

STATES OF JERSEY



CANNABIS: DECRIMINALISATION OF PERSONAL POSSESSION AND RECREATIONAL USE

Lodged au Greffe on 24th May 2024
by Deputy T.A. Coles of St. Helier South
Earliest date for debate: 25th June 2024

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) that the personal possession and recreational use of cannabis should be decriminalised for persons aged 18 and over;
- (b) to request the Council of Ministers to bring forward the necessary legislation for consideration by the Assembly by November 2025, with the legislation to include (but not be limited to) –
 - total acceptable gram allowance;
 - restrictions on areas of consumption;
 - restrictions on driving under the influence of cannabis;
 - relevant roadside capacity tests; and
- (c) to request the Council of Ministers to ensure provision of funding for the necessary legislative framework is incorporated within the Government Plan 2025-2028.

DEPUTY T.A. COLES OF ST. HELIER SOUTH

REPORT

Summary

This proposition seeks to decriminalise the possession of a personal amount of cannabis and its recreational use whilst addressing restrictions and protections for Islanders.

Background

The Attorney General issued [Supplemental Direction and Guidance](#) in April 2022 in relation to personal amounts of certain controlled drugs which included cannabis and which consolidated the previous Attorney General's Directives.

The first Directive was issued in 1998 when the maximum amount of cannabis for personal use that could be dealt with by way of a written caution and attendance at a drug awareness course at Parish Hall level was 7 grams. [[Attorney-General-directive-1.98.pdf \(comite.je\)](#)] This was replaced by a Directive in 2015 when the amount of cannabis for personal use was increased to 15grams (again only for a first offence only). The Directive in 2019 permitted a second offence to be dealt with in the same manner if the second offence is not within a year.

With the adoption of [P.97/2023](#), the Draft Crime (Public Order) (Jersey) Law 202-Centeniers were given the power to impose fines at Parish Hall level up to a maximum of £200. This is effectively decriminalises cannabis at a low-level of possession which, although it still has sanctions (a written caution or a fine), does not lead to a criminal conviction. However, it still involves individuals in who are in possession of a small amount of cannabis for personal use being detained. Each case is dealt with on an individual basis and other factors may be involved which might result in an arrest. The drugs are seized for analysis and, once the analysis has confirmed the drug is cannabis, the individual is interviewed under caution and, if a first offence, is given a notification of a Parish Hall enquiry if a first offence.

It seems, in effect, that there is a two-tiered system in relation to cannabis in Jersey given that medicinal cannabis can now be legally prescribed. This was referenced in Quarterly Hearing of the Children, Education and Home Affairs Scrutiny Panel at p.28 of the [Transcript - Hearing 26 July 2023](#). An individual in possession of a personal amount of cannabis, which is not prescribed can be detained as mentioned above. However, an individual, with a prescription for medicinal cannabis can carry their cannabis on their person. The police can stop and search the individual and remove their prescribed cannabis until such time as proof of their prescription is provided which, it could be argued, is perhaps not the best use of police resources.

The answer to [WQ.192/2022](#) provides a table detailing the number of prosecutions and the various sanctions for possession of cannabis from 2017 up to 28 September 2022. Although details of the costs of these sanctions could not be provided, the type of costs involved included, but were not limited to, police time, administration time, Parish Hall administration, States Analyst services and Court costs.

For some, the answer to the two-tiered system might be to put restrictions on those who have a prescription for cannabis. However, this raises the question as to whether we would then we put restrictions on other individuals – for example an individual with Type 1 diabetes as to when and where can inject insulin or an individual taking ADHD

medication or an individual taking anti-anxiety medication? The answer is, of course, no we would not.

In July 2023, the Government launched its "[Substance Use Strategy](#)" ("Strategy") with change of direction in the way we view and treat those who use substances, including cannabis. This Strategy moves to a "harm reduction" model which accepts that people will use substances and that, in most cases, substance use is a symptom of a problem rather than the whole problem itself. However, by continuing to fine, caution or arrest people with a personal amount of cannabis we are at odds with this Strategy.

In recent times throughout the world the views of, and approach to, cannabis have been changing with Canada & Uruguay fully legalising it and Germany, South Africa, Thailand & as many as 26 American States legalising recreational use either in private or public. Notably two recent news articles from the America illustrate this sea change - one suggesting that the US Drug Enforcement Agency is proposing to change cannabis from a Schedule I to a Schedule III narcotic ([CNN Article dated 30 April 2024](#)); and the other suggesting that the Democrats in the Senate have lodged a bill to legalise cannabis federally ([NY Times Article](#)).

Those countries that have changed their policies regarding cannabis have all adopted different approaches. These might relate, for example, to the amount considered to be an acceptable gram allowance for personal use, the restrictions on areas where cannabis can be consumed and the sources where it can be obtained - perhaps being sold in pharmacies or allowing the creation of "social clubs" - to combat the black market. It is important that we consider these matters ourselves in determining what is most appropriate for Jersey.

There is still much debate on the effects of cannabis on a user's ability to drive. It is not as clear cut as the effects of alcohol and comparisons in research show that there might be a difference between low and high levels of THC (Delta-9-tetrahydrocannabinol) ([The Effect of Cannabis compared with Alcohol on Driving](#)). I believe that we can all agree that an individual operating a motor vehicle must have the capacity to do so safely. The purpose behind the inclusion in part (b) of the proposition of "relevant roadside capacity tests" is to enable the police to test the capability of an individual to drive at the point in time when they are stopped and these tests need to be inclusive to allow use by all drivers including disabled drivers. Any roadside "breath-style" test must be sufficiently accurate to detect recent use rather than small amounts that are traceable.

Conclusion

It is not the intention of this Proposition to bind the hands of the Government but to guide them in what is better for our society. Protecting the Islands citizens is always a priority of the Assembly, and this Proposition seeks to protect Islanders whilst working in their best interests; seeking to address limitation of those who are under the influence of cannabis but no longer criminalising those people that choose to use it. The changes brought forward by this Proposition will bring us further in line with the Government's own Substance Use Strategy.

Financial and staffing implications

Any resources required should be covered by the approved allocation in the Government Plan 2024 – 2027. **Such allocation would need to include the staffing requirements in both Policy teams and the Legislative drafting office.**

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.