

How To Regulate Cannabis In Britain

The CLEAR Plan Version 2.0



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Objectives

1. To minimise all health and social harms of cannabis, particularly the involvement of organised crime.
2. To protect children and the vulnerable through age restrictions, responsible retailing, health education and information.
3. To maximise the therapeutic and medicinal benefits of cannabis
4. To promote quality, safety and the development of cannabinoid science.

Introduction

This is the second version of a plan for the regulation of the cannabis supply chain in Britain. This version was published on 18th October 2013.

The first version was published on 12th September 2011. Consultation on revisions for this second version took place in 2012 as set out here: <http://www.clear-uk.org/a-clear-plan-for-the-regulation-of-cannabis-in-britain-public-consultation/>. 72 responses were received to the consultation. These have been assessed and used to inform this revised version.

The original plan was developed in conjunction with the Independent Drug Monitoring Unit (IDMU) report "Taxing the UK Cannabis Market" (TUKCM) ¹. Before producing this revised version, IDMU was asked whether it could usefully update or revise its report. It responded that some of the data sources used in its report had now ceased to exist and no useful revisions could be made.

This plan is not entirely synchronous with TUKCM nor is it set in stone. The development of such a plan is an iterative process that requires expertise from many areas. An expert committee should be established by government to finalise a working implementation of these proposals.

The plan is predicated on the fact that the prohibition of cannabis provides no control whatsoever over this multi-billion pound market. Present policy is, in fact, an abdication of responsibility by government to both individuals and organised crime. As a consequence, Britain has one of the lowest "age at first use" ² and one of the highest proportion of children using cannabis ³ than anywhere else in the world. These are particularly important indicators as although the health risks of cannabis are very low, lower than all other recreational (including alcohol and tobacco), OTC and POM drugs ⁴, the risks to health are greatest in children.

It should be noted that the Misuse of Drugs Act 1971 (MoDA) which seeks to control the possession, cultivation/production and supply of cannabis does not prescribe prohibition, nor is the use of cannabis illegal. Neither is its purpose to minimise any health risks. Its purpose is regulation in order to minimise social harms. Neither new legislation, nor any change in the law is required in order to introduce a system of regulation. Everything can be accomplished by ministerial order.

The Central Role Of Sativex In UK Cannabis Law

The only exception to the prohibition of cannabis in Britain is the licence granted to GW Pharmaceuticals in connection with the production of Sativex. The Home Office refuses even to consider any other applications for licences. This is almost certainly unlawful, providing GW with a monopoly of medicinal cannabis which is sustained by misinformation as to what Sativex is and what its effects are.

GW describes Sativex as an "endocannabinoid system modulator" or an extract of THC and CBD. In fact, it is a whole plant extract containing all the cannabinoids that naturally occur in the plant. It is manufactured by blending together two strains of herbal cannabis; a high-THC sativa "skunk" and a high-CBD ruderalis. The only accurate description of Sativex is that it is cannabis - even though the Home Office states that there is "no medicinal value" in cannabis.

GW also promotes the untruth that Sativex does not produce a "high" or the euphoria that is sought by recreational users of cannabis. Evidence from Sativex users directly contradicts this. Conclusively, the Summary of Product Characteristics (SPC) for Sativex ⁵, a statutory document, describes "euphoric mood" as "common".

Sativex is undoubtedly a valuable and effective cannabis medicine which deserves its place in the pharmacopoeia. In the interests of everyone, it needs to be described, regulated and marketed honestly.

In March 2013, the Home Secretary made a number of very significant orders in respect of Sativex and GW Pharmaceuticals. Sativex, as a schedule 1 drug, had previously been made available on an open general licence. It is now a schedule 4 drug and has been falsely distinguished from cannabis in what amounts to a subversion of the MoDA. In addition, GW's licence to cultivate cannabis issued in 1998 was for research purposes only. Since at least 2003, GW has been involved in commercial exploitation of cannabis and has therefore been acting unlawfully. However, the Home Secretary has now *retrospectively legalised* GW's licence. For the past 10 years, GW, its directors and employees should have been subject to the same criminal penalties as anyone else producing a class B drug ¹⁴.

Cannabis Inspectorate

TUKCM proposes the creation of an inspectorate as an executive agency of government to include a head office, 10 analysis laboratories, 10 bonded warehouses, 10 regional offices, 100 local offices with a total of 2620 staff and an annual budget of around £200 million.

