 The current guideline applies only to offenders aged 18 or over. There is no offence specific guideline for children and young people convicted of drug offences; they would be sentenced under the *Sentencing Children and Young People – Overarching Principles* definitive guideline published in 2017. Children and young people are involved in drug offending, particularly as couriers supplying small amounts of drugs, and there is evidence that they are increasingly being exploited as couriers by “county lines” drug gangs. Some of the judges we spoke to felt that a drug offence specific guideline for children and young people would be helpful, others did not.

3.18 The Council does not ordinarily produce separate offence specific guidelines for children and young people, unless there is a strong reason to do so. There are offence-specific guidelines for a limited number of offences only, including bladed article possession/threats and robbery offences, which under-18s commit in high volumes, and sexual offences, an area that is complex and has distinct characteristics. In the case of drug offences, the factors which are most important are those which are already central to the

*Sentencing Children and Young People – Overarching Principles* guideline, namely the need to consider the offender’s specific needs and vulnerability, and putting rehabilitation as the main purpose of sentencing a young person. Given this, and the small numbers of young people sentenced for these offences (2,203 out of a total of 36,931 in 2017), I propose not developing a separate guideline for children and young people.

***Question Five: Is the Council content not to develop a separate Drug Offences guideline for children and young people?***

*Other areas to consider*

3.19 Discussions so far have suggested that, whilst much of the guideline is working well, there are some areas in particular need of revision. These include:

- the approach to purity, and the information available to sentencers on purity levels and harm caused;
- the approach to quantity, and whether the current approach of listing specific drugs is the best one; and
- the approach to culpability, and whether the role of the offender should be the prime concern, or whether other factors (such as creating a market for a drug or exploiting vulnerable people) are important, particularly in light of new patterns of offending, such as county lines and web-enabled supply.

3.20 In proposing revisions to these parts of the guideline, I intend to consider using not just the current format of guidelines, but consider alternative ways to present information such as annexes or additional text boxes/steps. I will cover these in detail in future papers, but would like to ask the Council whether there are any other areas of the current guideline which you would have me consider.

***Question Six: Are there any areas of the current guideline, other than all those discussed above, that the Council would like to investigate and consider for detailed revision?***

3.21 The Sentencing Advisory Panel’s advice to the Sentencing Guidelines Council in 2010 set out what it believed were the purposes of sentencing most relevant to sentencing drug offences. The Panel took the view that the purpose varied between the different offences; punishment was an important purpose for “involvement in an offence that has been committed intentionally and which causes social harm” particularly where it was motivated by substantial financial gain. Where offences were “triggered by an addiction” the Panel felt that reform and rehabilitation was the most important purpose. The Panel also discussed the question of deterrence, and advised that for the most serious offences it would not be a



deterrent to increase prison terms beyond the current levels, but that confiscation orders may have more of a deterrent effect. The Sentencing Council took these purposes as the most important in devising the current Drug Offences guideline. Before taking work on revising the current guideline any further, I would like to confirm which purposes of sentencing the Council now feels are most important and whether that varies between offences as suggested by the approach taken in the current guideline.

***Question Seven: Which of the purposes of sentencing does the Council feel are most important in the sentencing of these offences?***

*Sentence levels and current sentencing practice*

3.22 Following from consideration of the purposes of sentencing most relevant to this guideline, it would also be helpful to seek an initial steer from the Council on intention as regards sentence levels and current sentencing practice. The current guideline aimed to replicate current sentencing practice, with the exception of the case of so-called “drug mules”, and evaluation shows that this aim has largely been met. There has been an increase in custodial sentence lengths across some of these offences, but this may be attributable to an increase in offence seriousness (for example, larger quantities of drugs seized) rather than a change in sentencing practice for offences of comparable seriousness. Some proposals above, such as further guidance on use of drug rehabilitation requirements, may reduce the use of immediate custodial sentences, and more information on likely impacts of individual proposals will be set out in later papers as the draft guideline is developed. However, I propose that, as an initial assumption, the Council will not aim to change sentencing practice for these offences overall. If there are areas which the Council would like me to investigate with a view to making changes to sentencing practice it would be helpful to know those areas now.

***Question Eight: Does the Council agree that, subject to changes made to individual sections of the guideline as it is developed, the overall aim will be to maintain current sentence levels and replicate current sentencing practice? If not, are there areas which the Council would particularly like to see change?***

*Guidance on minimum sentence provisions for trafficking offences*

3.23 All the above MDA offences involving Class A drugs except Possession are classed as “trafficking” offences for the purposes of section 110 of the Powers of Criminal Courts (Sentencing) Act 2000. This provides that a court should impose a minimum sentence of at least seven years imprisonment for a third trafficking offence except where the court is of the opinion that there are particular circumstances which a) relate to any of the offences or to the offender; and b) would make it unjust to do so in all the circumstances. The current

guideline includes some text on this above the sentence levels table, but does not provide guidance on how to apply it. The recent Bladed Articles and Offensive Weapons guideline provides more detailed guidance on how to apply the similar minimum sentence provisions in relation to those offences, and I propose revising the guidance in the Drug Offences guideline in light of the Bladed Articles changes and relevant case law on Drug Offences.

***Question Nine: Does the Council agree that the guidance on minimum sentences for Class A trafficking offences should be revised?***

#### **4 IMPACT**

4.1 A draft resource assessment will be developed in due course. If the Council decides that the aim of the guideline is to replicate current sentencing practice, then the impact on resources within the system is likely to be negligible. Transcripts and other data are being analysed to assess this impact, and we will continue to consider this as the draft guideline develops.

#### **5 RISK**

5.1 No significant risks identified at this stage. Work with the judiciary and stakeholders so far suggests that the existing guideline is working well in many areas, but that revision, particularly to areas discussed above, would be welcomed. Drug offending, particularly involving serious and organised crime, county lines or supply in prisons is a controversial subject and frequently discussed in the media, and we will prepare for draft guidelines to be scrutinised and discussed in the press on consultation.

Drug volumes

Table 1: Number of adult offenders sentenced for importation/exportation offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Customs and Excise Management Act 1979	170(1), 170(2)	Importation/exportation Class A	MC	19	8	6	4	4	1	1	4	3	0	7	
			CC	529	542	558	415	446	356	304	288	235	233	206	
			<b>Total</b>	<b>548</b>	<b>550</b>	<b>564</b>	<b>419</b>	<b>450</b>	<b>357</b>	<b>305</b>	<b>292</b>	<b>238</b>	<b>233</b>	<b>213</b>	
		Importation/exportation Class B	MC	11	4	13	6	11	7	10	8	8	10	8	
			CC	12	18	84	121	159	115	116	93	150	73	58	
			<b>Total</b>	<b>23</b>	<b>22</b>	<b>97</b>	<b>127</b>	<b>170</b>	<b>122</b>	<b>126</b>	<b>101</b>	<b>158</b>	<b>83</b>	<b>66</b>	
	Importation/exportation Class C	MC	17	12	5	0	3	3	7	11	5	4	3		
		CC	236	187	91	26	25	12	19	33	47	65	30		
		<b>Total</b>	<b>253</b>	<b>199</b>	<b>96</b>	<b>26</b>	<b>28</b>	<b>15</b>	<b>26</b>	<b>44</b>	<b>52</b>	<b>69</b>	<b>33</b>		
	<b>Total Importation/exportation</b>			MC	47	24	24	10	18	11	18	23	16	14	18
				CC	777	747	733	562	630	483	439	414	432	371	294
				<b>Total</b>	<b>824</b>	<b>771</b>	<b>757</b>	<b>572</b>	<b>648</b>	<b>494</b>	<b>457</b>	<b>437</b>	<b>448</b>	<b>385</b>	<b>312</b>

Source: Court Proceedings Database, Ministry of Justice

## Drug volumes

Table 2: Number of adult offenders sentenced for supply offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	4(3)	Supply Class A - Cocaine	MC	46	36	29	24	33	15	12	11	12	6	6	
			CC	464	648	694	623	613	670	848	920	946	1,067	916	
			<b>Total</b>	<b>510</b>	<b>684</b>	<b>723</b>	<b>647</b>	<b>646</b>	<b>685</b>	<b>860</b>	<b>931</b>	<b>958</b>	<b>1,073</b>	<b>922</b>	
		Supply Class A - Crack	MC	9	11	4	2	1	0	1	3	2	2	2	1
			CC	234	318	252	187	214	299	289	272	232	290	322	
			<b>Total</b>	<b>243</b>	<b>329</b>	<b>256</b>	<b>189</b>	<b>215</b>	<b>299</b>	<b>290</b>	<b>275</b>	<b>234</b>	<b>292</b>	<b>323</b>	
		Supply Class A - Heroin	MC	42	35	22	26	12	7	6	4	5	6	3	
			CC	1,081	1,135	1,131	1,124	1,006	848	820	856	712	868	945	
			<b>Total</b>	<b>1,123</b>	<b>1,170</b>	<b>1,153</b>	<b>1,150</b>	<b>1,018</b>	<b>855</b>	<b>826</b>	<b>860</b>	<b>717</b>	<b>874</b>	<b>948</b>	
		Supply Class A - LSD	MC	0	0	0	1	0	0	0	0	0	0	0	
			CC	1	4	2	1	1	1	0	2	1	1	1	
			<b>Total</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	
		Supply Class A - MDMA	MC	11	13	7	6	4	3	1	6	2	0	4	
			CC	124	107	82	40	52	75	85	89	101	121	88	
			<b>Total</b>	<b>135</b>	<b>120</b>	<b>89</b>	<b>46</b>	<b>56</b>	<b>78</b>	<b>86</b>	<b>95</b>	<b>103</b>	<b>121</b>	<b>92</b>	
		Supply Class A - Methadone	MC	3	6	8	3	6	3	3	1	0	1	0	
			CC	12	18	17	16	16	14	13	7	7	4	2	
			<b>Total</b>	<b>15</b>	<b>24</b>	<b>25</b>	<b>19</b>	<b>22</b>	<b>17</b>	<b>16</b>	<b>8</b>	<b>7</b>	<b>5</b>	<b>2</b>	
		Supply Class A - Methamphetamine	MC	0	0	0	0	1	0	0	0	0	0	0	
			CC	3	3	2	1	0	3	1	4	0	1	5	
<b>Total</b>	<b>3</b>		<b>3</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>5</b>			
Supply Class A - Other	MC	10	16	9	8	10	6	8	5	5	1	2			
	CC	446	489	442	391	314	175	203	205	227	166	110			
	<b>Total</b>	<b>456</b>	<b>505</b>	<b>451</b>	<b>399</b>	<b>324</b>	<b>181</b>	<b>211</b>	<b>210</b>	<b>232</b>	<b>167</b>	<b>112</b>			
<b>Total Supply Class A</b>	MC	121	117	79	70	67	34	31	30	26	16	16			
	CC	2,365	2,722	2,622	2,383	2,216	2,085	2,259	2,355	2,226	2,518	2,389			
	<b>Total</b>	<b>2,486</b>	<b>2,839</b>	<b>2,701</b>	<b>2,453</b>	<b>2,283</b>	<b>2,119</b>	<b>2,290</b>	<b>2,385</b>	<b>2,252</b>	<b>2,534</b>	<b>2,405</b>			
Misuse of Drugs Act 1971	4(3)	Supply Class B - Amphetamine	MC	20	14	6	21	14	14	5	6	7	8	8	
			CC	55	60	94	63	73	68	67	83	96	87	32	
			<b>Total</b>	<b>75</b>	<b>74</b>	<b>100</b>	<b>84</b>	<b>87</b>	<b>82</b>	<b>72</b>	<b>89</b>	<b>103</b>	<b>95</b>	<b>40</b>	
		Supply Class B - Cannabis, cannabis resin, cannabinal, cannabinal derivatives	MC	0	5	48	151	187	156	156	96	83	99	88	
			CC	0	15	81	269	370	416	419	499	626	496	425	
			<b>Total</b>	<b>0</b>	<b>20</b>	<b>129</b>	<b>420</b>	<b>557</b>	<b>572</b>	<b>575</b>	<b>595</b>	<b>709</b>	<b>595</b>	<b>513</b>	
		Supply Class B - Ketamine	MC	0	0	0	0	0	0	0	0	0	0	2	
			CC	0	0	0	0	0	0	0	0	2	2	3	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>5</b>	
		Supply Class B - Mephedrone (4-Methylmethcathinone, Methcathinone)	MC	0	0	0	0	5	10	6	4	3	1	0	
			CC	0	0	0	0	0	13	26	24	16	15	1	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>23</b>	<b>32</b>	<b>28</b>	<b>19</b>	<b>16</b>	<b>1</b>	
		Supply Class B - Synthetic cannabinoid receptor agonists	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	0	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		Supply Class B - Other	MC	4	3	15	41	46	37	22	17	24	9	5	
			CC	6	15	51	202	228	224	314	311	296	268	181	
			<b>Total</b>	<b>10</b>	<b>18</b>	<b>66</b>	<b>243</b>	<b>274</b>	<b>261</b>	<b>336</b>	<b>328</b>	<b>320</b>	<b>277</b>	<b>186</b>	
		<b>Total Supply Class B</b>	MC	24	22	69	213	252	217	189	123	117	117	103	
			CC	61	90	226	534	671	721	826	917	1,036	868	642	
<b>Total</b>	<b>85</b>		<b>112</b>	<b>295</b>	<b>747</b>	<b>923</b>	<b>938</b>	<b>1,015</b>	<b>1,040</b>	<b>1,153</b>	<b>985</b>	<b>745</b>			

Drug volumes

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	4(3)	Supply Class C - Anabolic steroids	MC	1	0	0	1	0	1	0	0	0	0	0	
			CC	2	1	3	1	2	3	4	5	7	3	7	
			<b>Total</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>5</b>	<b>7</b>	<b>3</b>	<b>7</b>	
		Supply Class C - GHB 4-Hydroxy-n-butyric acid	MC	0	0	1	0	0	0	0	0	0	0	0	0
			CC	0	0	1	0	0	0	0	0	0	0	0	1
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
		Supply Class C - Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)	MC	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	1	0	2	0	0	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Supply Class C - Khat	MC	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	0	0	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
		Supply Class C - Piperazines (including BZP)	MC	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	3	1	0	1	0	0	0	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Supply Class C - Cannabis <sup>1</sup>	MC	140	108	46	5	1	3	0	0	0	1	0	0
			CC	165	164	185	62	14	3	0	0	1	0	0	0
			<b>Total</b>	<b>305</b>	<b>272</b>	<b>231</b>	<b>67</b>	<b>15</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
		Supply Class C - Other	MC	31	43	33	33	37	36	24	9	19	12	11	11
			CC	187	234	186	77	57	34	44	43	25	30	15	15
<b>Total</b>	<b>218</b>		<b>277</b>	<b>219</b>	<b>110</b>	<b>94</b>	<b>70</b>	<b>68</b>	<b>52</b>	<b>44</b>	<b>42</b>	<b>26</b>	<b>26</b>		
<b>Total Supply Class C</b>	MC	172	151	80	39	38	40	24	9	19	13	11	11		
	CC	354	399	375	140	76	41	49	49	35	33	23	23		
	<b>Total</b>	<b>526</b>	<b>550</b>	<b>455</b>	<b>179</b>	<b>114</b>	<b>81</b>	<b>73</b>	<b>58</b>	<b>54</b>	<b>46</b>	<b>34</b>	<b>34</b>		

