

# Decriminalisation: A New Direction for Drugs Policy?

## Is there a difference between decriminalisation and legalisation?

**YES.** By **decriminalising** drugs, a person found in possession of drugs **for personal use** would not be given a criminal conviction.

Instead, depending on the circumstance they could be given a warning, a fine or be directed to drug awareness classes or to drug treatment, etc.

**However**, in cases where a person was found to be selling or importing drugs, or engaged in theft, assault, intimidation, smuggling, trafficking or dealing etc they would still be prosecuted under the criminal justice system.

This is entirely different to the concept of '**legalising**' drugs, where using, buying, importing and selling drugs would be regulated by the state in the same way as alcohol and tobacco.

## Does decriminalisation increase drug use?

There is **NO** evidence that decriminalisation increases drug use.

In fact some countries such as Portugal have seen a **reduction** in the number of problematic drug users rather than an increase since they decriminalised drugs, while others have seen no change in the levels of drug use.<sup>1</sup>

## What are the impacts of being convicted for personal drug use?

Current Irish law does not recognise a point at which an adult offender's debt to society has been paid. This means that a person carries a conviction for their whole life.

The sentence imposed by a court (whether a fine, community service or imprisonment) will be completed at some point, but the conviction and, in particular, the requirement to disclose it, never lapses.

Having a criminal conviction for drug use can stop a person being allowed to travel, get a visa, gain employment, access training and to get insurance.

1. Greenwald G. *Drug Decriminalisation In Portugal – Lessons For Creating Fair And Successful Drug Policies*. Washington DC: Cato Institute, 2009.

## Why should we consider decriminalising drugs for personal use in Ireland?

- Decriminalisation would reduce criminal justice costs and money could be redirected towards tackling organised crime.
- In 2012 almost 72% of convictions for drug offences were for possession of drugs for **personal use**.<sup>2</sup>
- In 2012 the cost to the taxpayer of imprisoning one person for a year was €65,404 excluding education & training.<sup>3</sup>
- Imprisonment is widely accepted to have no positive impact on crime rates for possession of drugs for personal use.<sup>4</sup>
- Decriminalisation would direct problematic drug users into treatment programmes rather than the criminal justice system.
- Since decriminalisation, Portugal has seen huge increases in the numbers of drug dependent people accessing treatment and significant reductions in the transmission of HIV and TB.<sup>5</sup>
- Criminalisation does not act as a deterrent when someone decides to use drugs but it does cause significant harm to an individual's future prospects as the requirement to disclose previous convictions never lapses.

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## Have other countries decriminalised drug use?

**YES.** Over the past 10 years, over 25 countries across the globe have introduced decriminalisation models including:

Armenia, Australia, Belgium, Chile, The Czech Republic, Estonia and Portugal. In this leaflet we look at the Portuguese model.

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2. Central Statistics Office, Ireland.

3. Irish Penal Reform Trust.

4. Bewley-Taylor, D., Trace, M. & Stevens, A. 2005, *Incarceration of Drug Offenders: Costs and Impacts*, The Berkeley Foundation Drug Policy Programme (BFDPP).

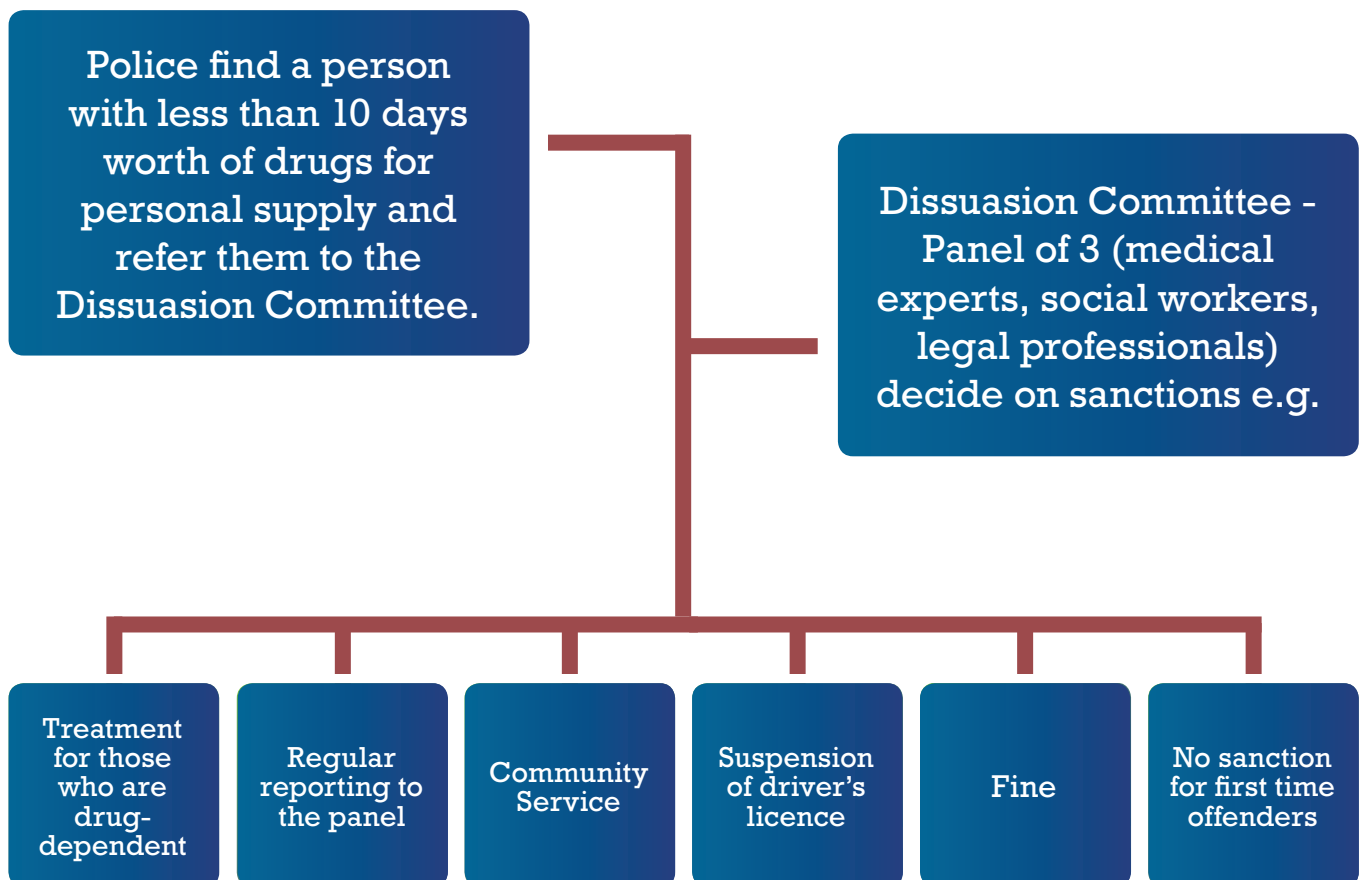
5. Hughes CE, Stevens, A. *What Can We Learn from the Portuguese Decriminalisation of Illicit Drugs?* British Journal of Criminology 2010.50.1014.

