

Ministerial Response: S.R.1/2022

Review title: Regulations for the licensing, production and export of Medicinal Cannabis in Jersey

Scrutiny Panel: Economic and International Affairs Scrutiny Panel

Minister's Introduction (EDTSC Minister on behalf of the Council of Ministers):

The review of the regulation of Jersey's medicinal cannabis industry has come at an opportune moment. Jersey is in a strong position in the development of a medicinal cannabis industry, and there is a consensus across the Government that this new sector presents a significant economic opportunity for the Island.

Jersey has the mature business environment and robust regulatory system required to support a high value, securely managed medicinal cannabis industry. The first ever MoU (Memorandum of Understanding) agreed within the British Isles was between Jersey and the UK Home Office to allow Jersey to establish its own Cannabis Agency. This was unprecedented, resulting in the first licenses to cultivate, possess and supply medicinal cannabis issued in 25 years and putting the Island ahead of other jurisdictions around the globe. The licenses issued by the Government of Jersey in December 2020 for the commercial cultivation of medicinal cannabis were also the first ever to be issued in the Channel Islands and put Jersey at the forefront of the emerging European medicinal cannabis market.

As jurisdictions recognise the value of cannabis as a medicine, legislation across the world is rapidly changing. The cultivation, production and supply of medicinal cannabis is now legal in 20 countries, and European sales are expected to grow to \$4bn by 2025. Yet there is a lack of EU-GMP grade products in Europe, with no domestic supply from the UK. In such an environment, Jersey is poised to take first mover advantage to become known as a centre of excellence and an integral part of the European market.

Jersey has previously stated its intention to diversify its rural economy towards alternative high-value crops. Diversification was a key part of the 2017 Rural Economy Strategy, intended to help protect the sector and the Island's natural environment. Diversification includes the development of a responsible, well-regulated medicinal cannabis industry, and Jersey has achieved the position of being a world leader in our legislative framework for investment in the industry.

The industry also aligns with Jersey's strategy for continued economic success, which was set out in the Common Strategic Policy of the Council of Ministers. Cannabis cultivation presents a significant opportunity to generate additional fiscal receipts to support the Island's economic recovery and to increase productivity within the agricultural sector.

In order to maintain Jersey's position, the Government has established a cross-departmental team of officers, the Cannabis Coordination Group, tasked with ensuring policy alignment and developing the necessary regulatory and investment framework. It supports the Jersey Cannabis Agency, which can provide licenses to cultivate, possess and supply cannabis for medicinal and research purposes. The industry itself has also established the Jersey Cannabis Advisory Board to provide an ongoing dialogue between industry representatives – both international and domestic – and Government policy makers. This dialogue helps the Government to understand the needs of the sector and its markets and consequently to support the development of a successful and well-regulated industry.

The Scrutiny Panel has 29 key findings and makes 25 recommendations in its report. Ministers are concerned that the findings, and subsequently the recommendations that are based on them, do not always reflect the factual content of the information shared with the Panel in numerous documents and briefings. The overall result is that the report fails to recognise the ground-breaking progress that has been made.

The Government's approach has been endorsed by the industry and private sector investors. In addition, Jersey's cannabis industry has recently been considered as a case study by a UK All-Party Parliamentary Group (APPG) which has been established to encourage the development of UK regulation of cannabis products. Representatives of Jersey have engaged with the secretariat and Chair of the APPG and have received an extremely positive reception for the work being undertaken in the Island. Indeed, the UK Representative of the European Industrial Hemp Association (and Member of the APPG) has noted Jersey's 'progressive stance'.

The Scrutiny Panel rightly highlighted the issue of potential reputational risk associated with a poorly perceived cannabis sector. The Panel's own comments could create a misconception that there is a lack of regulation in Jersey. This is not the case. Amendments to legislation have been made - or are under way - specifically to support the regulation of this nascent sector (e.g. tax, proceeds of crime, misuse of drugs) and there is a clear understanding of what further legislative and regulatory requirements will be necessary as the sector develops more fully. There is a range of jurisdictions and financial hubs, such as New York for instance, that are Jersey's competitors and are developing quickly, so it is important to maintain the Island's global advantage.