Source: Court Proceedings Database, Ministry of Justice

Drug volumes

Table 3: Number of adult offenders sentenced for possession with intent to supply offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	5(3)	PWITS Class A - Cocaine	MC	54	58	28	30	20	10	20	13	7	15	14
			CC	1,062	1,404	1,595	1,550	1,301	1,267	1,277	1,522	1,623	1,755	1,811
			<b>Total</b>	<b>1,116</b>	<b>1,462</b>	<b>1,623</b>	<b>1,580</b>	<b>1,321</b>	<b>1,277</b>	<b>1,297</b>	<b>1,535</b>	<b>1,630</b>	<b>1,770</b>	<b>1,825</b>
		PWITS Class A - Crack	MC	9	17	5	3	10	3	1	7	9	13	10
			CC	305	365	327	288	340	374	416	377	476	562	642
			<b>Total</b>	<b>314</b>	<b>382</b>	<b>332</b>	<b>291</b>	<b>350</b>	<b>377</b>	<b>417</b>	<b>384</b>	<b>485</b>	<b>575</b>	<b>652</b>
		PWITS Class A - Heroin	MC	33	57	18	17	10	13	5	10	6	18	3
			CC	1,015	1,158	1,097	1,203	993	911	989	1,033	1,173	1,246	1,212
			<b>Total</b>	<b>1,048</b>	<b>1,215</b>	<b>1,115</b>	<b>1,220</b>	<b>1,003</b>	<b>924</b>	<b>994</b>	<b>1,043</b>	<b>1,179</b>	<b>1,264</b>	<b>1,215</b>
		PWITS Class A - LSD	MC	5	2	0	0	0	0	0	0	0	0	0
			CC	10	8	4	7	1	4	2	2	3	1	8
			<b>Total</b>	<b>15</b>	<b>10</b>	<b>4</b>	<b>7</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>8</b>
		PWITS Class A - MDMA	MC	27	16	6	3	8	6	5	5	8	8	2
			CC	459	319	190	72	85	163	193	221	240	251	250
			<b>Total</b>	<b>486</b>	<b>335</b>	<b>196</b>	<b>75</b>	<b>93</b>	<b>169</b>	<b>198</b>	<b>226</b>	<b>248</b>	<b>259</b>	<b>252</b>
PWITS Class A - Methadone	MC	2	0	0	4	0	0	1	1	0	0	0		
	CC	3	2	5	7	2	3	4	0	2	1	1		
	<b>Total</b>	<b>5</b>	<b>2</b>	<b>5</b>	<b>11</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>		
PWITS Class A - Methamphetamine	MC	0	0	1	2	0	0	0	0	1	0	0		
	CC	0	3	6	3	3	5	13	8	9	20	17		
	<b>Total</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>5</b>	<b>3</b>	<b>5</b>	<b>13</b>	<b>8</b>	<b>10</b>	<b>20</b>	<b>17</b>		
PWITS Class A - Other	MC	18	38	16	7	6	4	4	6	2	1	3		
	CC	241	223	197	231	168	151	170	134	152	135	132		
	<b>Total</b>	<b>259</b>	<b>261</b>	<b>213</b>	<b>238</b>	<b>174</b>	<b>155</b>	<b>174</b>	<b>140</b>	<b>154</b>	<b>136</b>	<b>135</b>		
<b>Total PWITS Class A</b>	MC	148	188	74	66	54	36	36	42	33	55	32		
	CC	3,095	3,482	3,421	3,361	2,893	2,878	3,064	3,297	3,678	3,971	4,073		
	<b>Total</b>	<b>3,243</b>	<b>3,670</b>	<b>3,495</b>	<b>3,427</b>	<b>2,947</b>	<b>2,914</b>	<b>3,100</b>	<b>3,339</b>	<b>3,711</b>	<b>4,026</b>	<b>4,105</b>		

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	5(3)	PWITS Class B - Amphetamine	MC	26	24	38	29	38	37	30	20	24	21	12
			CC	253	292	248	291	263	210	202	234	230	150	112
			<b>Total</b>	<b>279</b>	<b>316</b>	<b>286</b>	<b>320</b>	<b>301</b>	<b>247</b>	<b>232</b>	<b>254</b>	<b>254</b>	<b>171</b>	<b>124</b>
		PWITS Class B - Cannabis, cannabis resin, cannabinol, cannabinol derivatives	MC	0	5	238	583	640	639	596	463	442	448	371
			CC	0	57	396	1,430	1,705	1,890	2,004	2,127	2,109	1,854	1,587
			<b>Total</b>	<b>0</b>	<b>62</b>	<b>634</b>	<b>2,013</b>	<b>2,345</b>	<b>2,529</b>	<b>2,600</b>	<b>2,590</b>	<b>2,551</b>	<b>2,302</b>	<b>1,958</b>
		PWITS Class B - Ketamine	MC	0	0	0	0	0	0	0	0	1	2	0
			CC	0	0	0	0	0	0	0	0	6	11	27
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>13</b>	<b>27</b>
		PWITS Class B - Mephedrone (4-Methylmethcathinone, Methcathinone)	MC	0	0	0	9	23	26	18	14	13	8	0
			CC	0	0	0	0	23	43	103	65	92	43	7
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>46</b>	<b>69</b>	<b>121</b>	<b>79</b>	<b>105</b>	<b>51</b>	<b>7</b>
		PWITS Class B - Synthetic cannabinoid receptor agonists	MC	0	0	0	0	0	0	0	0	0	0	1
			CC	0	0	0	0	3	2	0	0	3	2	1
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>2</b>
PWITS Class B - Other	MC	3	8	73	108	87	113	63	34	33	31	34		
	CC	15	14	77	424	343	349	288	308	288	210	114		
	<b>Total</b>	<b>18</b>	<b>22</b>	<b>150</b>	<b>532</b>	<b>430</b>	<b>462</b>	<b>351</b>	<b>342</b>	<b>321</b>	<b>241</b>	<b>148</b>		
<b>Total PWITS Class B</b>	MC	29	37	349	729	788	815	707	531	513	510	418		
	CC	268	363	721	2,145	2,337	2,494	2,597	2,734	2,728	2,270	1,848		
	<b>Total</b>	<b>297</b>	<b>400</b>	<b>1,070</b>	<b>2,874</b>	<b>3,125</b>	<b>3,309</b>	<b>3,304</b>	<b>3,265</b>	<b>3,241</b>	<b>2,780</b>	<b>2,266</b>		

Drug volumes

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	5(3)	PWITS Class C - Anabolic steroids	MC	0	1	1	2	1	0	2	0	1	1	0	
			CC	1	4	5	1	3	2	6	4	3	2	4	
			<b>Total</b>	<b>1</b>	<b>5</b>	<b>6</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>8</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>4</b>	
		PWITS Class C - GHB 4-Hydroxy-n-butyric acid	MC	1	0	0	0	0	0	0	0	0	0	0	1
			CC	0	1	0	0	2	0	2	4	0	0	0	0
			<b>Total</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
		PWITS Class C - Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)	MC	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	1	0	0	1	1	1
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>
		PWITS Class C - Khat	MC	0	0	0	0	0	0	0	0	0	1	0	0
			CC	0	0	0	0	0	0	0	0	0	0	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>
		PWITS Class C - Piperazines (including BZP)	MC	0	0	0	0	1	1	0	0	0	0	0	0
			CC	0	0	0	0	9	5	6	4	2	0	2	2
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>
		PWITS Class C - Cannabis <sup>1</sup>	MC	282	350	187	11	1	6	1	0	1	1	0	0
			CC	501	564	490	118	13	4	4	0	2	0	0	0
<b>Total</b>	<b>783</b>		<b>914</b>	<b>677</b>	<b>129</b>	<b>14</b>	<b>10</b>	<b>5</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>0</b>		
PWITS Class C - Other	MC	51	74	60	57	61	39	39	27	23	14	13	13		
	CC	681	790	605	224	160	115	85	67	65	41	40	40		
	<b>Total</b>	<b>732</b>	<b>864</b>	<b>665</b>	<b>281</b>	<b>221</b>	<b>154</b>	<b>124</b>	<b>94</b>	<b>88</b>	<b>55</b>	<b>53</b>	<b>53</b>		
<b>Total PWITS Class C</b>	MC	334	425	248	70	64	46	42	27	25	17	14	14		
	CC	1,183	1,359	1,100	343	187	126	104	79	72	45	47	47		
	<b>Total</b>	<b>1,517</b>	<b>1,784</b>	<b>1,348</b>	<b>413</b>	<b>251</b>	<b>172</b>	<b>146</b>	<b>106</b>	<b>97</b>	<b>62</b>	<b>61</b>	<b>61</b>		

Source: Court Proceedings Database, Ministry of Justice

Drug volumes

Table 4: Number of adult offenders sentenced for permitting premises offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	8	Permitting premises Class A - Cocaine	MC	0	0	0	0	1	0	0	1	1	2	0
			CC	6	15	19	12	9	15	12	15	25	27	29
			<b>Total</b>	<b>6</b>	<b>15</b>	<b>19</b>	<b>12</b>	<b>10</b>	<b>15</b>	<b>12</b>	<b>16</b>	<b>26</b>	<b>29</b>	<b>29</b>
		Permitting premises Class A - Crack	MC	1	0	0	1	1	1	1	0	1	2	1
			CC	2	4	6	2	3	10	5	8	12	11	13
			<b>Total</b>	<b>3</b>	<b>4</b>	<b>6</b>	<b>3</b>	<b>4</b>	<b>11</b>	<b>6</b>	<b>8</b>	<b>13</b>	<b>13</b>	<b>14</b>
		Permitting premises Class A - Heroin	MC	2	0	0	0	1	4	3	1	0	2	1
			CC	21	24	13	12	11	17	20	24	27	34	24
			<b>Total</b>	<b>23</b>	<b>24</b>	<b>13</b>	<b>12</b>	<b>12</b>	<b>21</b>	<b>23</b>	<b>25</b>	<b>27</b>	<b>36</b>	<b>25</b>
		Permitting premises Class A - LSD	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	2	1	0	0	0	0	0	0	0	0	0
			<b>Total</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Permitting premises Class A - MDMA	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	7	4	2	0	0	1	1	0	3	0	1
			<b>Total</b>	<b>7</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>1</b>
		Permitting premises Class A - Methadone	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	0	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
		Permitting premises Class A - Methamphetamine	MC	0	0	1	0	0	0	0	0	0	0	0
CC	0		0	0	0	0	0	0	0	0	0	0		
<b>Total</b>	<b>0</b>		<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
Permitting premises Class A - Other	MC	1	2	1	2	0	3	1	0	0	0	0		
	CC	5	9	4	7	2	3	10	11	21	13	19		
	<b>Total</b>	<b>6</b>	<b>11</b>	<b>5</b>	<b>9</b>	<b>2</b>	<b>6</b>	<b>11</b>	<b>11</b>	<b>21</b>	<b>13</b>	<b>19</b>		
<b>Total Permitting premises Class A</b>	MC	4	2	2	3	3	8	5	2	2	6	2		
	CC	43	57	44	33	25	46	48	58	88	86	86		
	<b>Total</b>	<b>47</b>	<b>59</b>	<b>46</b>	<b>36</b>	<b>28</b>	<b>54</b>	<b>53</b>	<b>60</b>	<b>90</b>	<b>92</b>	<b>88</b>		

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	8	Permitting premises Class B - Amphetamine	MC	1	0	0	0	0	1	0	1	0	0	
			CC	4	2	4	7	8	5	5	4	2	0	
			<b>Total</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>7</b>	<b>8</b>	<b>6</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>0</b>	
		Permitting premises Class B - Cannabis, cannabis resin, cannabinol, cannabinol derivatives	MC	6	0	39	97	79	98	127	111	81	83	54
			CC	11	11	14	57	111	146	157	187	213	134	81
			<b>Total</b>	<b>17</b>	<b>11</b>	<b>53</b>	<b>154</b>	<b>190</b>	<b>244</b>	<b>284</b>	<b>298</b>	<b>294</b>	<b>217</b>	<b>135</b>
		Permitting premises Class B - Ketamine	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	1	0	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
		Permitting premises Class B - Mephedrone (4-Methylmethcathinone, Methcathinone)	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	1	2	0	0	4	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>0</b>
		Permitting premises Class B - Synthetic cannabinoid receptor agonists	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	0	0	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Permitting premises Class B - Other	MC	0	0	15	22	20	22	20	15	16	14	7
			CC	0	2	9	82	91	119	113	59	47	34	19
			<b>Total</b>	<b>0</b>	<b>2</b>	<b>24</b>	<b>104</b>	<b>111</b>	<b>141</b>	<b>133</b>	<b>74</b>	<b>63</b>	<b>48</b>	<b>26</b>
		<b>Total Permitting premises Class B</b>	MC	7	0	54	119	99	121	147	127	97	97	61
CC	15		15	27	146	211	272	275	250	267	169	102		
<b>Total</b>	<b>22</b>		<b>15</b>	<b>81</b>	<b>265</b>	<b>310</b>	<b>393</b>	<b>422</b>	<b>377</b>	<b>364</b>	<b>266</b>	<b>163</b>		



Drug volumes

Legislation	Section	Offence	Court type	Number of adult offenders sentenced												
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017		
Misuse of Drugs Act 1971	8	Permitting premises Class C - Anabolic steroids	MC	0	0	0	0	0	0	0	0	0	1	0	0	
			CC	0	0	0	0	0	0	0	1	2	3	2		
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>2</b>		
		Permitting premises Class C - GHB 4-Hydroxy-n-butyric acid	MC	0	0	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	1	0	0	0	0	0	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
		Permitting premises Class C - Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)	MC	0	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	0	0	0	0	0		
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
		Permitting premises Class C - Khat	MC	0	0	0	0	0	0	0	0	0	0	0		
			CC	0	0	0	0	0	0	0	0	0	0	0		
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
		Permitting premises Class C - Piperazines (including BZP)	MC	0	0	0	0	0	0	0	0	0	0	1		
			CC	0	0	0	0	0	1	0	0	0	0	0		
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
		Permitting premises Class C - Cannabis <sup>1</sup>	MC	54	51	15	10	4	11	4	2	2	3	1		
			CC	9	8	16	11	1	2	0	0	0	0	0		
			<b>Total</b>	<b>63</b>	<b>59</b>	<b>31</b>	<b>21</b>	<b>5</b>	<b>13</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>3</b>			
		Permitting premises Class C - Other	MC	2	5	8	1	0	1	1	0	0	0	0		
			CC	51	51	42	19	4	4	2	2	1	0	1		
<b>Total</b>	<b>53</b>		<b>56</b>	<b>50</b>	<b>20</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>0</b>					
<b>Total Permitting premises Class C</b>	MC	56	56	23	11	4	12	5	2	3	3	2				
	CC	60	59	59	30	5	7	2	3	3	3	3				
	<b>Total</b>	<b>116</b>	<b>115</b>	<b>82</b>	<b>41</b>	<b>9</b>	<b>19</b>	<b>7</b>	<b>5</b>	<b>6</b>	<b>6</b>					

