

APPENDIX J

Appendix I – Drugs Policy sent to Owners

Guidance for the Handling of Controlled Substances Within the Alcohol Licensing and Public Entertainment Trade

Forward

This guidance recognizes the complexities of working within the law in respect of handling-controlled substances and it is intended to provide clarity and guidance in respect of some of the issues. It has arisen out of the scoping of best practice nationally and as a result of Government research and recommendations.

The guidance provided in this document is only guidance, and as such does not relieve any obligations in respect of those charged with the responsibility of operating licensed premises.

It is intended to complement any existing arrangements you might have with your local police licensing officer and they should always be consulted in these matters in determining how this code of practice might assist and complement existing arrangements.

Hampshire and the Isle of Wight Constabulary are committed to reducing the availability of drugs within our two counties and whilst we have the option to take a lenient view of the possession of drugs for personal use, i.e. by way of community resolutions for possession of small quantities of cannabis, we expect those responsible for bringing drugs into your premises for sale or supply to be arrested.

Alternatively, the law permits the disposal of very small amounts of suspected drugs, but in the case of tablets and capsules and the increase in the availability of “legal highs / Psychoactive Substances” there might be benefits of adding to existing intelligence by not doing so. Matters such as how much and what, in respect of arrest or destruction, must be discussed with your police licensing officer who will advise according to local need.

The final decisions in respect of what action is taken will be yours, and that decision will need to be lawful and justified, but there is plenty of scope for effective partnership arrangements relating to the finding/seizure of drugs

Introduction

Hampshire and the Isle of Wight Constabulary recognises that the circumstances of drug possession and use that you will come across might vary enormously. Some people will be carrying drugs for their own recreational use while others are looking to profit from the sale of drugs regardless of the consequences.

Foreign tourists might not realise the implications of our drug laws. This guidance is set out to help you take the correct course of action on the occasions when you become aware of the presence of a suspected drug in or around your premises. This will usually be either through finding or as a result of a body search.

This guidance has become necessary due to the variety of policies that are being adopted within Hampshire and the Isle of Wight and is viewed as a major contribution to ensuring the safety of all your staff. Our combined priorities must be to prevent all forms of drug taking within your premises and to tackle the availability of drugs through choking the supply, whilst at all times acting within the law.

The nature of your trade also contributes greatly to the intelligence gathering around some of these issues and therefore your assistance in this matter is seen as a tremendous contribution toward dealing with crime and disorder.

Your licensing officer is there to assist you and can provide further guidance on the interpretation of this code of practice as it relates to your business and other related issues such as acceptable forms of ID, vulnerability awareness and general crime prevention.

Background

Misuse of Drugs Act 1971:

Creates a number of offences around specific drugs that are classified in respect of their strength and harmful effects on health.

Class 'A' - 'Hard Drugs' like Heroin, Cocaine, Crack and Ecstasy (Possession 7yrs imprisonment, with intent to supply - Life imp.)

Class 'B' - 'Soft Drugs' like Cannabis and Amphetamine (Speed) and Spice (synthetic cannabinoid) (Possession - 5yrs imp., with intent to supply - 14yrs imp.)

Class 'C' - Other less dangerous drugs like Flunitrazepam (Rohypnol) GHB and some of the steroids (Possession - 2yrs imp., with intent to supply - 14yrs)

You should be aware of some of the common offences in connection with drugs; being in possession (the user), unlawful supply (dealer), being concerned with the unlawful supply (i.e. the lookout, bodyguard, go-between, or holder of money) and allowing premises to be used (i.e. Crack houses and public houses where nothing is done to discourage obvious use).

Psychoactive Substances Act 2016:

For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state; and references to a substance's psychoactive effects are to be read accordingly. The most commonly seen variant is Nitrous Oxide (NOS, laughing gas) and is often inhaled using balloons.

The offence you may well be concerned with is:

Supply a psychoactive substance –

Summary Twelve month's imprisonment and / or a fine
Indictment: Seven years imprisonment and / or a fine

You should also be aware that the law changes from time to time and that it is the responsibility of the individual to ensure that they keep up to date. Whilst Hampshire and the Isle of Wight Constabulary will endeavour to update this code of practice, they do not accept any responsibility for any action taken that may be contrary to current legislation. The advice contained within this code of practice is based upon considerable police experience. However, any interpretation of the law is ultimately that of the law.