Its principal functions would be licensing for domestic and commercial cultivation, importation wholesale distribution and retailing. It would be responsible for collection of the cannabis tax and enforcement of the regulations. Much of its work would be founded on the scientific analysis of commercially-grown or imported cannabis both for cannabinoid content and quality/safety. In time, analysis may be required of terpenoid, flavonoid and other compound contents. Standards would be developed to prevent contamination from pesticides, fertilisers and fungal growth.

New products such as edibles, beverages, concentrates and extracts would require their own standards and controls. Other cannabinoids such as THCv, CBC and CBG may be monitored and controlled

Low level breaches of the regulations would be subject to financial penalties and/or seizure of plants and equipment. Criminal sanctions would apply for serious breaches. In particular, there would be severe penalties for supplying to a minor.

CLEAR proposes that the inspectorate should also have a medicinal section, concerned with products to be prescribed by doctors which will liaise with the Medicines and Healthcare Products Regulatory Agency (MHRA). An education section would work with the Department of Health (DOH) on harm reduction, health promotion and information and with the Royal Colleges on developing expertise in cannabinoid therapy.

Medicinal Use

A prerequisite of any rational system of regulation must be that doctors are able to prescribe medicinal cannabis.

The Home Office's current position that there is "no medicinal value" in cannabis is absurd and depends on the deception that Sativex is not cannabis. There are now hundreds of peer reviewed scientific studies demonstrating the efficacy of cannabis as medicine for many conditions ⁶.

On a doctor's prescription it will be important to be able to specify controlled, standardised dosage cannabis in a variety of forms. The immediate and short term need is best met by prescribing Sativex or Bedrocan BV products which are available in four varieties:

Bedrocan	THC 19%	CBD 1%
Bedrobinol	THC 12%	CBD 1%
Bediol	THC 6%	CBD 7.5%
Bedica	THC 14%	CBD 1%

Bedrocan is the Dutch government's official producer of medicinal cannabis and has experience in exporting to pharmacists' requirements all over Europe ⁷.

GW Pharma is developing new variants of Sativex with different cannabinoid contents for different conditions. Other companies will also seek to develop extracts and preparations to meet particular needs. Transdermal cannabis patches are ready for market ⁸ and Echo Pharmaceuticals of Nijmegen is trialling its Namisol tablet, containing THC derived directly from Bedrocan grown cannabis. Echo is also now able to provide extracts of specific phytocannabinoids from Bedrocan cannabis ⁹. There is a flurry of new business announcements from the USA, all presenting themselves as corporate enterprises.

Methods of ingestion need further research and development. GW, supported by the Home Office, promotes the myth that its oralmucosal spray is the only controlled method of delivery. In fact, vapourising is probably a superior method providing more accurate titration of dose ¹⁰. Bedrocan advocates the use of an infusion as a warm drink. The Sativex spray has many disadvantages including the use of ethanol and many patients reporting mouth sores as a result ¹¹.

Dispensing of medicinal cannabis would initially be through the existing network of pharmacies. It may be that sufficient demand would develop for specialist cannabis dispensaries modelled on those prevalent in the USA. Such strategic development of the supply chain would be an important function of the inspectorate.

Retail Sale

Wholesale distribution and retail licensing would be based on the tobacco/alcohol model. Licences would only be granted to a "fit and proper" person or company. Previous cannabis convictions would not disqualify an applicant. There would be a duty of responsibility on retailers not to supply to someone obviously intoxicated on cannabis or indeed alcohol. A limit of 10 grams per transaction could be considered although there is currently no limit on sales of alcohol which is a very much more dangerous substance. Sales would be to adults only and ID would be required if there was any doubt of the customer's age.

In Holland, coffee shops are not supposed to be located within 350 metres of a school although the rule is not well enforced. With appropriate minimum age and ID requirements such rules seem unnecessary.

Herbal or resin cannabis could be weighed and sold at the point of sale or available pre-packaged. A range of products would be available and categorised in a similar way to wine.

All products should be supplied in appropriate packaging which would feature labelling providing origin, cannabinoid content and harm reduction information. Some products, such as edibles and concentrates would require childproof packaging.

Retailers would also be required to display harm reduction and health information literature. Limits would be set on the number of retail licences to be granted in any area.

Taxation

To allow for effective regulation and policy-making, an excise tax, similar to that imposed on tobacco or alcohol, is essential. In addition, the sums raised from this are central to legalisation argument and can be a substantial source of funds for the Treasury. TUKCM provided the first proposals for a tax and regulate regime. Recently, the Beckley Foundation commissioned a report from the Institute of Social and Economic Research at the University of Essex titled "Licensing and regulation of the cannabis market in England and Wales: Towards a cost benefit analysis." ¹⁸.