Source: Court Proceedings Database, Ministry of Justice

Drug volumes

Table 5: Number of adult offenders sentenced for possession offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	5(2)	Possession Class A - Cocaine	MC	4,388	5,192	4,924	4,383	4,547	4,242	3,978	3,561	3,363	3,349	3,318
			CC	301	415	490	420	469	378	322	328	322	464	457
			<b>Total</b>	<b>4,689</b>	<b>5,607</b>	<b>5,414</b>	<b>4,803</b>	<b>5,016</b>	<b>4,620</b>	<b>4,300</b>	<b>3,889</b>	<b>3,685</b>	<b>3,813</b>	<b>3,775</b>
		Possession Class A - Crack	MC	1,081	1,408	1,020	876	941	791	749	548	610	718	707
			CC	74	93	90	56	72	44	49	54	66	62	65
			<b>Total</b>	<b>1,155</b>	<b>1,501</b>	<b>1,110</b>	<b>932</b>	<b>1,013</b>	<b>835</b>	<b>798</b>	<b>602</b>	<b>676</b>	<b>780</b>	<b>772</b>
		Possession Class A - Heroin	MC	4,276	4,469	4,521	4,320	2,677	2,438	2,461	2,434	2,211	1,996	1,693
			CC	282	314	285	335	239	173	187	188	208	202	182
			<b>Total</b>	<b>4,558</b>	<b>4,783</b>	<b>4,806</b>	<b>4,655</b>	<b>2,916</b>	<b>2,611</b>	<b>2,648</b>	<b>2,622</b>	<b>2,419</b>	<b>2,198</b>	<b>1,875</b>
		Possession Class A - LSD	MC	38	25	21	11	12	7	7	5	7	4	10
			CC	1	3	4	1	4	2	2	2	0	1	4
			<b>Total</b>	<b>39</b>	<b>28</b>	<b>25</b>	<b>12</b>	<b>16</b>	<b>9</b>	<b>9</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>14</b>
		Possession Class A - MDMA	MC	1,297	799	512	230	355	460	527	387	435	396	309
			CC	130	115	92	48	25	57	49	49	40	59	72
			<b>Total</b>	<b>1,427</b>	<b>914</b>	<b>604</b>	<b>278</b>	<b>380</b>	<b>517</b>	<b>576</b>	<b>436</b>	<b>475</b>	<b>455</b>	<b>381</b>
Possession Class A - Methadone	MC	171	170	185	193	174	142	151	108	106	89	63		
	CC	10	3	10	18	11	9	6	3	10	6	2		
	<b>Total</b>	<b>181</b>	<b>173</b>	<b>195</b>	<b>211</b>	<b>185</b>	<b>151</b>	<b>157</b>	<b>111</b>	<b>116</b>	<b>95</b>	<b>65</b>		
Possession Class A - Methamphetamine	MC	6	13	20	23	18	17	36	30	31	44	40		
	CC	0	0	2	2	2	2	4	3	1	1	6		
	<b>Total</b>	<b>6</b>	<b>13</b>	<b>22</b>	<b>25</b>	<b>20</b>	<b>19</b>	<b>40</b>	<b>33</b>	<b>32</b>	<b>45</b>	<b>46</b>		
Possession Class A - Other	MC	629	920	1,010	878	762	647	674	668	640	497	445		
	CC	113	124	132	113	52	49	37	41	27	29	31		
	<b>Total</b>	<b>742</b>	<b>1,044</b>	<b>1,142</b>	<b>991</b>	<b>814</b>	<b>696</b>	<b>711</b>	<b>709</b>	<b>667</b>	<b>526</b>	<b>476</b>		
<b>Total Possession Class A</b>	MC	11,886	12,996	12,213	10,914	9,486	8,744	8,583	7,741	7,403	7,093	6,585		
	CC	911	1,067	1,105	993	874	714	656	668	674	824	819		
	<b>Total</b>	<b>12,797</b>	<b>14,063</b>	<b>13,318</b>	<b>11,907</b>	<b>10,360</b>	<b>9,458</b>	<b>9,239</b>	<b>8,409</b>	<b>8,077</b>	<b>7,917</b>	<b>7,404</b>		

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	5(2)	Possession Class B - Amphetamine	MC	2,122	2,347	2,149	2,157	2,230	1,751	1,832	1,716	1,490	1,112	862	
			CC	105	119	129	139	160	135	88	104	79	82	55	
			<b>Total</b>	<b>2,227</b>	<b>2,466</b>	<b>2,278</b>	<b>2,296</b>	<b>2,390</b>	<b>1,886</b>	<b>1,920</b>	<b>1,820</b>	<b>1,569</b>	<b>1,194</b>	<b>917</b>	
		Possession Class B - Cannabis, cannabis resin, cannabinol, cannabinol derivatives	MC	582	412	13,164	19,694	21,434	20,450	19,794	17,954	14,971	13,537	11,757	
			CC	50	57	304	730	977	822	901	791	814	829	802	
			<b>Total</b>	<b>632</b>	<b>469</b>	<b>13,468</b>	<b>20,424</b>	<b>22,411</b>	<b>21,272</b>	<b>20,695</b>	<b>18,745</b>	<b>15,785</b>	<b>14,366</b>	<b>12,559</b>	
		Possession Class B - Ketamine	MC	0	0	0	0	0	0	0	0	0	59	105	88
			CC	0	0	0	0	0	0	0	0	0	2	8	7
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>61</b>	<b>113</b>	<b>95</b>
		Possession Class B - Mephedrone (4-Methylmethcathinone, Methcathinone)	MC	0	0	0	95	279	563	613	449	353	41	11	
			CC	0	0	0	1	15	26	22	33	19	6	3	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>96</b>	<b>294</b>	<b>589</b>	<b>635</b>	<b>482</b>	<b>372</b>	<b>47</b>	<b>14</b>	
		Possession Class B - Synthetic cannabinoid receptor agonists	MC	0	0	0	0	0	0	0	1	2	0	69	
			CC	0	0	0	0	0	0	0	1	0	1	1	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>70</b>	
Possession Class B - Other	MC	125	202	1,470	1,476	1,249	1,294	1,463	1,229	851	407	517			
	CC	11	16	50	188	146	125	94	115	107	123	56			
	<b>Total</b>	<b>136</b>	<b>218</b>	<b>1,520</b>	<b>1,664</b>	<b>1,395</b>	<b>1,419</b>	<b>1,557</b>	<b>1,344</b>	<b>958</b>	<b>530</b>	<b>573</b>			
<b>Total Possession Class B</b>	MC	2,829	2,961	16,783	23,422	25,192	24,058	23,702	21,349	17,667	15,097	13,304			
	CC	166	192	483	1,058	1,298	1,108	1,105	1,044	1,019	1,041	924			
	<b>Total</b>	<b>2,995</b>	<b>3,153</b>	<b>17,266</b>	<b>24,480</b>	<b>26,490</b>	<b>25,166</b>	<b>24,807</b>	<b>22,393</b>	<b>18,686</b>	<b>16,138</b>	<b>14,228</b>			

Drug volumes

Legislation	Section	Offence	Court type	Number of adult offenders sentenced										
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Misuse of Drugs Act 1971	5(2)	Possession Class C - Anabolic steroids	MC	11	0	0	0	2	1	1	0	0	0	0
			CC	0	0	0	0	1	0	0	0	0	0	0
			<b>Total</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
		Possession Class C - GHB 4-Hydroxy-n-butyric acid	MC	3	2	3	9	20	8	6	8	15	9	8
			CC	0	0	0	0	0	0	0	1	0	2	0
			<b>Total</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>9</b>	<b>20</b>	<b>8</b>	<b>6</b>	<b>9</b>	<b>15</b>	<b>11</b>	<b>8</b>
		Possession Class C - Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)	MC	0	0	0	0	0	0	0	0	0	0	0
			CC	0	0	0	0	0	0	0	0	0	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
		Possession Class C - Khat	MC	0	0	0	0	0	0	0	2	10	3	6
			CC	0	0	0	0	0	0	0	0	0	0	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>10</b>	<b>3</b>	<b>6</b>
		Possession Class C - Piperazines (including BZP)	MC	0	0	0	0	2	0	0	6	2	4	1
			CC	0	0	0	1	6	2	1	1	0	1	0
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>8</b>	<b>2</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>5</b>	<b>1</b>
		Possession Class C - Cannabis <sup>1</sup>	MC	9,469	12,464	2,883	56	23	12	18	7	11	8	1
			CC	218	346	241	67	18	0	0	0	1	0	0
<b>Total</b>	<b>9,687</b>		<b>12,810</b>	<b>3,124</b>	<b>123</b>	<b>41</b>	<b>12</b>	<b>18</b>	<b>7</b>	<b>12</b>	<b>8</b>	<b>1</b>		
Possession Class C - Other	MC	1,136	1,970	1,258	1,088	1,052	834	760	673	607	473	347		
	CC	243	291	217	115	92	53	46	31	49	28	31		
	<b>Total</b>	<b>1,379</b>	<b>2,261</b>	<b>1,475</b>	<b>1,203</b>	<b>1,144</b>	<b>887</b>	<b>806</b>	<b>704</b>	<b>656</b>	<b>501</b>	<b>378</b>		
<b>Total Possession Class C</b>	MC	10,619	14,436	4,144	1,153	1,099	855	785	694	635	494	363		
	CC	461	637	458	183	117	55	47	33	50	32	31		
	<b>Total</b>	<b>11,080</b>	<b>15,073</b>	<b>4,602</b>	<b>1,336</b>	<b>1,216</b>	<b>910</b>	<b>832</b>	<b>727</b>	<b>685</b>	<b>526</b>	<b>394</b>		

Source: Court Proceedings Database, Ministry of Justice

Table 6: Number of adult offenders sentenced for production offences covered by the drugs guideline, by court type, 2007-2017

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	4(2)	Production Class A - Cocaine	MC	14	4	0	1	0	0	0	0	0	0	0	0
			CC	6	8	9	6	4	8	1	9	4	3	4	
			<b>Total</b>	<b>20</b>	<b>12</b>	<b>9</b>	<b>7</b>	<b>4</b>	<b>8</b>	<b>1</b>	<b>9</b>	<b>4</b>	<b>3</b>	<b>4</b>	
		Production Class A - Crack	MC	0	2	1	0	0	0	0	0	0	0	1	2
			CC	2	6	1	4	0	9	9	5	1	0	0	
			<b>Total</b>	<b>2</b>	<b>8</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>9</b>	<b>9</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>2</b>	
		Production Class A - Heroin	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	8	4	2	9	1	4	4	3	1	2	3	
			<b>Total</b>	<b>8</b>	<b>4</b>	<b>2</b>	<b>9</b>	<b>1</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>3</b>	
		Production Class A - LSD	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	1	0	0	0	0	1	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		Production Class A - MDMA	MC	3	0	0	1	0	0	0	0	0	0	0	
			CC	2	2	1	2	1	0	2	1	0	2	1	
			<b>Total</b>	<b>5</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>1</b>	
		Production Class A - Methadone	MC	0	1	0	0	0	0	0	0	0	0	0	
			CC	4	9	9	8	7	6	3	1	0	1	0	
			<b>Total</b>	<b>4</b>	<b>10</b>	<b>9</b>	<b>8</b>	<b>7</b>	<b>6</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	
Production Class A - Methamphetamine	MC	0	1	0	0	0	1	0	0	0	0	0			
	CC	0	0	0	3	1	1	0	0	0	2	0			
	<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>			
Production Class A - Other	MC	6	3	3	1	1	1	1	0	0	0	0			
	CC	2	12	4	6	4	9	20	12	3	8	8			
	<b>Total</b>	<b>8</b>	<b>15</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>10</b>	<b>21</b>	<b>12</b>	<b>3</b>	<b>8</b>	<b>8</b>			
<b>Total Production Class A</b>	MC	23	11	4	3	1	2	1	0	0	1	2			
	CC	24	42	26	38	18	37	40	31	9	18	16			
	<b>Total</b>	<b>47</b>	<b>53</b>	<b>30</b>	<b>41</b>	<b>19</b>	<b>39</b>	<b>41</b>	<b>31</b>	<b>9</b>	<b>19</b>	<b>18</b>			
Misuse of Drugs Act 1971	4(2)	Production Class B - Amphetamine	MC	5	23	0	0	0	0	1	1	0	0	1	
			CC	0	4	0	4	1	2	5	9	3	3	3	
			<b>Total</b>	<b>5</b>	<b>27</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>2</b>	<b>6</b>	<b>10</b>	<b>3</b>	<b>3</b>	<b>4</b>	
		Production Class B - Cannabis, cannabis resin, cannabinol, cannabinol derivatives	MC	288	213	889	1,809	2,183	2,671	2,639	2,333	1,906	1,546	1,079	
			CC	265	227	668	1,697	2,653	3,137	2,961	2,816	2,441	1,663	1,269	
			<b>Total</b>	<b>553</b>	<b>440</b>	<b>1,557</b>	<b>3,506</b>	<b>4,836</b>	<b>5,808</b>	<b>5,600</b>	<b>5,149</b>	<b>4,347</b>	<b>3,209</b>	<b>2,348</b>	
		Production Class B - Ketamine	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	0	0	0	1	1	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	
		Production Class B - Mephedrone (4-Methylmethcathinone, Methcathinone)	MC	0	0	0	0	0	0	0	0	0	1	0	
			CC	0	0	0	0	0	1	0	0	0	0	1	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	
		Production Class B - Synthetic cannabinoid receptor agonists	MC	0	0	0	0	0	0	0	1	1	0	1	
			CC	0	0	0	0	2	4	4	1	0	1	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	
		Production Class B - Other	MC	3	2	114	164	133	119	93	75	54	51	53	
			CC	1	2	135	488	445	350	356	248	208	178	87	
			<b>Total</b>	<b>4</b>	<b>4</b>	<b>249</b>	<b>652</b>	<b>578</b>	<b>469</b>	<b>449</b>	<b>323</b>	<b>262</b>	<b>229</b>	<b>140</b>	
<b>Total Production Class B</b>	MC	296	238	1,003	1,973	2,316	2,790	2,733	2,410	1,961	1,598	1,134			
	CC	266	233	803	2,189	3,101	3,494	3,326	3,074	2,652	1,846	1,361			
	<b>Total</b>	<b>562</b>	<b>471</b>	<b>1,806</b>	<b>4,162</b>	<b>5,417</b>	<b>6,284</b>	<b>6,059</b>	<b>5,484</b>	<b>4,613</b>	<b>3,444</b>	<b>2,495</b>			

Drug volumes

Legislation	Section	Offence	Court type	Number of adult offenders sentenced											
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	
Misuse of Drugs Act 1971	4(2)	Production Class C - Anabolic steroids	MC	1	0	0	0	0	0	0	0	0	0	0	0
			CC	2	0	4	2	0	4	0	1	0	1	3	
			<b>Total</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>3</b>	
		Production Class C - GHB 4-Hydroxy-n-butyric acid	MC	0	0	0	0	1	0	0	0	0	0	0	0
			CC	0	0	0	0	1	2	0	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		Production Class C - Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	0	0	1	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	
		Production Class C - Khat	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	0	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		Production Class C - Piperazines (including BZP)	MC	0	0	0	0	0	0	0	0	0	0	0	
			CC	0	0	0	0	0	0	1	0	0	0	0	
			<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
		Production Class C - Cannabis <sup>1</sup>	MC	1,011	1,363	1,207	1,363	606	101	9	0	1	2	0	
			CC	364	551	498	165	77	7	3	3	0	0	0	
<b>Total</b>	<b>1,375</b>		<b>1,914</b>	<b>1,705</b>	<b>1,528</b>	<b>683</b>	<b>108</b>	<b>12</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>0</b>			
Production Class C - Other	MC	75	94	42	4	3	4	2	0	1	1	0			
	CC	407	540	365	89	21	6	10	7	2	4	2			
	<b>Total</b>	<b>482</b>	<b>634</b>	<b>407</b>	<b>93</b>	<b>24</b>	<b>10</b>	<b>12</b>	<b>7</b>	<b>3</b>	<b>5</b>	<b>2</b>			
<b>Total Production Class C</b>	MC	1,087	1,457	1,249	1,367	610	105	11	0	2	3	0			
	CC	773	1,091	867	256	99	19	14	11	3	5	5			
	<b>Total</b>	<b>1,860</b>	<b>2,548</b>	<b>2,116</b>	<b>1,623</b>	<b>709</b>	<b>124</b>	<b>25</b>	<b>11</b>	<b>5</b>	<b>8</b>	<b>5</b>			

Source: Court Proceedings Database, Ministry of Justice

Drug outcomes

Table 7: Sentence outcomes for adult offenders sentenced for offences covered by the drugs guideline, 2017

