Forward Look for Consideration in Future Updates of *Discrimination by Design*

(Supplementary Note – November 2025)

Purpose

This short note provides background visibility on emerging evidence and regulatory issues that may potentially be relevant to forthcoming updates of *Discrimination by Design*.

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1. Broader pattern of prescription-drug diversion and reformulation

Across several therapeutic classes, prescription medicines are already being repurposed or misused in ways that differ from the prescriber's intent. The associated public-health impacts are significant but are addressed primarily through **clinical regulation, pharmacovigilance, and harm-reduction**, rather than blanket criminalisation of a route of administration.

Drug class	Observed non-prescribed routes	UK trends & harms	Regulatory / policy response
Opioids (incl. fentanyls)	Patch diversion, illicit analogues, accidental exposures	Opioids account for roughly half of all drug-poisoning deaths (5,448 total – ONS 2023)	MHRA & NHS safety alerts; naloxone distribution; prescribing oversight
Gabapentinoids (gabapentin, pregabalin)	Non-medical use; co-use with opioids	Rising mentions on death certificates 2018–2022; strong co-morbidity with opioid deaths	2019 reclassification; tighter prescribing guidance
Benzodiazepines	Diversion to unregulated supply; overuse	Common in polysubstance overdoses; dependence & withdrawal risks	Enhanced prescription monitoring; public-health campaigns
Combination opioid + paracetamol	Dose escalation; crude separation attempts	Paracetamol toxicity remains major cause of liver failure	Pack-size limits; pharmacist oversight
Transdermal fentanyl patches	Chewing / extraction; accidental child ingestion	Ongoing MHRA safety alerts on fatal exposures	Disposal & handling regulations

(Sources: ONS 2024 Drug Poisoning Deaths; MHRA Drug Safety Update series; peer-reviewed analyses on gabapentinoid and opioid co-use.)

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2. Policy asymmetry with CBPMs

Under the Misuse of Drugs Act 1971 and the Misuse of Drugs Regulations 2001, the **route of administration** for cannabis determines criminal liability.
Patients prescribed cannabis-based products for medicinal use (CBPMs) who may obtain more effective or longer-lasting symptomatic relief through smoking herbal cannabis nonetheless commit a clear statutory offence the moment they do so.
By contrast, when other prescribed medicines are misused, diverted, or repurposed, the response is primarily **clinical and regulatory**, not criminal. This creates a pronounced disparity in the proportionality, equality, and coherence of the UK's approach to controlled-drug policy.

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3. Emerging practical considerations for Version 3

Real-world comparators and impacts

Preliminary evidence indicates that practical differences between **vaporisation and smoking** of prescribed herbal cannabis can have significant implications for symptom management and patient safety. While vaporisers allow measured dosing, their use can be challenging during acute symptoms and the onset of relief slower. By contrast, smoking provides almost immediate effect and enables puff-by-puff titration, offering a degree of fine control not currently achievable by existing devices. These distinctions may merit further consideration in assessing proportionality and clinical governance under Regulation 16A(3).

Data coherence and proportionality

As Government reviews the evidence base across departments, a related consideration may be the coherence of mobility, health, and licensing data. Through the Motability Scheme, Government enables access to millions of vehicles for disabled people each year, yet there appears to be no mechanism for correlating benefit-linked mobility data with prescribing information or DVLA medical-licensing oversight. Greater clarity on how these datasets interact — and on the evidential basis for maintaining route-specific criminalisation of prescribed medicines — could assist in ensuring that future decisions remain proportionate, data-driven, and equitable across Government.

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4. Next steps

These themes are proposed for structured examination in future updates of *Discrimination by Design*, drawing on forthcoming FOI responses, departmental correspondence, and regulatory data. They are shared here to promote transparent, evidence-led collaboration across government and professional sectors.

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