It is necessary to highlight the apparent lack of consultation with industry representatives, either directly with those local businesses making significant private investment in the Island in cultivation facilities, or through the Jersey Cannabis Advisory Board which represents the wider industry.

It should be noted that the subject matter is complex and so the terminology used by the Panel needs to be more precise in order that it is clear what is being considered and recommended. Of particular note is that the term 'medicinal cannabis', according to the definition used at the start

of the Panel's report, is taken to mean the finished cannabis-based products for medicinal use (CBPMs) and therefore not the cultivation of cannabis for subsequent use in the production of a CBPM. The distinction is an important one.

Findings:

	Findings	Comments
1	<p>The Jersey Cannabis Agency (JCA) has responsibility for the issuance of licences and is the named body in the Memorandum of Understanding (MoU) with the UK Home Office. The JCA is currently made up solely of the Minister for Health and Social Services and is administered by the Chief Pharmacist.</p>	<p>Noted. An MoU is required because Jersey cannot be signatory to the UN Convention on Narcotic Drugs 1961 (UNCND) in its own right as it is not an independent state. Note that neither the Convention nor the MoU are the regulatory framework; Jersey laws are the regulatory framework.</p> <p>The UNCND requires a National Cannabis Agency to issue local licenses to cultivate cannabis, and this ensures Jersey is not in breach of international agreements, responsibilities and obligations.</p> <p>Jersey also has a relationship with UK Home Office Drugs and Firearms Licencing Unit (DFLU) which ensures it can issue its own licenses and pursue its own policy imperatives. An additional benefit is that the DFLU provides ongoing advice and recommendations based upon its own broad experience of licensing regulations.</p>
2	<p>The Bailiwick of Guernsey Cannabis Agency (BGCA) is made up of representatives of Environmental Health and Pollution Regulation, the Chief Pharmacist and business support from the Committee for Economic Development, with close support and consultation with Bailiwick Law Enforcement officers. This is in contrast to the Jersey Cannabis Agency with the Minister for Health and Social Services as the sole designated member.</p>	<p>Noted. Minutes issued to the Panel highlight the intention of the Cannabis Coordination Group to recommend to the political oversight group that the JCA be advised by a broader group of regulatory interests.</p>

3	<p>The Memorandum of Understanding (MoU) is between the UK Home Office Drugs and Firearms Licencing Unit (DFLU) and the Minister for Health and Social Services as representative of the Government of Jersey. In the absence of standalone regulations, the MoU allows the Minister to issue licences in Jersey for the cultivation, processing and export of medicinal cannabis. The MoU was prepared by the UK Home Office with very little or no input from the Government of Jersey.</p>	<p>It is incorrect to state that the MoU was prepared with little or no input from the Government of Jersey. The MOU was reviewed by Jersey's Law Officers Department and Chief Pharmacist before it was agreed.</p> <p>The MoU only relates to licences for cultivation, as under the provisions of the UN Convention it is only licences for cultivation which require a cannabis agency.</p> <p>The MoU would be required regardless of any standalone regulations as it enables the recognition of a Jersey Cannabis Agency as required by the UNCND. Licences to cultivate cannabis in the Island are issued under existing legislation which is currently the Misuse of Drugs (Jersey) Law 1978</p>
4	<p>Jersey does not have its own specific regulations to control the Island's medicinal cannabis industry.</p>	<p>The existing Medicines (Jersey) Law 1995 specifically regulates production, distribution and supply of all medicinal products including cannabis-based product for medicinal use (CBPM) which can be prescribed and supplied to patients.</p>
5	<p>There is no requirement for the Chief Pharmacist to inform the Jersey Financial Services Commission (JFSC) of any proposed change of ownership of the licensee whether approved or non-approved.</p>	<p>Noted.</p>
6	<p>The Jersey licence application fee for the cultivation, processing and export of medicinal cannabis is low in comparison with some EU jurisdictions and may not be economically viable in the future.</p>	<p>The fees used for comparison in the Panel's report are not equivalent to the fees in Jersey, which will be under periodic review.</p> <p>For example, fees for a <i>marketing authorisation</i> in France are compared to those for <i>cultivation</i> in Jersey. Marketing authorisations relate to medicinal products which have been subject to clinical trials to demonstrate safety and effectiveness and have no relevance to cultivation of cannabis. Malta's fees</p>