Legislation	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Customs and Excise Management Act 1979	170(1), 170(2)	Importation/exportation Class A	0	2	2	1	8	200	0	213
		Importation/exportation Class B	0	1	1	2	18	44	0	66
		Importation/exportation Class C	0	0	1	1	10	21	0	33
Misuse of Drugs Act 1971	4(3)	Supply Class A	1	2	1	45	388	1,946	22	2,405
		Supply Class B	0	7	14	111	338	259	16	745
		Supply Class C	0	4	5	4	12	9	0	34
Misuse of Drugs Act 1971	5(3)	PWITS Class A	0	3	3	59	670	3,332	38	4,105
		PWITS Class B	0	19	46	365	1,188	612	36	2,266
		PWITS Class C	0	2	1	9	33	15	1	61
Misuse of Drugs Act 1971	8	Permitting premises Class A	0	0	0	10	47	25	6	88
		Permitting premises Class B	0	18	20	62	47	7	9	163
		Permitting premises Class C	0	0	1	2	2	0	0	5
Misuse of Drugs Act 1971	5(2)	Possession Class A	31	919	4,263	927	410	546	308	7,404
		Possession Class B	93	3,049	8,240	1,223	333	423	867	14,228
		Possession Class C	7	118	161	29	16	37	26	394
Misuse of Drugs Act 1971	4(2)	Production Class A	0	0	1	1	3	13	0	18
		Production Class B	3	165	445	490	700	644	48	2,495
		Production Class C	0	0	0	0	2	3	0	5

Source: Court Proceedings Database, Ministry of Justice

Guideline group	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Customs and Excise Management Act 1979	170(1), 170(2)	Importation/exportation Class A	0%	1%	1%	0%	4%	94%	0%	100%
		Importation/exportation Class B	0%	2%	2%	3%	27%	67%	0%	100%
		Importation/exportation Class C	0%	0%	3%	3%	30%	64%	0%	100%
Misuse of Drugs Act 1971	4(3)	Supply Class A	0%	0%	0%	2%	16%	81%	1%	100%
		Supply Class B	0%	1%	2%	15%	45%	35%	2%	100%
		Supply Class C	0%	12%	15%	12%	35%	26%	0%	100%
Misuse of Drugs Act 1971	5(3)	PWITS Class A	0%	0%	0%	1%	16%	81%	1%	100%
		PWITS Class B	0%	1%	2%	16%	52%	27%	2%	100%
		PWITS Class C	0%	3%	2%	15%	54%	25%	2%	100%
Misuse of Drugs Act 1971	8	Permitting premises Class A	0%	0%	0%	11%	53%	28%	7%	100%
		Permitting premises Class B	0%	11%	12%	38%	29%	4%	6%	100%
		Permitting premises Class C	0%	0%	20%	40%	40%	0%	0%	100%
Misuse of Drugs Act 1971	5(2)	Possession Class A	0%	12%	58%	13%	6%	7%	4%	100%
		Possession Class B	1%	21%	58%	9%	2%	3%	6%	100%
		Possession Class C	2%	30%	41%	7%	4%	9%	7%	100%
Misuse of Drugs Act 1971	4(2)	Production Class A	0%	0%	6%	6%	17%	72%	0%	100%
		Production Class B	0%	7%	18%	20%	28%	26%	2%	100%
		Production Class C	0%	0%	0%	0%	40%	60%	0%	100%

Source: Court Proceedings Database, Ministry of Justice

Note:

1) Includes a number of orders, for example hospital orders, confiscation orders and compensation orders.

**Table 8: Average custodial sentence lengths for adult offenders sentenced to immediate custody for offences covered by the drugs guideline, after any reduction for guilty plea, 2017**

Legislation	Section	Offence	Mean sentence length <sup>1,3</sup>	Median sentence length <sup>2,3</sup>
Customs and Excise Management Act 1979	170(1), 170(2)	Importation/exportation Class A	7 years 4 months	6 years
		Importation/exportation Class B	1 year 10 months	1 year 9 months
		Importation/exportation Class C	9 months	8 months
Misuse of Drugs Act 1971	4(3)	Supply Class A	4 years 6 months	3 years 6 months
		Supply Class B	2 years 1 month	1 year 4 months
		Supply Class C <sup>4</sup>	1 year 1 month	1 year 3 months
Misuse of Drugs Act 1971	5(3)	PWITS Class A	3 years 5 months	3 years
		PWITS Class B	1 year 2 months	1 year
		PWITS Class C	1 year 3 months	10 months
Misuse of Drugs Act 1971	8	Permitting premises Class A	1 year 4 months	1 year
		Permitting premises Class B <sup>4</sup>	10 months	8 months
		Permitting premises Class C <sup>5</sup>	-	-
Misuse of Drugs Act 1971	5(2)	Possession Class A	5 months	1 month
		Possession Class B	2 months	1 month
		Possession Class C	1 month	2 weeks
Misuse of Drugs Act 1971	4(2)	Production Class A	6 years 6 months	6 years
		Production Class B	1 year 10 months	1 year 6 months
		Production Class C <sup>6</sup>	*	*

Source: Court Proceedings Database, Ministry of Justice

## Notes:

- 1) The mean is calculated by taking the sum of all values and then dividing by the number of values.
- 2) The median is the value which lies in the middle of a set of numbers when those numbers are placed in ascending or descending order.
- 3) Excludes life and indeterminate sentences.
- 4) These figures should be treated with caution, due to the low number of offenders sentenced to immediate custody for this offence.
- 5) No offenders were sentenced to immediate custody for this offence in 2017.
- 6) Figures have been excluded for this offence, due to the very low number of offenders sentenced to immediate custody in 2017 (less than five).

Table 9: Number of adult offenders sentenced for offences under the Psychoactive Substances Act 2016, 2007-2017<sup>1,2</sup>

Legislation	Section	Offence	Court type	Number of adult offenders sentenced													
				2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017			
Psychoactive Substances Act 2016	4(1) & 10(1)	Produce a psychoactive substance	MC	-	-	-	-	-	-	-	-	-	-	-	0	0	
			CC	-	-	-	-	-	-	-	-	-	-	-	1	1	
			<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>	<b>1</b>
	5(1) & 10(1)	Supply a psychoactive substance	MC	-	-	-	-	-	-	-	-	-	-	-	-	4	4
			CC	-	-	-	-	-	-	-	-	-	-	-	-	1	9
			<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>5</b>
	5(2) & 10(1)	Offer to supply a psychoactive substance	MC	-	-	-	-	-	-	-	-	-	-	-	-	0	0
			CC	-	-	-	-	-	-	-	-	-	-	-	-	0	1
			<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
	7 & 10(1)	Possess a psychoactive substance with intent to supply	MC	-	-	-	-	-	-	-	-	-	-	-	-	6	28
			CC	-	-	-	-	-	-	-	-	-	-	-	-	5	68
			<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>11</b>
	8(1) & 10(1)	Import a psychoactive substance	MC	-	-	-	-	-	-	-	-	-	-	-	-	1	0
			CC	-	-	-	-	-	-	-	-	-	-	-	-	0	0
			<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
9(1) & 10(2)	Possess a psychoactive substance in a custodial institution	MC	-	-	-	-	-	-	-	-	-	-	-	-	4	21	
		CC	-	-	-	-	-	-	-	-	-	-	-	-	2	9	
		<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>6</b>	<b>30</b>
<b>Total psychoactive substances offences</b>		MC	-	-	-	-	-	-	-	-	-	-	-	-	15	53	
		CC	-	-	-	-	-	-	-	-	-	-	-	-	9	88	
		<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>24</b>	<b>141</b>

Source: Court Proceedings Database, Ministry of Justice

Notes:

1) No offenders were sentenced during this period for the following offences under the Psychoactive Substances Act 2016: Export a psychoactive substance, Fail to comply with a prohibition / premises order re psychoactive substances, Remain on / enter premises in contravention of access prohibition re psychoactive substances, Obstruct a person entering premises / securing premises against entry re psychoactive substances, Obstruct enforcement officer in performance of functions under Psychoactive Substances Act 2016, and Fail to comply / prevent compliance with requirement / direction under Psychoactive Substances Act 2016.

2) The Psychoactive Substances Act came into effect in 2016, and so no offenders were convicted or sentenced for these offences prior to 2016.

Table 10: Sentence outcomes for adult offenders sentenced for offences under the Psychoactive Substances Act 2016, 2017

Legislation	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Psychoactive Substances Act 2016	4(1) & 10(1)	Produce a psychoactive substance	0	0	0	0	0	1	0	1
	5(1) & 10(1)	Supply a psychoactive substance	0	1	2	2	1	7	0	13
	5(2) & 10(1)	Offer to supply a psychoactive substance	0	0	0	0	1	0	0	1
	7 & 10(1)	Possess a psychoactive substance with intent to supply	0	2	4	22	36	30	2	96
	8(1) & 10(1)	Import a psychoactive substance	0	0	0	0	0	0	0	0
	9(1) & 10(2)	Possess a psychoactive substance in a custodial institution	0	2	0	0	5	22	1	30



Offences under the Psychoactive Substances Act 2016

Legislation	Section	Offence	Absolute Discharge	Conditional Discharge	Fine	Community Order	Suspended Sentence	Immediate Custody	Otherwise dealt with <sup>1</sup>	Total
Psychoactive Substances Act 2016	4(1) & 10(1)	Produce a psychoactive substance	0%	0%	0%	0%	0%	100%	0%	100%
	5(1) & 10(1)	Supply a psychoactive substance	0%	8%	15%	15%	8%	54%	0%	100%
	5(2) & 10(1)	Offer to supply a psychoactive substance	0%	0%	0%	0%	100%	0%	0%	100%
	7 & 10(1)	Possess a psychoactive substance with intent to supply	0%	2%	4%	23%	38%	31%	2%	100%
	8(1) & 10(1)	Import a psychoactive substance	0%	0%	0%	0%	0%	0%	0%	0%
	9(1) & 10(2)	Possess a psychoactive substance in a custodial institution	0%	7%	0%	0%	17%	73%	3%	100%

Source: Court Proceedings Database, Ministry of Justice

Note:

1) Includes a number of orders, for example hospital orders, confiscation orders and compensation orders.

**Table 11: Average custodial sentence lengths for adult offenders sentenced to immediate custody for offences under the Psychoactive Substances Act 2016, after any reduction for guilty plea, 2017**

Legislation	Section	Offence	Mean sentence length <sup>1,3</sup>	Median sentence length <sup>2,3</sup>
Psychoactive Substances Act 2016	4(1) & 10(1)	Produce a psychoactive substance <sup>4</sup>	*	*
	5(1) & 10(1)	Supply a psychoactive substance <sup>5</sup>	8 months	8 months
	5(2) & 10(1)	Offer to supply a psychoactive substance <sup>6</sup>	-	-
	7 & 10(1)	Possess a psychoactive substance with intent to supply	10 months	7 months
	8(1) & 10(1)	Import a psychoactive substance <sup>6</sup>	-	-
	9(1) & 10(2)	Possess a psychoactive substance in a custodial institution	4 months	3 months

Source: Court Proceedings Database, Ministry of Justice

Notes:

- 1) The mean is calculated by taking the sum of all values and then dividing by the number of values.
- 2) The median is the value which lies in the middle of a set of numbers when those numbers are placed in ascending or descending order.
- 3) Excludes life and indeterminate sentences.
- 4) Figures have been excluded for this offence, due to the very low number of offenders sentenced to immediate custody in 2017 (less than five).
- 5) These figures should be treated with caution, due to the low number of offenders sentenced to immediate custody for this offence.
- 6) No offenders were sentenced to immediate custody for this offence in 2017.

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## Assessing the impact and implementation of the Sentencing Council's Drug Offences Definitive Guideline

### Summary

Analysis of trend data, disposals data and survey data was used to assess the impact of the Sentencing Council's Drug Offences Definitive Guideline. This was the first guideline on these offences which covered both the Crown Court and the magistrates' court, coming into force in February 2012. The analysis focused on the effect of the guideline on sentence outcomes.

Looking across all the drug offences covered by the guideline,<sup>1</sup> in the 12 months after the guideline came into force there was a small but statistically significant decrease in sentencing severity compared to the 12 months before, and there was a small decrease in the average custodial sentence length (ACSL) between these two periods, from 2.5 to 2.4 years.<sup>2</sup>

This high-level analysis masks different trends within different offences and within different classes of drug. The five highest volume offences will have the greatest influence on the overall picture and, for these offences, it was found that:

- For **possession class A**, sentence severity fell slightly at the point of guideline implementation, then flattened thereafter. Survey data from the magistrates' court on possession class A and class B offences suggested that in their decision-making, sentencers place emphasis on the amount of the drug in the offender's possession, a factor which is not included in the guideline.
- In the case of **possession class B**, which far outweighs all other drug offences in terms of volume of offenders sentenced, sentencing severity did not change after guideline implementation. However, a pre-existing downward trend which began at around the same time as the re-classification of cannabis from class C to class B in 2009 continued.<sup>3</sup>
- For **production class B/cultivation of cannabis**, a previously upward trend in sentence severity flattened with the advent of the guideline.

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<sup>1</sup> The Drug Offences Definitive Guideline covers the following offences: Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug; Supplying or offering to supply a controlled drug; Possession of a controlled drug with intent to supply it to another; Production of a controlled drug; Permitting premises to be used; Possession of a controlled drug. For further details, see: <https://www.sentencingcouncil.org.uk/publications/?cat=definitive-guideline&s&topic=drug-offences>

<sup>2</sup> All the figures for average custodial sentence lengths quoted in this report are after any reduction for guilty plea.

<sup>3</sup> Cannabis was re-classified from class C to class B in January 2009.

- In contrast, for the two ‘supply’ offences (**supply and possession with intent to supply for both class A and class B**) sentence severity gradually increased following implementation. Analysis of disposals and survey data suggests that this increase may be largely due to factors which are unrelated to the guideline: an increase in the number of suspended sentences being handed down post-LASPO<sup>4</sup> and, in common with importation offences, an actual increase in the seriousness of offences coming before the courts.

The other drug offences covered by the guideline are lower volume: fewer than 1,000 cases annually, where it is the principal offence sentenced. Three of these lower volume offences were analysed, and it was found that:

- For the two ‘importation’ offences analysed (**fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug class A and class B**) the guideline led to an immediate decrease in sentencing severity, but this was followed by an upward trend thereafter. The fall at the point of implementation was the largest change across all the offences analysed, and was most likely due to a lowering of sentences for so called ‘drug mules’,<sup>5</sup> as intended by the Council. Analysis of survey data suggests that the rising trend thereafter may be due to a coincidental rise in the seriousness of offences coming before the courts in 2013 and 2014, and an increase in the purity or yield of drugs involved in these offences.
- For **permitting premises to be used (class B)** the guideline resulted in a decrease in sentencing severity, and a flattening of a previously upward trend thereafter.

Overall, across drug offences, although there were changes in sentencing severity at the point of implementation and some changes in trend thereafter, these were predominantly small in magnitude, equivalent to small shifts in the types of disposal or small decreases in sentence length. The only exception to this was the sizeable decrease in sentence severity for importation offences, as intended by the Council. It is therefore concluded that the guideline did not have an unanticipated effect beyond the small shifts that might be anticipated following the introduction of a guideline where there was no comprehensive guideline previously. However, drug offending is likely to change over time as, for example, new drugs emerge and purity or strength increases and indeed there are indications in this research that some drug offending may be becoming more serious. It is therefore recommended that research is undertaken to examine the extent to which guideline content remains relevant and appropriate to current offending.