## The Portuguese Model:

In 2001 legislation was introduced that moved the offence of using drugs or having drugs for personal use out of criminal courts and into a special court. In these special courts each offender's situation is judged by legal experts, psychologists and social workers who decide on appropriate treatment and further action. Addiction and drug use are treated as public health issues rather than criminal justice issues.

Since bringing decriminalisation into Portugal in 2001 there has been:

- A reduction in drug-related harms and a decline in drug use among the most vulnerable populations – young people and problematic users
- A significant decrease in drug-related deaths
- A major reduction in prison overcrowding
- A reduction in the number of young people becoming dependent on opiates
- A significant reduction in the transmission of HIV and blood borne viruses



If a person is found with more than 10 days worth of drugs for personal supply, where criminal trafficking or dealing are likely, they are referred to a criminal court.

## Why have Citywide produced this leaflet?

Citywide held a conference in May 2013 to open a debate on the issue of decriminalisation as set out in our *2012 Citywide Policy Document*. This policy document was produced through wide consultation and reflected concerns expressed about criminalising people with addictions and the subsequent effects that this has on their lives. It also highlighted major concerns about the intimidation and violence that is impacting on people as a result of the illegal drugs trade. Concern about these issues has been mirrored around the world as there is an international push to review the 'War on Drugs' and to explore and implement alternative drugs policies.

At the May 2013 conference the most frequent comment from attendees was that they had not fully understood the difference between decriminalisation and legalisation and that they were unaware of the way decriminalisation has worked in other countries. This leaflet was produced to provide basic information including sources of further information.

## Why do Citywide want the debate to start now?

In 2016 policy makers both in Ireland and around the world will be going back to the drawing board - reviewing current drug policies, drawing up fresh strategies and revising existing policies. Now is the time to start talking about what should be in these new policies.

The current *Irish National Drug Strategy* expires in 2016. This strategy argues that all responses to the problems that drugs cause should be evidence based, Citywide supports this reasoning and believes that it is important to examine the evidence that informs policy nationally and internationally. There is now a significant evidence base on the impact of criminalisation of drugs for personal use and on the experience of decriminalisation.

In 2016 the UN General Assembly will be holding a Special Session (UNGASS) on drugs.<sup>6</sup> UN member states will debate the achievements and challenges in countering the world drug problem up until now and what to do next. The member nations that called for the Session have been careful not to pre-empt the debate by favouring any particular option. They are seeking genuinely open debate that will lead to policies that are effective in tackling the world drug problem. Ireland will be participating in this debate.

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### Further information:

- Citywide Conference Report '*Criminalising Addiction – Is There Another Way?*' [www.citywide.ie](http://www.citywide.ie)
- National Documentation Centre on Drug Use, Health Research Board: [www.drugsandalcohol.ie/](http://www.drugsandalcohol.ie/)
- Release, Drugs, The Law & Human Rights: [www.release.org.uk](http://www.release.org.uk)
- Irish Penal Reform Trust: [www.iprt.ie](http://www.iprt.ie)

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6. A United Nations General Assembly Special Session (UNGASS) is a means for member nations to define feasible goals in relation to social issues such as drugs, gender, work, health.