		are combined with the fee for a manufacturing licence or GMP certificate rather than just cultivation.
7	The Minister for the Infrastructure, Housing and Environment (MENV) informed the Panel that he had little involvement in the development of the medicinal cannabis industry, despite the Department being responsible for Island planning and environmental policy issues.	The Minister for the Environment (MENV) has considered the matter including in a visit to two businesses that are in the process of setting up medicinal cannabis production facilities. The Minister's initial conclusion is that, owing to the nature of the equipment required and the potential for environmental impacts, the production of medicinal cannabis should be viewed as distinct from the general planning description of agricultural or horticultural uses. The Minister further considers that a level of planning control should be introduced, in likelihood by removing certain allowances currently permitted under the Planning and Building (General Development) (Jersey) Order 2011 and other relevant subordinate legislation.
8	The current application procedure for a medicinal cannabis licence requires the submission of an "Economic Impact Assessment" (EIA). However, unlike the form of EIA submitted with a planning application, the EIA accompanying an application for a medical cannabis licence is not available to the public and there is no procedure for the public to then make representations relating to a licence application.	<p>This is not correct.</p> <p>Licenses issued by the Jersey Cannabis Agency relate to the cultivation, production, possession and supply of cannabis – there is no requirement or relevance for an <u>Economic</u> Impact Assessment.</p> <p>Equally there is no formal requirement for an <u>Environmental</u> Impact Assessment as defined under existing planning and building legislation in order to obtain a license to cultivate, possess and supply medicinal cannabis.</p> <p>However, the Minister for Health and Social Services, mindful of the potential environmental impact of this activity, currently requires as a license condition, that any application for a cannabis licence includes an informal, independent analysis of any environmental impact and how this will be addressed. The Minister for Health and Social Services has recognised that the use of the term EIA in his licencing conditions for medicinal cannabis requires clarification. It is</p>

		<p>the Minister's intention to amend his licence conditions to clearly delineate the difference between the regulation of medicinal cannabis and the EIAs required by the Planning and Building Law to regulate development</p> <p>A full Environmental Impact Assessment (EIA) may be required as part of the separate process for a planning application under the Planning and Building (Jersey) Law 2002 and the Planning and Building (Environmental Impact) (Jersey) Order 2006. Schedule 2 of the Order sets out what must be contained in an EIA (Environmental Impact Assessment) for development purposes.</p> <p>If the MENV proposal outlined in 7 (above) is adopted, the Minister will liaise with the Minister for Health and Social Services how best to align these two processes, or simply to have one assessment, within the planning process if deemed appropriate.</p>
9	<p>The Department for Infrastructure, Housing and Environment, with responsibility for Environmental Impact Assessments (EIAs) under the planning application process, have not had sight of either of the EIAs submitted with the licence applications that have since been granted by the Minister for Health and Social Services.</p>	<p>Noted, see response to point 8 above.</p>
10	<p>Although the security framework is included in the initial licence application, there is no requirement for this to be approved by Planning prior to the licence being granted. Security requirements for each medicinal cannabis cultivation site must be stated at medicinal cannabis licence application stage however, the security does not need to be actually in place before the licence is issued.</p>	<p>Planning permission is required for many of the physical security arrangements and is routinely assessed at the planning application stage. A conditional licence to cultivate is granted based on the application, but this specifically prohibits cultivation until the facility is complete and a final inspection takes place to confirm that all arrangements, including security arrangements, are satisfactory. Authorisation to begin cultivation will be in the form of an amended licence issued by the Minister for Health and Social Services.</p>