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<sup>4</sup> The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012 took effect in December 2012. It increased the maximum length of a sentence which could be suspended from one to two years, and also allowed discretion as to whether or not to impose community requirements on a suspended sentence order (previously there had to be at least one requirement). These changes are likely to have contributed to an increase in suspended sentence orders.

<sup>5</sup> This term describes a person who carries drugs across an international border (in this case, across the border into or out of the UK) for someone else.

## Introduction

The Sentencing Council guideline for drug offences<sup>6</sup> was one of the earliest guidelines the Council produced, coming into force in February 2012 and spanning both the Crown and magistrates' courts. Prior to this, there was no sentencing guideline for drug offences in the Crown Court, although there were guidelines for various drug offences in the Magistrates' Court Sentencing Guidelines in force at that time,<sup>7</sup> which was produced by the Council's predecessor body, the Sentencing Guidelines Council (SGC).

The drug offences guideline aimed to increase the consistency of the sentencing process whilst leaving aggregate sentencing, for the most part, unchanged. The main exception to this was sentencing for so called 'drug mules', which the Council aimed to bring down, discussed in more detail below. Sentencing Council guidelines take a two-stage approach for determining the seriousness of the offence on the basis of harm and culpability. Across 'supply', 'importation' and 'production' offences culpability at step one is determined by the role of the offender in the offence, and harm by the quantity of drug involved. The sentencing starting points at step two are further determined by the class of drug. However, for 'possession' offences the offence category is determined solely on the basis of the class of drug, since the Council agreed with earlier consultation responses suggesting that for these offences specifically, quantity is an arbitrary measure of seriousness which could potentially lead to perverse outcomes and disproportionality in sentencing.<sup>8</sup> This is because quantity in possession at time of arrest is dependent on a number of factors unrelated to culpability, such as the way in which a drug user accesses the market (e.g. buying in bulk to limit contact with the criminal market) and their level of physical tolerance to the drug (e.g. long term users will have a higher tolerance and so are likely to buy more of it).<sup>9</sup>

One of the Sentencing Council's statutory duties under the Coroners and Justice Act 2009 is to monitor the operation and effect of its sentencing guidelines and to draw conclusions from this information.<sup>10</sup> Research and analysis was therefore undertaken to assess the impact of the guideline on sentencing outcomes and to explore whether there were any problems or issues with the guideline's implementation. It should be noted that this is a high-level analysis which focuses on offenders as an aggregate group, rather than looking at separate demographic subgroups (because the guideline did not aim to change sentencing practice for any particular demographic group).

This paper describes the research and analysis undertaken, the findings from this, and how these findings might be interpreted.

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<sup>6</sup> See: <https://www.sentencingcouncil.org.uk/publications/?cat=definitive-guideline&s&topic=drug-offences>

<sup>7</sup> Magistrates' court sentencing guidelines covered possession of classes A, B and C; class A produce, supply, possess with intent to supply; supply, possess with intent to supply classes B and C; and cultivation of cannabis.

<sup>8</sup> See: <https://www.sentencingcouncil.org.uk/publications/item/drug-offences-response-to-consultation/>

<sup>9</sup> In particular, there was a concern that determining offence category for possession for personal use by quantity could result in people with more chronic and entrenched drug problems receiving the most severe sentences for this offence.

<sup>10</sup> See Coroners and Justice Act 2009, Section 128.

## Approach

As with previous similar work on assault and burglary,<sup>11</sup> in conducting an assessment of the impact of the guideline, a distinction is drawn between impact and implementation issues. The Council's resource assessments are concerned with anticipating any impact on sentencing practice that is estimated to occur as a result of the guideline, over and above any changes caused by unrelated or coincidental issues (e.g. changes in the volume and nature of offences coming before the courts). Because of this, the results of our analytic work are framed in terms of whether or not the anticipated changes happened, and/or whether there were any unanticipated changes. Should unanticipated shifts occur, other data are then explored to try and explain the changes, giving consideration to whether there may be any implementation issues with a guideline (e.g. is a particular factor in the guideline exerting a disproportionate effect on sentencing?).

In the case of drug offences, the resource assessment<sup>12</sup> anticipated only two changes: the first of these was an intentional lowering of sentencing severity for importation offences on the basis of feedback from judges that those lowest in the distribution chain, so called 'drug mules', were usually low culpability offenders for whom lesser sentences than the courts were sometimes giving at that time were thought to be appropriate. In support of this, research undertaken to support guideline development indicated that drug mules were often involved through coercion or exploitation of their poverty.<sup>13</sup> The second change was an expected increase in sentence severity for some cases of production/cultivation class B drugs. The rise was expected to result from an intentional increase in the proportionality of sentencing in the Crown and magistrates' courts for these offences, because data revealed possible inconsistencies in the way in which cases were treated in the magistrates' courts and the Crown Court at that time. The results of the analysis are therefore framed in terms of whether or not these changes in these specific offences occurred, and/or whether there were unanticipated shifts in sentencing at the point of implementation or afterwards across all drug offences.

A key issue here is that we can never be fully confident of what were the causal factors explaining unanticipated changes because sentencing does not and cannot take place within a controlled experimental setting, where we can isolate the effect of the guideline. Rather, changes may be due to coincidental factors impacting at around the time of guideline implementation, or may be due to a combination of guideline implementation and other external changes. Examples of external changes affecting drug sentencing over the period of interest, 2006-2015, were: the re-classification of cannabis from a class C to class B drug in 2009<sup>14</sup>; an increase in the volume of suspended sentences handed down post legislative change in 2012<sup>15</sup>; and the emergence of new drugs (like New Psychoactive Substances), which are subsequently banned under legislation.<sup>16</sup> For this reason, in this analysis we only

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<sup>11</sup> See: <https://www.sentencingcouncil.org.uk/publications/?cat=guideline-assessment&s&topic=>

<sup>12</sup> See: <https://www.sentencingcouncil.org.uk/publications/?topic=drug-offences&s&cat=resource-assessment>

<sup>13</sup> See: [https://www.sentencingcouncil.org.uk/wp-content/uploads/Drug\\_mules\\_bulletin.pdf](https://www.sentencingcouncil.org.uk/wp-content/uploads/Drug_mules_bulletin.pdf)

<sup>14</sup> The re-classification of cannabis from class C to B took effect in January 2009.

<sup>15</sup> LASPO (see footnote 3).

<sup>16</sup> New Psychoactive Substances are new drugs that have similar effects to drugs that are internationally controlled. Over 350 such drugs were controlled by the UK Government between 2010 and 2014. See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/368583/NPSexpertReviewPanelReport.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/368583/NPSexpertReviewPanelReport.pdf)

venture hypotheses as to why unintended changes have occurred, and make judgements about the likelihood of which explanation is most plausible. Unfortunately, we cannot be more conclusive.

## **Methodology**

### **Analysis of trend data and interrupted time series analysis**

This analysis covers both data on sentencing trends from 2006-2015 (i.e. both pre- and post-guideline implementation), and survey data compiled by judges and magistrates. In the first stage of analysis, data from the Ministry of Justice's Court Proceedings Database (CPD) was used to plot trends in sentencing severity and trends in the average custodial sentence length over this time period, for drug offences as a group and separately. Where volumes were high enough for findings to be robust, trends within offences were examined by class of drug (A, B or C). Changes over time in the types of disposals being imposed for the various drug offences were also examined.

Examination of such overall trends yields only limited information about what happened as a result of the guideline, as opposed to other changes happening around that time or normal fluctuations in sentencing due to shifts in case volume and mix coming before courts. To help isolate the guideline's effect, interrupted time series analysis (ITS analysis)<sup>17</sup> was therefore carried out to establish (a) whether there was a statistically significant change in sentencing severity in the month following guideline implementation (and therefore highly likely to be due to the guideline, in the absence of any other nationwide change in that month); and (b) whether there was a statistically significant change in trend thereafter, which may also indicate that the guideline had a particular longer-term effect. Again, these analyses were carried out for all the drug offences and classes where the volumes permitted robust analysis, and the analyses focused on the Crown or the magistrates' court or both, depending on whether each offence was heard primarily in the magistrates' court, the Crown Court, or was evenly spread across both.<sup>18</sup>

Plotting trends in severity and time series modelling both require sentencing data to be presented in comparable units, rather than as a variety of different disposals and sentence lengths. Sentences were therefore converted into a continuous sentencing severity scale with scores ranging from 0 to 100, representing the full range of sentencing outcomes from discharge (at 0) to 20 years' custody (at 100). Whilst this facilitates our analysis and has been used in the assessment of impact of other guidelines,<sup>19</sup> it should not be interpreted as an absolute objective measure of sentencing severity.

### **Analysis of survey data**

Analysis of survey data was also carried out to explore trends and patterns in sentencing. In particular, where interrupted time series analysis suggested that the

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<sup>17</sup> Time series analysis looks at whether the observed trend (e.g. in sentencing) has deviated from the trend that would be expected, based on historical data. There are different ways of conducting time series analysis: in this case, the method used was interrupted time series analysis.

<sup>18</sup> Rand Europe carried out the interrupted time series analysis and analysis of all survey data. Rand Europe also administered the survey in the magistrates' courts.

<sup>19</sup> See: <https://www.sentencingcouncil.org.uk/publications/?s&cat=guideline-assessment>

guideline may have had an unintended effect, the possible reasons for this were examined using survey data, provided by magistrates and judges. Two data sources were used for this: a bespoke survey within the magistrates' courts conducted at one point in the time after the guideline had come into effect; and an ongoing 'census' survey of the Crown Courts (the Crown Court Sentencing Survey) which covered the period pre and post-guideline implementation, 2011 to 2014 inclusive. Both survey instruments were paper-based, and were required to be completed by sentencers at or immediately after the point of sentencing. Both surveys asked sentencers to give detailed information on the offence and sentence imposed: type of drug; level of harm and culpability; presence of harm, culpability, aggravating and mitigating factors; information on sentence outcome; and reduction for guilty plea. This data is not available in Ministry of Justice datasets.

The survey in the magistrates' courts covered possession of a controlled drug (class A and B) and production of a controlled drug (class B only) or cultivation of cannabis plant, where these offences were the principal offence only.<sup>20</sup> These offences were chosen because the volumes seen in the magistrates' court were high enough to permit robust analysis. The survey was conducted in a sample of 81 magistrates' courts, chosen on the basis of offence volumes. It ran over an eleven-week period, from 16<sup>th</sup> November 2015 to 29<sup>th</sup> January 2016, with a break over Christmas between 23<sup>rd</sup> December 2015 and 4<sup>th</sup> January 2016. A total of 1,497 forms were returned from the courts (a response rate of 35 per cent), of which 147 cases were unusable for various reasons, yielding a total of 1,350 valid cases. A comparison of the survey data with data from the Court Proceedings Database indicates that the survey data provided a good representation of the overall picture of sentencing in magistrates' courts during this period.<sup>21</sup>

The Crown Court Sentencing Survey covered all drug offences, also on a principal offence only basis, although for some offences volumes of returns were too low to analyse. The survey ran across all Crown Courts from October 2010 to the end of March 2015 and achieved response rates of 60 and 64 per cent in 2013 and 2014 respectively. In 2014, the last full year of data collection, 10,200 surveys on drug offences were returned. The description of the findings below draws on descriptive statistics and multivariate analysis of the survey data to proffer explanations for the patterns observed.

## **Content analysis of sentencing remarks**

A content analysis of Crown Court judges' sentencing remarks was carried out for a small sample of importation class A offences where the offender was identified as a drug mule (4 pre-guideline and 11 post-guideline).<sup>22</sup> The aim of this analysis was to gain an insight into how judges were sentencing this type of case, both before and

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<sup>20</sup> This is in line with CPD data, which covers principal offence only.

<sup>21</sup> A chi-square test was undertaken for each offence covered by the survey to compare the proportion of sentence outcomes in the survey data with data from the Court Proceedings Database. This showed that there is no statistically significant difference (at the five per cent level) in sentence outcomes between the survey data and the CPD.

<sup>22</sup> We were unable to identify drug mules in the administrative data from the courts which was used in the sample selection for this analysis (a cut of data from the Court Proceedings Database). We therefore selected 41 cases (12 pre-guideline, 29 post) which we thought *may* be for drug mules, based on the final sentence and matched information from the CCSS. Out of this group, we could only definitively identify 15 cases (4 pre-guideline, 11 post) as involving drug mules, so this analysis was based on this very limited sample.



after the guideline came into force. As such, findings are tentative, merely suggesting reasons for patterns observed in the quantitative data.

All of the analysis in this paper includes adult offenders only (those aged 18 or over at the time of conviction), as the Drug Offences Guideline is not applicable to children and young people.

## Overall findings

We would expect changes in sentencing that may be directly attributable to the guideline to become manifest in the year following guideline implementation. Looking across all drug offences, in the 12 months after the guideline came into force there was a small but statistically significant decrease in sentencing severity compared to the 12 months before, from a mean severity score of 15.8 to 15.3.<sup>23</sup> Similarly, there was a small decrease in the average custodial sentence length between these two periods, from 2.5 to 2.4 years.<sup>24</sup>

The proportions of offenders receiving different types of disposal changed slightly: discharges increased by 3 percentage points, fines and community orders decreased by 2 and 1 percentage points respectively, and immediate custodial sentences and suspended sentences stayed broadly the same (showing a difference of less than 1 percentage point in each case).

This high-level analysis masks different trends within different offences and within different classes of drug. The five highest volume offences (possession class A; possession class B; production class B; supply and possession with intent to supply class A; and supply and possession with intent to supply class B) will have the greatest influence on the overall picture and it was found that:

- For **possession class A**, sentence severity fell slightly following guideline implementation, then flattened thereafter.
- In the case of **possession class B**, which far outweighs all other drug offences in terms of volume of offenders sentenced, sentencing severity did not change after guideline implementation. However, a pre-existing downward trend which began with the re-classification of cannabis from class C to class B in 2009 continued.<sup>25</sup>
- For **production class B/cultivation of cannabis**, a previously upward trend in sentence severity flattened with the advent of the guideline.
- For the two 'supply' offences (**supply and possession with intent to supply for both class A and class B**) sentence severity gradually increased following guideline implementation.

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<sup>23</sup> The severity score is based on a continuous scale with scores from 0 to 100, representing discharge at 0 and 20 years' custody at 100. See methodology section for more details.

<sup>24</sup> Between 2011 and 2013 there was an increase of six percentage points in the proportion of offenders pleading guilty for drug offences. However, at the same time, the reduction in sentence given for guilty pleas lessened: the proportion of offenders receiving a reduction of a third or more decreased by eight percentage points, whilst the proportion receiving a lower reduction of between 21-32 per cent increased by the same amount. It is likely that the increase in the proportion of offenders pleading guilty was to some extent balanced by the countervailing reduction in credit given for plea, therefore we do not expect plea behaviour to have had a notable confounding effect on the trends described here.

<sup>25</sup> Cannabis was re-classified from class C to class B in January 2009.

