



Home Office

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Mr Casey William Hardison (LH5330)
HMP Wellingborough
Wellingborough
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Reference: T12131/10

10 August 2010

Dear Mr Hardison,

Thank you for your letter of 1 July to the Home Secretary requesting her to ask the Advisory Council on the Misuse of Drugs (ACMD) for its opinion on bringing alcohol and tobacco under the control of the Misuse of Drugs Act 1971. Your letter has been passed to the Drug Strategy Unit and I have been asked to reply.

In so doing, I am of course aware that, on 3 December 2007, the Court of Appeal dismissed arguments you have set out in your present letter as totally without merit: "Remedies for this [your] grievance lie in the world of politics, not in the world of law".

The Coalition Government has no intention of seeking the classification of alcohol and tobacco under the Misuse of Drugs Act (the 1971 Act) for the purposes of controlling these substances under that Act. Their control is dealt with under licensing and health-related legislation.

The Government intends to work within this policy setting. It is a framework that successive Parliaments have endorsed.

On points of detail, section 2(5) of the 1971 Act places a duty on the Secretary of State not to lay a draft of an Order in Council before Parliament under this section except after consultation with or on the recommendation of the Advisory Council. It does not place a duty upon the Secretary of State to otherwise consult the Council.

Section 1(2) of the 1971 Act places a wide-ranging duty on the ACMD which, among other things, includes "to give to any one or more of the Ministers, where either the Council consider it expedient to do so or they are consulted by the Minister or Ministers in question, advice on measures (whether or not involving alteration of the law) which in the opinion of the Council ought to be taken for preventing the misuse of such [harmful] drugs or dealing with social problems connected with their misuse.....".

Section 1(4) defines the meaning of "the Ministers" in this section as including the Secretary of State for the Home Department and those concerned with health and education.

Thus, the ACMD is accountable to, and can be commissioned for advice by, the key departments working on alcohol and tobacco policy – Health, Education and Home Office.

Examples of where the ACMD has provided advice on alcohol and tobacco are set out in Professor Iversen's reply to Mr Darryl Bickler's letter of 12 July in which he raised concerns on your behalf about these matters.

With further reference to the 2007 Court of Appeal Order and in the absence of material change to the Court's decision, I should add that the Home Office has nothing further of substance that we can add to our correspondence with you on these matters and that further communication from you which simply revisits subjects covered in previous correspondence in similar terms will not be acknowledged.

I am copying this correspondence to Professor Iversen.

Yours sincerely,

RICHARD MULLINS