Section 76 of the Anti-social Behaviour, Crime and Policing Act 2014

This piece of legislation gives the police the power to close premises where a serious drug problem is perceived along with other matters that could relate to licensing. Through mutual co-operation it has not been deemed necessary to invoke this power in Hampshire or the IOW. This is a credit to the relationship that exists between the authorities and the trade.

Application of Legislation

Powers - Arrest

Whilst the police have a wide range of powers, a member of the public has the power to arrest and is defined as:

Sections 24A of the Police and Criminal Evidence Act 1984 provides the power of arrest for persons other than constables and designated persons (e.g. members of the public).

24A (1) A person other than a constable may arrest without a warrant -

- (a) Anyone who is in the act of committing an indictable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be committing an indictable offence.

24A (2) Where an indictable offence has been committed, a person other than a constable may arrest without a warrant -

- (a) Anyone who is guilty of the offence;
- (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

24A (3) But the power of summary arrest conferred by subsection (1) or (2) is exercisable only if -

- (a) The person making the arrest has reasonable grounds for believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question; and
- (b) it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

24A (4) the reasons are to prevent the person in question -

- (a) Causing physical injury to himself or any other person;
- (b) suffering physical injury;

- (c) causing loss of or damage to property; or
- (d) making off before a constable can assume responsibility for him.

Where the offender could get five years imprisonment or more on first conviction (all of the above except possession of a Class 'C' drug.)

An arrest will be deemed to have been made when a suspected offender is deprived of their liberty or freedom. The fact that a person has been 'detained' 'for the purpose of...' makes no difference. It doesn't matter what you chose to call it still amounts to the same thing. Therefore if a suspected offender is taken to an office and prevented from leaving then they have been arrested. Even words that are considered by the person to compel them into doing something and as a result they submit to that compulsion, may amount to an arrest.

With the exception of the possession of class 'C' drugs, the power to arrest exists for each of the other offences listed above provided you have 'reasonable grounds' to suspect an offence is being committed. Once again, 'reasonable suspicion' should be given its normal understanding and not manufactured to fit the circumstances. This 'reasonable suspicion' cannot be based on stereotyping of individuals through race, colour, gender, sexual orientation or appearance.

As a rough guide, a small bag of herbal cannabis could be considered by Hampshire and the Isle of Wight Constabulary to be a 'personal' use amount. Likewise, a 'wrap' with a tiny amount of powder or a couple of tablets might also be considered to be personal use. We accept that you will often be remarkably busy and may have insufficient staff to take any positive action, but we will discuss any findings when we call to collect them from you.

Making an arrest

Most drugs encountered are likely to be either Class 'A' or 'B'. The powers of arrest have already been stated in respect of these offences. Having made your risk assessment in respect of the likelihood of any personal injury, take the person away from any others that might have been arrested and into a convenient area, making it quite clear that they have been detained and will be held until the police arrive. You can only use as much force as is **reasonable and necessary**.

Care should be taken with the seized items. They should remain in the possession of the finding person and then handed directly to the initial attending Police officer, thereby avoiding any continuity issues. The seized items are in effect the seizing person's exhibit. It remains a piece of evidence. Therefore consideration must be taken to preserve it in its natural form. It must remain in its original packaging and at the earliest opportunity placed in a police evidence bag, sealed and the labelling correctly filled out.

Be mindful that the person detained has only been done so on suspicion of the offence. The offence has yet to be fully made out and may require further investigation. Some of this may rely on the person admitting possession of the drugs, if he fails to do so, fingerprint evidence on the item may be paramount to prove the offence and so consideration should be taken on the handling on the package.

Your safety and the safety of others are paramount. The police should then be called immediately, through using 999. The operator may not be familiar with the specific area from where you are calling and therefore they should be provided with as much information as you are able to offer but keep it simple. Ask the operator for the incident number and an estimated time for their attendance. If the police are unable to attend due to other priorities you will be told of this fact or contacted back by the operator. This incident number may therefore become even more relevant at a later date and should be noted in your drug occurrence book.

A designated member of staff should be allocated to be present throughout, until the arrival of the police. This will prevent numerous statements being required at a later date, although the police will expect you to provide as many statements as is necessary. We will endeavour to keep disruption of your business to a minimum.

If it becomes clear that an offence has not been committed then the person must be released immediately and the police informed accordingly.

If it is not practical to arrest or detain the person, then they should be ejected from the premises and a record made of the incident for your protection. This record must include the detained person's details. If these details are not forthcoming, then justifiable reasons as to why not, recorded.