For all the other drug offences in the guideline, the number of offenders sentenced as their principal offence is less than 1,000, annually. Three of these lower volume offences were large enough in number to permit reliable analysis and were considered important to analyse because they were a different type of offence (rather than the same type of offence but different class (e.g. possession class C)):

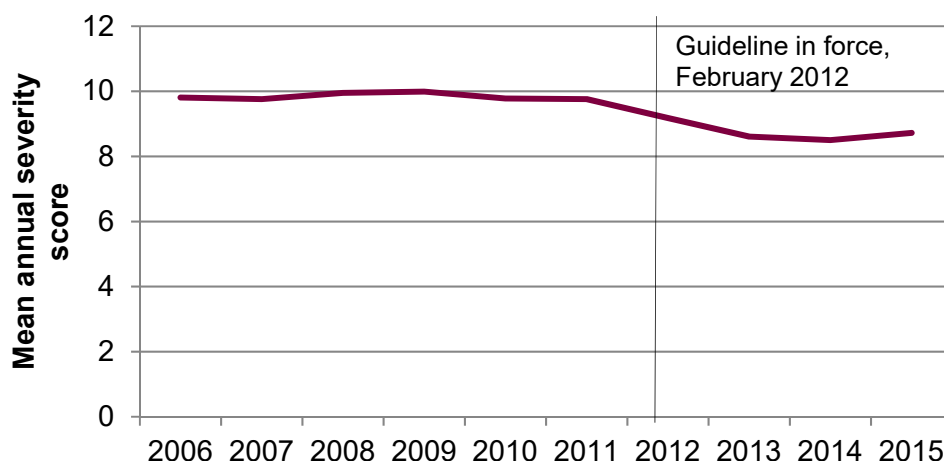
- For the two importation offences analysed (**Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug class A and class B**) the guideline led to an immediate decrease in sentencing severity, but there was an upward trend thereafter.
- For **Permitting Premises to be used (class B)** the guideline led to a decrease in sentencing severity, and a flattening of a previously upward trend thereafter.

The following sections examine the trends in sentencing for the eight offences discussed above in greater detail.

### 1. Possession class A

The volume of possession class A offences has fallen in recent years, from a high of 14,100 offenders sentenced in 2008 to 8,100 in 2015.<sup>26</sup> For this offence, overall sentence severity fell following guideline implementation, and then flattened thereafter (see figure 1).

**Figure 1: Sentencing severity for possession class A, across Crown and magistrates' courts, 2006 to 2015**<sup>27</sup>



The resource assessment predicted that the guideline would have no effect on sentencing behaviour and this was examined using ITS analysis on the magistrates' court data (in 2015, the vast majority, 92%, of offenders who were sentenced for possession class A as their principal offence were sentenced in the magistrates' court, hence the ITS analysis focused on the lower court). This suggested that the implementation of the guideline had a small but statistically significant effect in the

<sup>26</sup> Where offence volumes are quoted, these are always for the principal offence only.

<sup>27</sup> The mean or average severity score denotes the average point at which severity sat during that year. In the ITS graphs, this is plotted on a month by month basis, with each data point representing one month's national data.

direction of decreasing sentence severity in the magistrates' court<sup>28</sup> although looking at the trend data, there was no appreciable change in the Crown Court. In particular, at the point of guideline implementation there was an immediate drop in the use of community orders and a concurrent increase in the use of fines (fines being a lower level disposal on the severity scale). To contextualise this reduction, a decrease of around one or two points on the scale at the lower end equates to less than the difference between two bands of fine, and the drop, in this particular case, was less than half a point.<sup>29</sup>

The survey conducted in the magistrates' courts in 2015/16 covered only one time-period, rather than two (so only the 'post' guideline implementation period) and it is not possible for such a one-off survey to yield robust insights into why sentencing practice may have gradually become slightly more lenient since the introduction of the guideline. However, there were indications from the survey that 'possession' offences often involve mitigating circumstances and/or are viewed quite leniently by the lower court: firstly, mitigating factors were cited in 55 per cent of possession class A offences surveyed, whereas aggravating factors were cited in only 28 per cent of cases (whereas for other offences there is often an equal distribution, or aggravating factors outweigh mitigating in prevalence).<sup>30</sup> Secondly, 18 per cent of the sentences given for possession class A were discharges, which is below the sentencing range for this offence as set out in the guideline (although it should be noted that this is not a departure from the guideline: mitigating factors and/or guilty plea can take the final sentence out of range, and indeed 18 per cent of respondents indicated that they had 'dropped down a threshold' because of a guilty plea for a possession class A offence). Lastly, respondents to the survey were asked to write the 'single most important factor' in their sentence in a text box on the data collection form.<sup>31</sup> Across possession class A and B, 'small quantity' of drug was the most common factor, cited in 22 per cent of cases, which is a very high proportion for an unprompted response. This is a notable finding because the amount of drug in the offender's possession is not a factor in the possession guideline (although it was the key factor indicating seriousness in the previous, SGC guideline). This result suggests sentencers have continued to take small quantity into consideration, perhaps alongside some of the other ten or so mitigating factors in the current guideline,<sup>32</sup> bringing overall sentencing down.

## 2. Possession class B

Volumes of possession class B offences increased enormously following the reclassification of cannabis from class C to class B in 2009, from 3,200 offenders sentenced in 2008, to 17,300 in 2009 and 24,500 in 2010.<sup>33</sup> Volumes remained fairly

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<sup>28</sup> A statistically significant change in this context means that it is unlikely to have happened by chance and that we are 95% certain the change is due to something that happened at this point. Sometimes, relatively small changes are statistically significant (i.e. unlikely to have occurred by chance) but this does not mean the change is outside the parameters we would expect for normal fluctuations in sentencing.

<sup>29</sup> There are six bands of fine, from A (the highest band) to F (the lowest).

<sup>30</sup> See <https://www.sentencingcouncil.org.uk/wp-content/uploads/CCSS-Annual-2014.pdf>

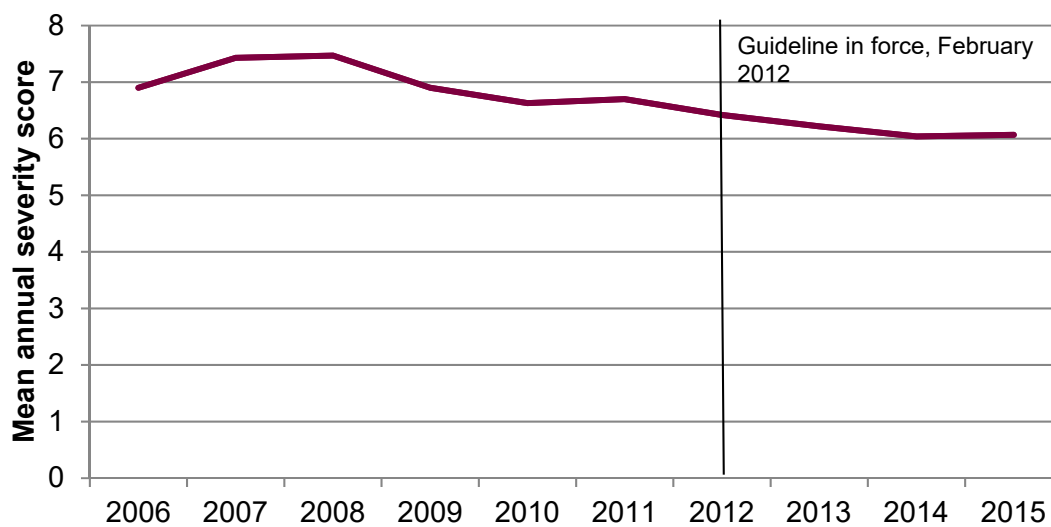
<sup>31</sup> The question read, 'Taking all things into consideration, what would you say was the single most important factor affecting your sentence?'

<sup>32</sup> No specific mitigating factors were included in the SGC 'possession' guideline, although sentencers were invited to consider remorse and features like admissions at police interview when sentencing any offence.

<sup>33</sup> Due to a data issue in the CPD, the figures shown in this section for possession class B offences do not include ketamine (which was reclassified from class C to class B in June 2014).

steady thereafter, although 2015 saw a fall in cases to 18,700. Possession class B is the most prevalent drug offence, comprising more than double the number sentenced for the next most prevalent offence, which is possession class A (at 8,100 offenders sentenced in 2015). As shown in figure 2, sentencing severity fell following the reclassification of cannabis, perhaps because a drug that was previously categorised more leniently then came to make up the bulk of the possession class B caseload (at the time of guideline implementation, 85 per cent of all offenders sentenced for possession class B offences were sentenced for possessing cannabis).<sup>34</sup> Sentencing severity continued to fall thereafter, stabilising in 2014-15.

**Figure 2: Sentencing severity for possession class B, across Crown and magistrates' courts, 2006 to 2015**



The resource assessment predicted that there would be no change in sentencing following implementation of the guideline. The ITS analysis for possession class B supported this prediction: beyond the long term trend of decreasing sentence severity following the reclassification of cannabis, there was no statistically significant change in sentence severity in the magistrates' courts at the point of implementation of the guideline and no change in trend thereafter, indicating that the guideline had no effect (in 2015, 95 per cent of offenders sentenced for this as their principal offence were sentenced in the magistrates' court, hence the ITS analysis only covers the magistrates' court).

### 3. Production class B and cultivation of cannabis

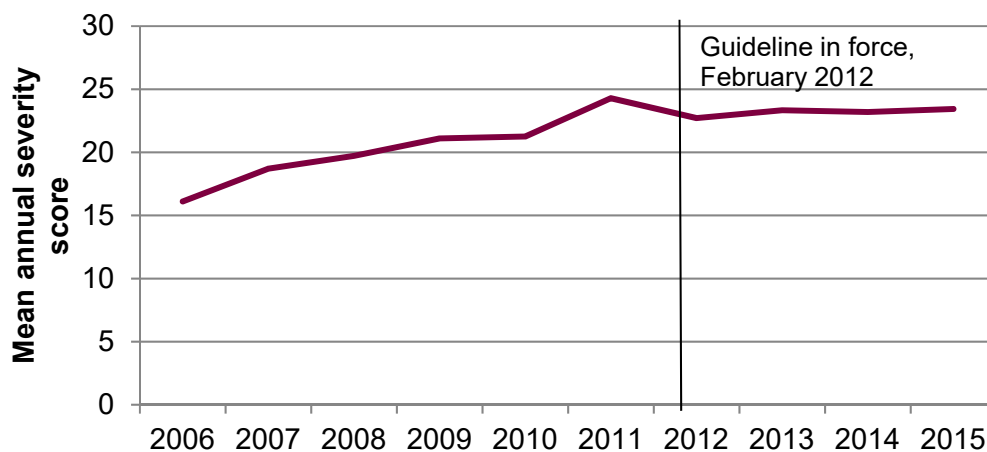
As per possession class B offences, offence volumes for production class B increased markedly following the re-classification of cannabis in 2009, from 470

<sup>34</sup> Source: Court Proceedings Database, 2012

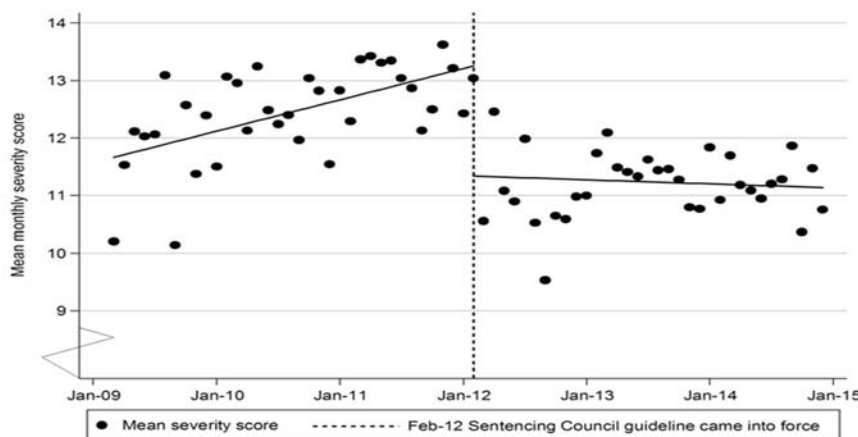
offenders sentenced in 2008 to a high of around 6,300 in 2012. In 2015, 4,600 offenders were sentenced for this offence.<sup>35</sup>

As shown in figure 3, overall sentencing severity appeared to stabilise following the introduction of the guideline. This pattern can be seen in the ITS analysis of sentencing in the magistrates' courts, which showed a statistically significant fall of about two points in offence severity in the month following implementation and a level trend thereafter (see figure 4). This trend was mirrored in the Crown Court.

**Figure 3: Sentencing severity for production class B and cultivation of cannabis, across Crown and magistrates' courts, 2006 to 2015**



**Figure 4: Time series graph showing mean monthly severity score for offenders sentenced for production class B and cultivation of cannabis in the magistrates' court, 2009 to 2015<sup>36</sup>**



An aim of the guideline for this offence was to increase the proportionality of the sentences given in the magistrates' and Crown courts, and an upward shift in severity was predicted for some sentences. However, as the ITS analysis shows, this upward shift did not appear to happen, rather sentencing fell slightly (see the fall

<sup>35</sup> Due to a data issue in the CPD, the figures shown in this section for production class B offences do not include ketamine (which was reclassified from class C to class B in June 2014).

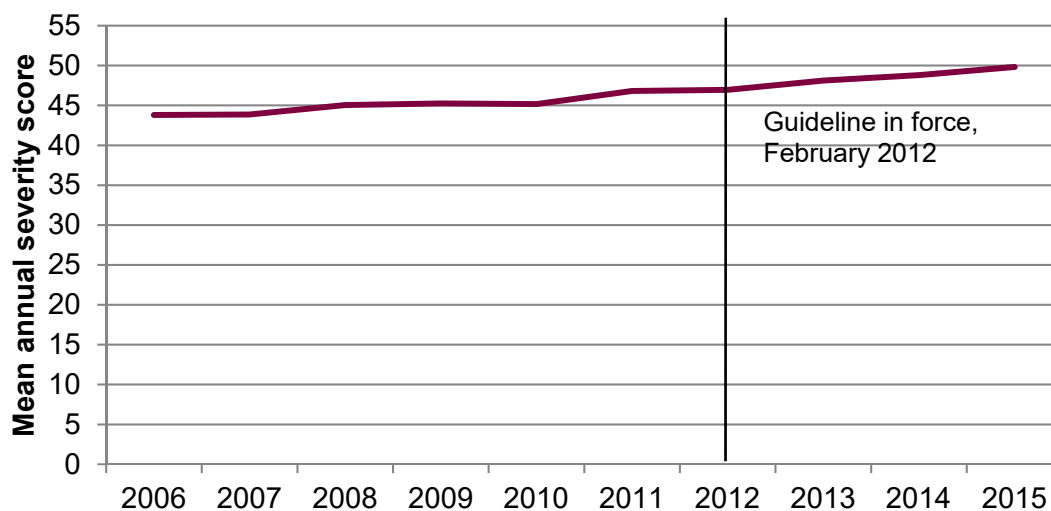
<sup>36</sup> Excludes ketamine, cannabinoid receptor agonists and cathinone derivatives.

in the lines of best fit between the pre-guideline period and post-guideline period in figure 4). Specifically, it was estimated that the proportion of custodial sentences could rise and the proportion of fines could fall; however, this estimation was based on the assumption that 60 per cent of cases would fall into harm categories 3 and 4, whereas if 70 per cent of cases fell into these categories, there would be no change in sentencing severity and no change in prison places needed. The two surveys<sup>37</sup> found that 95 per cent and 70 per cent of the sampled cases in the magistrates' and Crown Courts respectively were categorised as harm level 3 or 4. The evidence is not watertight because the magistrates' court and Crown Court survey samples are from two different time periods, but since we have no reason to believe that categorisations fluctuate widely, we might conclude that it is *likely* that more than 70 per cent of cases are falling into harm categories 3 and 4 in the guideline, so the impact of the guideline has been either resource neutral, or has resulted in a saving of resources. Because a higher proportion than expected fell into these two categories, sentence severity unexpectedly decreased at the point of implementation, a trend that flattened out thereafter.

