

6.10 No increase in use after cannabis possession made a civil offence

Findings Allowing personal-use cannabis offenders to avoid criminal proceedings by paying a small fine did not lead to increased cannabis use in South Australia.

Since 1987 the state's cannabis expiation scheme has given adults found with small amounts of cannabis, or who have committed other offences related solely to personal use, the option of paying a civil fine of up to about £50. Payment does not represent admission of guilt and there is no criminal record, but non-payment within 60 days results in prosecution for the original offence. The [featured study](#) found that either side of the change the proportion of South Australians who had tried cannabis increased faster than the national average. However, the increase was just as great in two states which had retained criminal penalties and there was no evidence that as a result more people were regularly using cannabis. The researchers concluded that the new laws were probably not responsible for increased use.

In context The finding of no consequent increase in use is all the more striking because of the widespread misconception that the law was more lenient than it actually was. Findings were similar in US states where there was also some evidence of an overall reduction in drug-related harm. Lack of impact is probably partly because legislatures prepared to implement such changes already rarely apply severe penalties, and because continuing prohibition of supply means that availability changes little. Given these conditions, trends in use are more closely linked to health concerns than legal provisions.

Because issuing a notice was so easy, police processed many more people, most of whom did not pay in time. The result was that as many faced prosecution and conviction as before the change. Such 'net-widening' was not seen in US states where police instead redirected attention to more serious offences, nor in Australian states which introduced civil penalties but did not automatically prosecute non-payers. Nevertheless, legal de-escalation saved money, also the case in some US states where savings depended not just on the new laws but on whether and how they were enforced.

A [related study](#) found that criminal conviction was not a significantly greater deterrent than a cleared cannabis expiation penalty, and that those convicted were more likely to feel their careers had suffered and to have further criminal justice contact. However, samples were not randomly selected and did not include people processed through the two systems but who did not clear a notice or were not convicted.

Practice implications By reducing enforcement costs and the adverse impacts of criminalisation, without noticeably increasing use and presumably ill-effects on health, downgrading cannabis use penalties to a civil fine can result in net benefits for a society such as the UK where use is already widespread, and where in practice users run little risk of being heavily penalised. However, the details are important. Adjusting policing priorities and implementing the change in such a way that conviction for fine default is minimised, prevents widespread re-criminalisation of defaulters. A system which hands out a violation notice 'on the spot' is much more vulnerable to evasion through false identities and addresses than the analogy of a parking ticket, where car registration records provide an identity check.

Legalising possession would contravene UN drug treaties, but cutting penalties to a trivial level and choosing not to enforce in certain circumstances is permitted. Civil penalties could also be introduced alongside criminal penalties and applied to less serious cases.

Featured studies Donnelly N., *et al.* "The effects of the Cannabis Expiation Notice system on the prevalence of cannabis use in South Australia: evidence from the National Drug Strategy Household Surveys 1985–1995." *Drug and Alcohol Review*: 2000, 19, p. 265–269. Copies: apply DrugScope or download research report from www.health.gov.au.

Additional reading Ali R., *et al.* *The social impacts of the Cannabis Expiation Notice scheme in South Australia: summary report*. Commonwealth of Australia, 1999. Copies: download from www.health.gov.au.

Contacts [National Drug and Alcohol Research Centre](#), University of New South Wales, Sydney, NSW 2052, Australia, web site www.med.unsw.edu.au/ndarc.

Thanks to Nicholas Dorn of [DrugScope](#) and John Witton of the [National Addiction Centre](#) for their comments.