If there is body worn video (BWV) available at your premises, this entire process should be recorded.

Powers of Search

Only the police have powers to search people without their consent. The only way in which you may search a person is by consent, as a condition of entry or by consent as a condition to remain on the premises. In exceptional circumstances you have the power to search under common law in order to protect yourself or others from harm. There is no automatic power to search someone whom you have detained or arrested.

In keeping with the lawful powers to search by police, you should ensure that you only engage in same sex searches and restrict the search to outer garments, hats, gloves, bags and asking them to turn out their pockets followed by a 'gentle pat down'. There are no clear guidelines that can be provided in respect of searching those from the LGBTQ+ community, but common sense must prevail, with respect being shown for the individual and being sensitive to any requests. Making searches within view of CCTV cameras can ensure further protection from any allegations.

It should be made clear that possession of drugs on your premises is not acceptable by having the appropriate signs displayed. You should tell potential customers that they will be asked to agree to a search as a condition of entry and they should be allowed to walk away if they choose to do so. They should be told that if anything unlawful is found on them during the search then they might be arrested and the police called to attend. Those who refuse a search must not be admitted. Ideally Hampshire and the Isle of Wight Constabulary wish to be called where drugs are found, particularly in respect of a Class 'A' drugs, although we accept this may not always be practicable.

Special efforts should be made to arrest for possession with intent to supply, which is any amount more than for personal use. The Police will determine their intent. As a minimum standard we would expect a suspected offender to be walked in front of CCTV cameras and a record of the incident made as referred to in the previous section relating to searching.

If there is body worn video (BWV) available at your premises, this entire process should be recorded.

Use of Police Drugs Dogs

Hampshire and the Isle of Wight Constabulary Policy will guide the use of Police drugs dogs. Sometimes you may engage with private companies and conduct your own drugs searches using drugs dogs, particularly before the premises opens and also in respect of queuing patrons. You are advised to prominently display signs warning of these operations with your intended action in the event of a 'find'. Your police licensing officer can assist with these signs if required.

Drug Offences within the Premises

If you witness or suspect any drug offences by customers who have already been admitted to your premises then you should take them to the main entrance and remind them of your drug policy. Once at the main entrance, they should be given the opportunity to leave or be subject to a search should they wish to remain. Failure to consent should result in ejection as a condition to remain on the premises. Refusal to even go to the main entrance should be enough to confirm your suspicions and result in immediate ejection.

Drug Dealers

Detecting drug dealers is a priority for Hampshire and the Isle of Wight Constabulary and as a responsible premises licence holder you are expected to co-operate with this objective. Anyone suspected of dealing in drugs should be arrested but your own safety is a priority. At the very least we request you obtain as much intelligence as is possible.

Drugs Found on or Near the Premises or During a Search

Drugs found during a search where the person is not detained or found during the search of your premises, including inside or just outside in the queuing area should be recorded and made secure.

The Misuse of Drugs Act 1971 provides you with a defence to the possession of drugs for the purpose of preventing another from committing an offence, and as soon as possible take all reasonable steps to deliver them into the custody of the police or other person with lawful authority.

We accept that it is not practicable to call/ inform the police on every occasion and neither is it desirable, but the law says as 'soon as possible'. It will therefore be expected that it will be the responsibility of the designated premises supervisor (DPS) or nominated person to ensure that the drugs are delivered into the custody of

the police within a pre-determined time span. An expected time would be within 7 days. The police may not attend for a few days after the contact but you have exercised your responsibility.

Any delay on the venue contacting the police may negate any defence in law surrounding your lawful possession.

The collecting procedure can be by way of - a venue representative ringing the Police on the non-emergency "101" number and explaining that drugs have been found / seized on their premises or alternatively you can report the incident online at [Home | Hampshire and the Isle of Wight Constabulary](#) .Either way, an incident number (CMP) will be allocated; this number is attached to the corresponding records. An officer will then be deployed "slow time" to collect the drugs. The Police Officer or PCSO collecting, will ensure that the drugs are properly placed in a sealed evidence bag and the date, time, person finding / depositing clearly marked and signed. This will be cross-referenced with the venue drugs/ incident book. For best practice, this should be made on CCTV / BWV if applicable. If unavailable, ensure that you obtain the officers name and collar number

If drugs are to be retained for a period (no more than 7 days) at the property then they **must** be secured in the venue safe. Again, failure to adhere to this will negate any defence in law surrounding your lawful possession.