#### 4. Supply and possession with intent to supply class A

The volume of 'supply' class A offences declined steadily from 2008 to 2012, then increased steadily after that, standing at around 6,000 in 2015. Sentencing severity did not alter immediately after the introduction of the guideline, but increased thereafter (see figure 5). This is shown more clearly in the ITS analysis, which indicated that there was no significant change at the point of guideline implementation but there was a statistically significant change in the trend thereafter, as shown in the steeper upward slope of the post-implementation line in figure 6.<sup>38</sup>

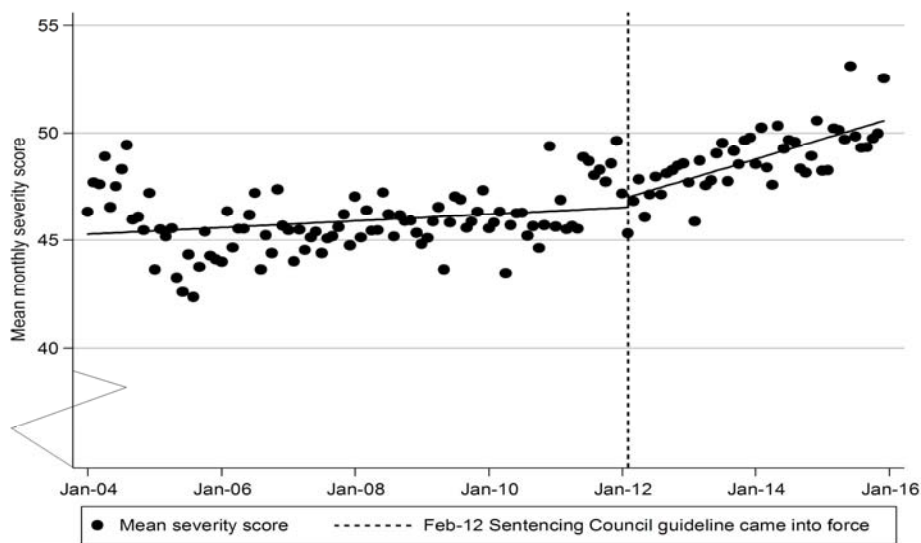
**Figure 5: Sentencing severity for supply and possession with intent to supply class A, across Crown and magistrates' courts, 2006 to 2015**



<sup>37</sup> The survey conducted in the magistrates' courts in November 2015 - January 2016 inclusive, and the CCSS data is for 2013 and 2014 combined. The proportion of cases in harm categories 3 and 4 in the CCSS was 69 per cent in 2013 and 72 per cent in 2014, averaging out at 70 per cent across the two years.

<sup>38</sup> In 2015, 99 per cent of offenders sentenced for this as their principal offence were sentenced in the Crown Court.

**Figure 6: Time series graph showing mean monthly severity score for offenders sentenced for supply and possession with intent to supply class A in the Crown Court, 2004 to 2016**



A potential reason for the change in trend after guideline implementation might be the coincidental changes to suspended sentence orders that occurred with the implementation of LASPO in December 2012. This allowed sentences of up to two years to be suspended, and also allowed discretion as to whether or not to impose community requirements on a suspended sentence order (previously there had to be at least one requirement). Following the introduction of this legislation there was an increase in the use of this disposal across the criminal justice system. We might expect 'supply' offences to be affected by this change because the sentencing range at the lowest level encompasses sentences low enough to be suspended and includes community orders. Indeed, following LASPO, the proportion of offenders receiving a suspended sentence order for this offence rose from 12 per cent in 2012, to 17 per cent in 2013 and stood at 19 per cent in both 2014 and 2015. At the same time, there was a parallel decrease in the proportion of community orders handed down, so the shift from community orders to suspended sentence orders (a more severe disposal than a community order on the severity scale) may account for at least some of the increase in sentence severity since 2012. However, if the LASPO changes wholly explained the change in trend, we would expect average custodial sentence lengths (which cover immediate custodial sentences, only) to stay constant, and this was not the case: ACSL dipped from 3.4 years in 2011 to 3.3 years in 2012 and then rose steadily thereafter, standing at 3.9 years in 2015. We can therefore conclude that either the guideline increased sentencing severity in a way which was unanticipated (the resource assessment predicting no effect for this offence) or the seriousness of offences coming before the courts increased, coincidentally.

Our analysis of CCSS data suggests that there was *both* an unintended effect of the guideline on sentencing practice *and* an increase in the severity of class A offences coming before the courts. The CCSS survey data gives a picture of Crown Court judges' sentencing practice both before there was a sentencing guideline for drug offences in the Crown Court i.e. in 2011, and afterwards, in 2013 and 2014.

Regression analysis of the 2011 data, found that the odds (or likelihood) of receiving a more severe sentence for cocaine or heroin (both class A offences) compared to cannabis (class B) were more than six times higher and nearly four times higher, respectively. This is as expected, given the relative seriousness of class A drugs compared to class B. However, regression analysis of the 2013 survey data showed a marked shift: these odds rose to 11.5 times higher for cocaine, and nearly 13 times higher for heroin, again compared to cannabis in each case. Because the guideline drew a sharp distinction between class A and class B cases for the first time,<sup>39</sup> with different sentencing ranges in each case, it seems likely that from the point of implementation the guideline encouraged a divergence between the sentencing of class A and B cases, with class A cases being viewed increasingly more seriously by judges.

Not only this, but CCSS data for all 'supply' offences from subsequent years *after* the guideline came into force (i.e. 2013 and 2014) suggests that in 2014 the courts saw a higher proportion of medium culpability (or 'significant role') cases and a correspondingly lower proportion of low culpability (or 'lesser role') cases than in 2013, with 'lesser role' cases falling from 31 per cent to 26 per cent and 'significant role' cases increasing from 67 per cent to 72 per cent across the two years. This shift may also help to account for the continued rise in ACSL and sentencing severity in the two years after the guideline was implemented.<sup>40</sup> Since we have no reason to expect that sentencers should start to classify more offenders at higher culpability levels spontaneously over time in the years following guideline implementation, the hypothesis that the increase in sentence severity has been due to the increasing seriousness of offences, combined with the guideline's bifurcation of class A and B cases, seem to be the most plausible explanations for the change in trend.

## **5. Supply and possession with intent to supply class B**

As with all class B offences, volumes of 'supply' class B offences leapt dramatically between 2009 and 2010, following the re-classification of cannabis, from 1,800 offenders sentenced in 2009 to 4,000 in 2010. Volumes gradually increased thereafter, standing at 4,600 offences in 2015.<sup>41</sup>

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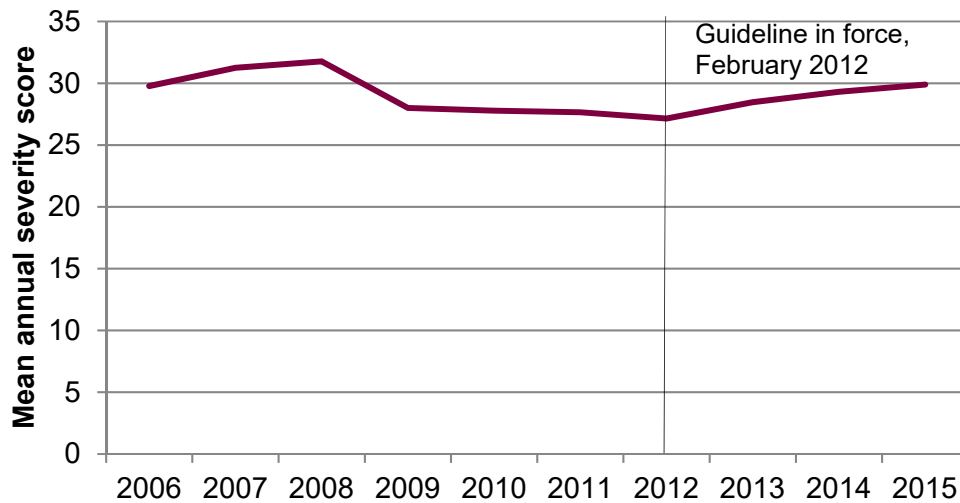
<sup>39</sup> Almost all of these cases are sentenced in the Crown Court and there were previously no guidelines for drug offences in the Crown Court, so the seriousness of a class A offence compared to a class B offence was a judgement made by the judges, based on the statutory maxima and other factors, rather than being set out clearly in terms of differing sentencing ranges, as is the case in the guideline.

<sup>40</sup> In the guideline, where the offence is selling directly to users ('street dealing') the offender should be placed in harm category 3, rather than categorised according to drug quantity. The vast majority of offenders sentenced for this offence were placed in harm category 3 in both 2013 and 2014 (62 per cent in each case), so we do not expect changes in drug quantities or the proportion of offenders who were street dealers to have contributed to the rise in sentencing severity.

<sup>41</sup> Due to a data issue in the CPD, the figures shown in this section for supply class B offences do not include ketamine (which was reclassified from class C to class B in June 2014).



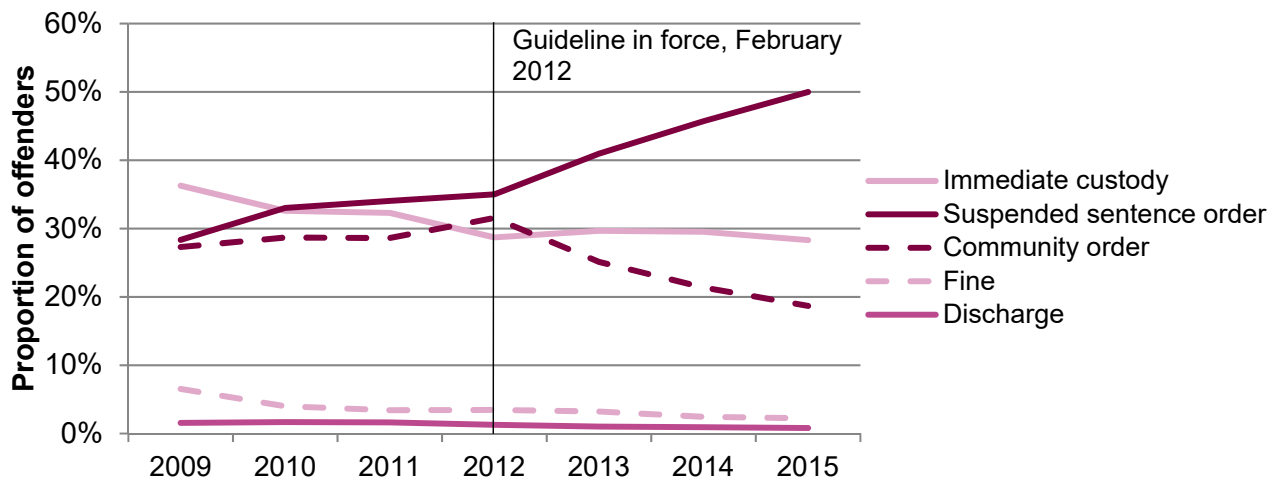
**Figure 7: Sentencing severity for supply and possession with intent to supply class B, across Crown and magistrates' courts, 2006 to 2015**



As shown in figure 7, sentence severity dipped slightly following the reclassification of cannabis (as per possession class B, see section 2) then increased following guideline implementation. ITS analysis for the Crown Court showed a statistically significant fall of three points in sentence severity at the point of implementation, and a slight rising trend thereafter (although the change in trend was not statistically significant).<sup>42</sup> The fall in sentencing severity for class B offences at the point of guideline implementation is consistent with the hypothesis outlined in the previous section on class A 'supply' offences: by separating out class A and class B offences for the first time, the guideline encouraged a divergence in sentencing, with class B offences being viewed a little more leniently than had previously been the case. We can therefore conclude that the guideline had a small but unintended effect of decreasing sentence severity (given that the resource assessment predicted no change), with the slight rise in trend thereafter being probably attributable to the coincidental LASPO-related change in disposals (see figure 8, which shows a large rise in suspended sentence orders and decrease in community orders after 2012), and/or changing levels of offence seriousness, as per class A.

<sup>42</sup> In 2015, 86 per cent of offenders sentenced for this as their principal offence were sentenced in the Crown Court.

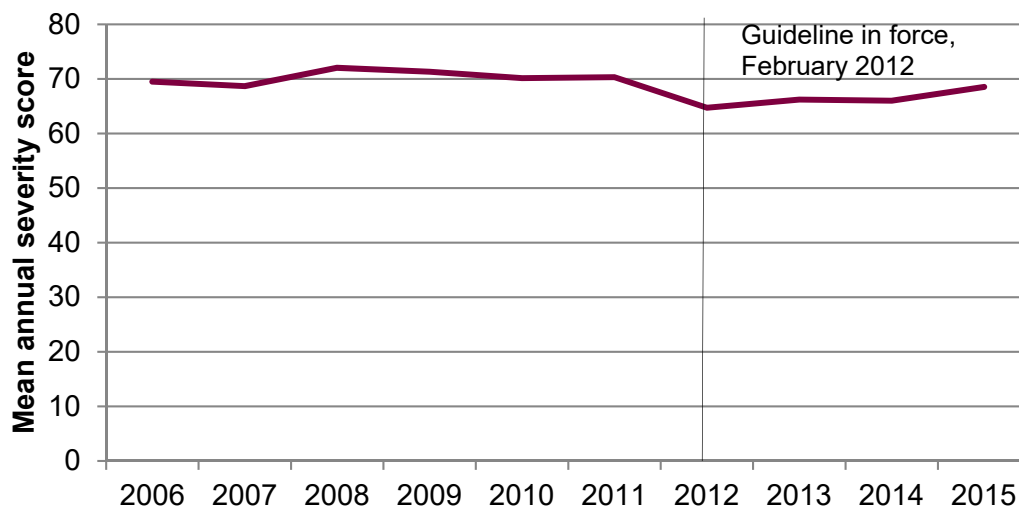
**Figure 8: Disposals for supply and possession with intent to supply class B, across Crown and magistrates' courts, 2009 to 2015**



**6. Fraudulent evasion of a prohibition by bringing into or taking out of the UK a controlled drug, Class A and B (importation offences)**

Importation offences are low in volume, with 240 class A, 160 class B and 50 class C offenders sentenced in 2015.<sup>43</sup> The volume of class A offences has decreased markedly over the last decade, from a high of 610 in 2006 to less than half that number in 2015. As shown in figure 9 for class A,<sup>44</sup> importation offences showed a fall in sentence severity at the point of guideline implementation, consistent with the stated aim of decreasing sentences for 'drug mules' in the Sentencing Council guideline.

**Figure 9: Sentencing severity for importation class A, across Crown and magistrates' courts, 2006 to 2015**

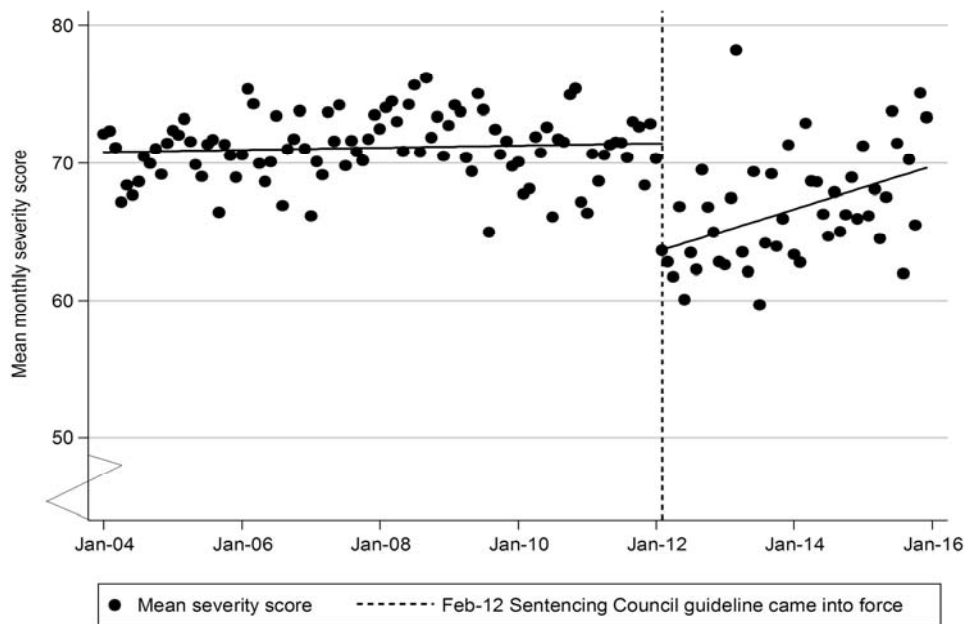


<sup>43</sup> The very low numbers for classes B and C make detailed analysis unreliable.