Differing levels of taxation/duty would be applied to products based on their cannabinoid content. Initially THC content is the most important measure but in future duty could be based on the ratio of THC to CBD. This provides a far more accurate picture of strength and potency.

Ultimately, the formulation of an effective tax regime that balances the needs of all stakeholders will be an exercise of trial and error. Lessons will be able to be learned from the experiences of the two US states, Washington and Colorado, in the run-up to legalisation there, as well as from Uruguay that is likely to introduce a state run legalised cannabis system, all beginning in 2014.

Cannabis Cafes

Given the current restrictions on smoking, it is difficult to see how the Dutch coffee shop model could be applied in Britain. However, if retailers wanted to provide sheltered "outdoor" areas where refreshments were also served, this could be regulated under existing legislation. The use of vapourisers and e-cigs could also be considered.

While cannabis and alcohol might be retailed from the same outlet, premises licensed for the consumption of alcohol should not permit the consumption of cannabis.

Domestic Cultivation

The proposal for domestic licensing is withdrawn. Responses to publication of the original plan and to the consultation show clearly that this is not acceptable to most stakeholders. We also recognise that the cost and process of enforcement could be counterproductive.

Various models of control have been considered including number of plants, growing area or maximum illumination. On balance, CLEAR proposes the following controls:

We suggest that householders would be permitted to use a maximum of 600 watts of artificial lighting to grow cannabis. In addition, under natural light, a maximum of six mature plants would be permitted. Also included would be a separate propagation area for cuttings and seedlings of up to one square metre.

It should be an offence to sell domestically cultivated cannabis or supply it to minors.

Commercial Cultivation

Commercial licences could be a source of substantial income based on growing area, lighting and audited production quantities. Strict quality controls should be enforced on pesticides, fertilisers and all growing conditions. Commercial cannabis production would be a promising new business opportunity, potentially creating tens of thousands of new jobs, both skilled and unskilled, in all areas of the country.

In fact, for security reasons, cannabis farms would best be located in remote areas. Incentives could be offered for the creation of new jobs in areas of high unemployment.

Stringent security and monitoring would need to be in place to prevent theft and evasion of duty/quality controls.

Importation

Legitimate export opportunities could be offered to countries such as Morocco and Afghanistan where there is already substantial illicit production.

Afghanistan is now the world's largest producer of hashish¹². Morocco is now seriously considering legalising cultivation as 10% of its GDP comes from cannabis¹⁵. Providing a legitimate outlet for these farmers could offer transformational benefits for the security situation there and place Britain in a leading role for economic development of these areas.

Bonded warehouses would receive imports, conduct scientific analysis and packaging/labelling as well as collecting and administering duty/taxation.

Cannabis Clubs

An innovative model of co-operative production already exists in Spain where members of private clubs contribute time and funding to produce cannabis for distribution amongst themselves. The Federación de Asociaciones Cannábicas (FAC) now guides the activities of up to 300 such clubs¹³. They offer great benefits in terms of security, quality and responsible control of distribution.

ENCOD has been promoting this idea since 2005 although its genesis in Spain goes back at least 10 years earlier. The idea is also now gaining favour in Holland, Belgium, Germany and New Zealand.

A network of cannabis social clubs has been established in Britain in anticipation of law reform¹⁶.

Advertising & Promotion

Within constraints similar to those imposed in the alcohol and tobacco markets, strictly controlled advertising and promotion of cannabis products would be permitted.

Branding, advertising, point-of-sale promotion and packaging would all require corresponding harm reduction messages

Consumption of Cannabis

There would be no restrictions on consumption of cannabis in private by adults.

Public consumption of cannabis would be permitted provided it was not likely to cause disorder or impact on minors. Thus, using cannabis discreetly in a public park would be acceptable. Rowdy behaviour or ostentatious use where children are present would not.

Consumption of cannabis might be an aggravating factor in any crime committed while under the influence.

Driving while measurably impaired or unfit would remain an offence. Whilst roadside testing for cannabinoids is now possible, CLEAR proposes using impairment tests rather than urine or blood sample testing, as cannabinoids can remain in the body for weeks after consumption.

CLEAR condemns without reservation the unjust and oppressive proposals on drug driving from the UK government. These seek to criminalise and remove the driving licences of those who have used cannabis with no evidence of impairment ¹⁷.

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