You can also notify uniformed officers on patrol that you are in possession of illegal drugs and that you wish to surrender them. Only in exceptional circumstances should they refuse i.e. on route to an emergency. As above, ensure that you obtain the officers details for your records.

In the unlikely event that an officer refuses to accept the drugs, obtain their details and inform your police-licensing officer

The preferred method is to have a nominated person physically take them to a police station. As above, they must be properly secured in sealed bags and if have continuity details as in Fig.1. Once deposited, please ensure you obtain the details of police who they have been surrendered too so that you can update your records

Any delay on the venue surrendering the drugs in this way to the police may negate any defence in law surrounding your lawful possession.

Recording of incidents

All drug searches, drug refusals and drug ejections, on and into the premises **must be recorded**. If these are conducted by door staff, only SIA approved security can be used as governed by the Private Security Industries Act 2001. These actions must be recorded in their doorstaff log and the log kept on the premises for inspection by responsible authorities.

As a venue operator, it will be your responsibility to brief and direct your staff to the actions that you require. This is especially relevant if employing SIA doorstaff outside of your normal operating policies, or if relief SIA staff are to be employed to temporarily replace existing or long standing staff.

If the venue does not operate doorstaff, or none are on duty and actions carried out, then the incident must be recorded in the venue incident logbook. (Fig.1)

The logs should be countersigned at the end of each day, preferably by the designated supervisor or in their absence the duty manager.

All logs shall be made available to the Police for inspection.

Preventative measures

Venues will take preventative measures to deter drug taking inside the venue. These measures will include the displaying of anti-drug posters in key areas of the venues, toilets and staircases should be the considered locations.

Non harmful / nontoxic colourless substances, such as baby oil shall be used on top of flat surfaces in toilets to prevent these surfaces from being used to take drugs such as cocaine. The use of products such as WD40 and Vaseline cannot be used due to health and civil liability issues.

Signage should be prominently displayed in the toilets stating that products have been used on the flat surfaces to deter drug taking.

Products such as fake grass or gravel glued to surfaces are very effective and can be used as decoration.

Consider boxing in toilet cisterns, removing toilet seat lids and installing curved rather than flat toilet roll dispensers

Have gaps at the top / bottom of cubicle doors

Consider CCTV in the toilets. There is a misconception that this cannot be utilised. As long as it is not directed into cubicles or at angles, where male genitals can be seen at urinals it can as long as signage warns of its use.

Toilets must be checked at regular intervals. These checks must be recorded (See **Drugs Found on or Near the Premises or During a Search**). The person checking the toilets should pay particular attention to cubicles. This also acts as a deterrent for those persons wishing to take drugs in private. Bins should be checked for discarded paraphernalia such as bags and cling film with residue. If located, these should be recorded in the same manner as a positive drug find but the items can be discarded. (Ensure that all staff, especially cleaners are aware of what to look for.

Consideration should be made that if items have appeared since the previous search / check. The use of the venues CCTV system should be utilised in an attempt to identify the culprit.

Number	Date & Time	Staff Member	Details	Location	Action
11/2023	1/7/20 19.30	Big Dave	1" line of white powder on toilet seat	Number one gents toilet cubicle	Wiped with toilet paper and flushed down the toilet

12/2023	6/7/20 01.15	Big Steve	One white tablet found with dove motif	In the queuing area	Placed in evidence bag and put in deposit box Bag No. 0846145
13/2023	7/7/20	Big Barry	Suspicious male	Around pool table	Invited to entrance to submit to search. Search declined. Male ejected. CCTV camera recording and retained for police. Message left for licensing officer to advise.

Safety

Whilst the above guidance is offered to the mutual benefit of all parties the list is not exhaustive and your local licensing officer can offer further guidance. Above all else - but not to be used as a get out clause - is the safety of your customers and your staff.

With the use of hypodermic needles comes considerable risk but generally speaking most of the drugs used on your premise will be ingested, smoked or sniffed. Drug dealers can sometimes get aggressive either through the use of drugs themselves or because of the potential impact your actions might have on their 'earnings'. Even in the absence of an arrest there is often valuable intelligence about the emerging trends behind drug misuse.

The drugs themselves are also likely to be a toxic substance and care should be taken when handling the substance. It is also a misconception that by sniffing or tasting the substance, you can identify it. This is glamorised by TV and under no circumstances should it be attempted.

Consideration should therefore be taken to the wearing of disposable gloves when handling a suspected illegal drug.

Nobody's personal safety should **EVER be put at risk!**