<sup>44</sup> The pattern was the same for classes B and C, with a more marked drop at the point of implementation.

Indeed, across all the drug offences examined, this was the most sizable shift at the point of guideline implementation, with an immediate decrease of around 8 points on the severity scale for offenders sentenced in the Crown Court, as clearly shown in the ITS analysis of class A (see figure 10). The two graphs also show that sentencing severity then rose thereafter (particularly between 2014 and 2015) and this rise, which occurred some while after the guideline was implemented, is discussed at the end of this section.

**Figure 10: Time series graph showing mean monthly severity score for offenders sentenced for importation class A in the Crown Court, 2004 to 2016**



Exploring the decrease in sentence severity across importation class A offences in more depth, a comparison of custodial sentences in the 12 months before the guideline's implementation compared to the 12 months after showed a notable increase in shorter sentences compared to longer sentences (see figure 11).<sup>45</sup> Specifically, there was a redistribution of sentences in favour of shorter terms, with a decrease in the proportion of sentences in excess of 8 years and a marked increase in the proportion of sentences between 4 and 8 years, the latter sentencing band closely corresponding to the guideline's 3 years and 6 months to 9-year range for an offender playing a lesser role, who is likely to be a drug mule.<sup>46</sup>

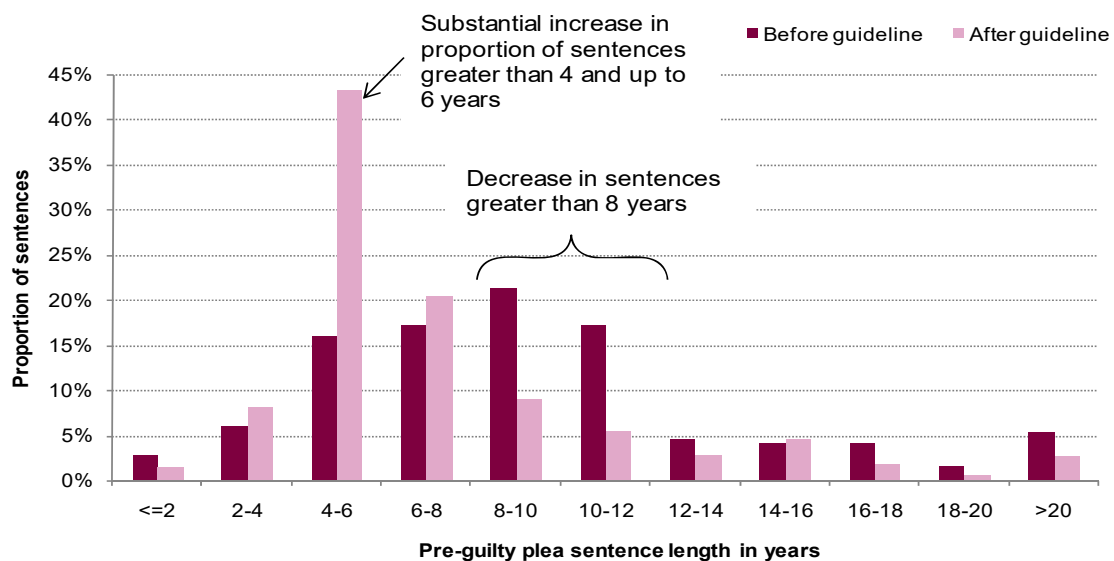
A similar shift to shorter sentence lengths was also evident for importation class B offences in the 12 months following the guideline's introduction, with a substantial increase in sentences up to and including a year, and a decrease in the proportion of sentences over 5 years. This indicates that the intended effect of the guideline on

<sup>45</sup> Data from the Court Proceedings Database was adjusted using guilty plea rates and reductions from the Crown Court Sentencing Survey database, to estimate pre-guilty plea sentences. This adjustment means that the figures presented are comparable to the sentence ranges in the guideline.

<sup>46</sup> In this analysis we have taken 'lesser role' as a proxy for drug mule, although clearly this is not an exact match: some offenders in this lowest culpability category will not be drug mules, and some offenders in the two higher culpability categories may be drug mules.

sentencing for drug mules was achieved,<sup>47</sup> even though later data (from 2014 and 2015) indicated a rise in sentencing which seems to be independent of the guideline (see later). Unfortunately, CCSS data do not permit us to conclusively identify which element of the guideline caused the change at the point of implementation, but since the average number of mitigating factors cited remained broadly stable from 2011 (pre-guideline) to 2013 (post), it is likely that the introduction of ‘lesser role’ and the associated lower sentencing range was the key causal factor in bringing sentencing down at this point.<sup>48</sup>

Figure 11: Pre-guilty plea sentence lengths for class A importation offences, comparing the 12 months pre-guideline with the 12 months post



The content analysis of judges’ sentencing remarks comparing ‘lesser role’ cases pre- and post-guideline lent some support to the finding that judges placed more emphasis on the limited role of the offender in this type of case after the guideline came into force. This qualitative analysis of a small number of cases suggested that judges were taking note of lesser roles before the guideline came into force, but this was on the basis of Court of Appeal judgements and their own instincts. After the guideline took effect, their lenience toward these cases was more closely aligned to the guideline. For example, one judge said:

*As to the circumstances, I am prepared, as I have indicated, to treat you on the basis that this was a lesser role. I have to apply the Sentencing Guidelines. This is Category 3. [...] I accept as well as I have said that this is a lesser role really because you were performing in my judgment a limited function – in other words a mule – under the direction of someone higher up and there may have been a degree of pressure that was placed upon you.*

<sup>47</sup> Independent academic research using CPD and CCSS data has drawn the same conclusion, see: Fleetwood, F., Radcliffe, P. and Stevens, A. (2015). Shorter sentences for drug mules: the early impact of the sentencing guidelines in England and Wales. *Drugs: Education, Prevention and Policy*, 22(5):428-36.

<sup>48</sup> This would be in line with the Council’s expectations: step one factors are deemed to be the most important in determining the sentence, with step two factors (aggravating and mitigating) exerting less of an influence.

Another judge commented:

*This is one of those cases where I'm satisfied that I should deal with you as having a lesser role, and this is plainly in Category 3 [...] I can and do assume that you only participated in this out of the combination of pressure and inducement placed your way.*

The resource assessment predicted a cost saving to the prison service of between £1m and £5m per annum on the basis of lower sentences for drug mules, who were assumed (at that time) to constitute between 10 and 30 per cent of those sentenced for this offence. CCSS data indicate that lesser role offenders constituted between 45 and 39 per cent of offenders sentenced in 2013 and 2014 respectively, so we would expect the predicted cost saving to have been met or exceeded in those years.

As discussed earlier, the ITS graph for importation of a class A drug shows a rising trend post-guideline implementation (see figure 10), although it should be noted that overall sentencing severity in 2015 was still lower than before the guideline's implementation. As with our earlier discussion of 'supply' offences we cannot be conclusive in our assessment of why this should happen, but analysis of CCSS data suggests that the seriousness of importation offences may have increased post-guideline, a period which has coincided with a notable decrease in offence volumes.<sup>49</sup> This is indicated by a shift in the proportion of offenders placed into the higher levels of culpability and harm between 2013 and 2014 (the two years following guideline implementation). Across all importation offences, the proportion of offenders in the highest harm category (harm 1) increased from 20 per cent in 2013 to 25 per cent in 2014, whilst the proportion of offenders in the lower harm categories decreased. Since the level of harm relates solely to the quantity of drugs involved, this suggests that at the most serious end of the offending spectrum, the quantity of drugs being smuggled in by offenders was increasing.<sup>50</sup> Likewise, the proportion of offenders placed in medium culpability (so assessed as playing a 'significant role') increased from 46 per cent in 2013 to 52 per cent in 2014, with a roughly corresponding decrease in the proportion of offenders placed in lower culpability, playing a 'lesser role' (from 45 per cent to 39 per cent), a trend which mirrored the changes in culpability level for 'supply offences' (see section 4). Although the sentencing of 'lesser role' cases has become more lenient, it seems that the courts may be seeing fewer drug mules or other lesser role offenders, and may be seeing higher quantities of drugs, so the decrease in overall sentence severity has not continued over time.

Another factor which also lends weight to the interpretation that importation offences have become more serious is the increasing prevalence of one aggravating factor in the CCSS data, which is '*high purity or high potential yield*'. For all importation offences, there was an increase in the prevalence of this factor (of seven percentage points) between 2013 and 2014. Therefore, as with 'supply' offences, we can

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<sup>49</sup> A decrease in offence volumes can be a result of changing police priorities whereby effort is put into apprehending fewer, more serious offenders.

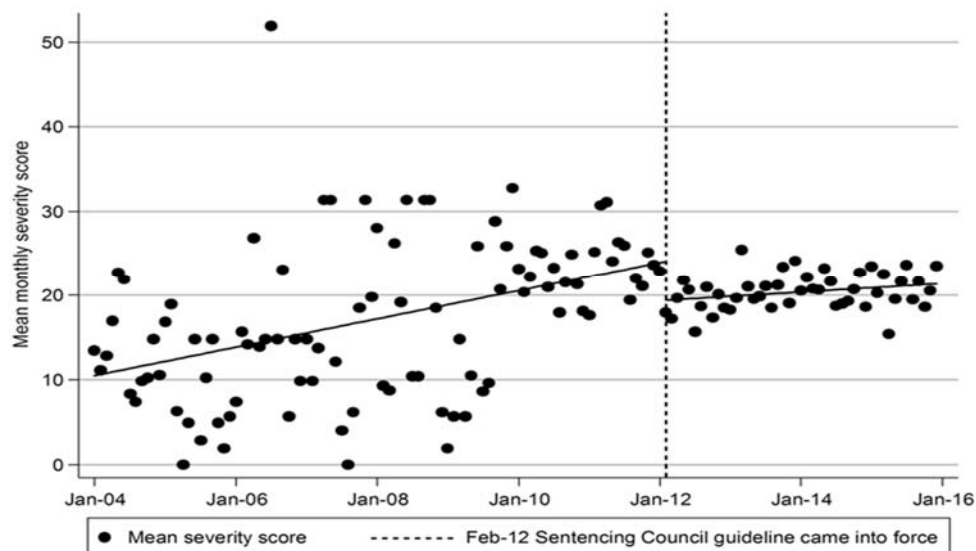
<sup>50</sup> This change and the apparent increase in drug purity (see following paragraph) may also relate to changes in the type of drugs the courts are seeing: for new drugs, not referenced in the guideline, it may be unclear where to place a drug on the basis of quantity, and the aggravating factor of high purity may be one way in which sentencers seek to reflect the severity of an offence involving a new drug not discussed in the guideline.

hypothesise that against a backdrop of decreasing volumes, those cases reaching the courts may have become more serious in recent years, a trend which is likely to be independent of the guideline.<sup>51</sup>

## 7. Permitting premises to be used (class B)

In 2015, there were 360 offenders sentenced for ‘permitting premises’ class B.<sup>52</sup> As the ITS analysis in figure 12 shows, the guideline appears to have resulted in an immediate shift downwards and a new, lower baseline of sentencing severity for this offence. Unfortunately, we do not have any survey data on this offence to help understand the trends, but it seems likely that the guideline narrowed the sentencing range for an uncommon offence for which sentencing severity was previously very widely dispersed.

**Figure 12: Time series graph showing mean monthly severity score for offenders sentenced for permitting premises to be used for class B in the Crown Court, 2004 to 2016<sup>53</sup>**



## Conclusion

Our analysis of the impact of the drugs guideline shows a fairly complex picture in which the guideline appears to have resulted in some changes downward at the point of implementation, and some changes in trend after that (for example,

<sup>51</sup> This hypothesis is corroborated by the National Crime Agency’s report ‘National Strategic Assessment of Serious and Organised Crime 2017’, which describes increased volumes of higher purity cocaine and heroin being seen in the UK (see page 34, paragraphs 123 and 125):

<http://www.nationalcrimeagency.gov.uk/publications/807-national-strategic-assessment-of-serious-and-organised-crime-2017/file>.

Seizures data also shows the purity of heroin, in particular, increasing during these years, (see page 132):

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/669021/UK-drug-situation-2016-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/669021/UK-drug-situation-2016-report.pdf)

<sup>52</sup> Due to a data issue in the CPD, the figures shown in this section for permitting premises to be used for class B offences do not include ketamine (which was reclassified from class C to class B in June 2014).

<sup>53</sup> Excludes ketamine, cannabinoid receptor agonists and cathinone derivatives.

sentence severity flattened for some offences, but for others it gradually rose). Overall, there was a small but statistically significant reduction in sentencing severity across all drug offences in the 12 months following guideline implementation. The largest step change was the decrease in sentencing severity for **'importation'** offences, which was an intentional change predicted in the resource assessment. There were other immediate changes in sentencing severity that are likely to be attributable to the introduction of the guideline but these amounted to only around 2 or 3 points on a severity scale of 0-100, so were small in magnitude. For two offences, **production class B** and **permitting premises to be used**, the guideline appeared to have the effect of checking a previously upward trend, so sentencing plateaued at a slightly lower level thereafter. In the case of **possession class B**, which is by far the highest volume drugs offence that the courts see, the guideline was shown to have no effect, the pre-existing trend towards decreasing sentencing severity since the reclassification of cannabis simply carrying on thereafter.

However, the guideline appeared to lead to an unanticipated change in trend for several offences. As discussed earlier, our analyses of the impact of sentencing guidelines is hindered by the fact that we can never ensure that the introduction of guidelines is the only systematic difference between sentencing before a guideline's implementation and after. As per the case for possession class B, pre-existing trends may continue following implementation or another, coincidental change may make a difference at or around the same time as a guideline is implemented, masking the impact (or lack of impact) of the guideline. In the case of **possession class A**, a pre-existing trend towards lessening sentence severity in the magistrates' courts increased more steeply following the guideline's introduction, perhaps suggesting that the guideline encouraged sentencers to view this offence more leniently. However, for **'supply'** and **'importation'** offences, CCSS analysis suggests that the Crown Court may be seeing more serious offenders and offences, as shown by a shift towards higher culpability which happened after the guideline came in, as opposed to a shift between pre- and post-guideline. There was also an indication that courts are seeing more cases where *'high purity or high potential yield'* is a noteworthy factor. However, none of these changes in trend are particularly marked – most likely they are within the boundaries of normal fluctuations in sentencing, amounting to around five points or less on a severity scale of 0 to 100 – so overall the effect of the guideline is not considered to be a cause for concern. However, drug offending is likely to change over time as, for example, new drugs emerge and the nature of offending changes. This, coupled with the indications in this research that some drug offending may be becoming more serious, leads to the recommendation that research is undertaken to examine how the guideline may need to be revised to ensure that it fully reflects the type of offending coming before the courts today, and to ensure that the guideline is fit for purpose for the future.

### Acknowledgements

The Sentencing Council would like to acknowledge Opinion Research Services and Rand Europe for their work in carrying out the data collection exercises in the Crown and magistrates' courts respectively and for Rand Europe's analysis and reporting of some of these data. In addition, the Council particularly thanks all the sentencers who completed the data collection forms.

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