11	The States of Jersey Police have informed the Panel they will not be directly involved in the policing of the medicinal cannabis industry in Jersey and their sole responsibility will be to respond to any crime occurring which requires a police presence or investigation.	Noted.
12	The involvement of private security firms to undertake the monitoring and implementation of security for medicinal cannabis sites would eliminate pressure on the States of Jersey Police and other public services.	This is already the case. The guidance for applicants also states that applicants should provide a security assessment prepared by an independent security advisor/specialist. This is a mandatory requirement for all applicants.
13	Every licence application must designate a specific Responsible Person as the person responsible for the regulatory affairs of the medicinal cannabis business. Apart from passing due diligence and enhanced DBS checks, there are no specific qualifications necessary for the role.	<p>The person responsible for regulatory affairs in a medicinal cannabis company is different to the person authorised under the Misuse of Drugs (Jersey) Law 1978 as being able to witness the destruction of controlled drugs – formally referred to as the ‘Responsible Person’.</p> <p>Part of the role of the person responsible for regulatory affairs is to ensure that the company employs the necessary specialists - including a suitably qualified ‘Responsible Person’ - to enable the company to meet its legal and regulatory obligations.</p> <p>It is acknowledged that the terminology responsible person requires some clarification in the context of the application process.</p>
14	In relation to the disposal of the harvested cannabis crop, it is not clear what procedures the Responsible Person would follow. It is also unclear what experience the Responsible Person will need to deal with its destruction within the methods set out and endorsed by the UK Home Office.	The person responsible for regulatory affairs must ensure that a robust standard operating procedure exists for the destruction of controlled drugs and that all destructions are personally witnessed and supervised by the ‘Responsible Person’ authorised to do so under the Misuse of Drugs law.
15	European Union Good Manufacturing Practice (EU/GMP) certification is the highest recognition	This is not correct. GMP certification is mandatory for any company producing an Active Pharmaceutical Ingredient (API) or Cannabis Based Products for

	<p>available by companies in the pharmaceutical sector. It involves rigorous testing of the product to ensure that, not only the product, but the company, is compliant with strict EU regulations. Obtaining EU/GMP accreditation shows the company has been scrutinised and approved by the EU/GMP licensing authority, it meets the required standards and the product is of a high quality (products that comply to GMP standards in relation to the production of Active Pharmaceutical Ingredient (API) or Cannabis Based Products for Medicinal Use (CBPM). There is currently no requirement for those granted licences for cultivation, production and export of medicinal cannabis in Jersey to obtain EU/GMP accreditation.</p>	<p>Medicinal Use (CBPM). In addition, a manufacturing licence is required under the provisions of the Medicines (Jersey) Law 1995 for any company producing a finished medicinal product – in this case a CBPM.</p> <p>GMP certification is not required for simple cultivation of the cannabis plant. Whether or not a company requires GMP is therefore dependent on what it produces.</p> <p>Any export of API or CBPM from Jersey would, by default, be for API or CBPM produced in accordance with GMP.</p>
16	<p>As previously mentioned, the Minister for HSS is authorised to issue licences under the terms of the MoU however, these are purely for cultivation production, possession and supply. In order to process and manufacture and export the finished processed product, the licence applicant would need to have EU/GMP accreditation which requires separate assessment.</p>	<p>The Minister for HSS issues licences for the cultivation, production, possession and supply of cannabis under the provisions of the Misuse of Drugs (Jersey) Law 1978</p> <p>The MoU enables the Minister for HSS to issue licences for the cultivation of cannabis which are compliant with the UN Convention provisions relating to the requirement to have a Cannabis Agency. The Jersey Cannabis Agency is only relevant to licences for cultivation and not to licences for production, possession, and supply.</p> <p>Subsequent production of Active Pharmaceutical Ingredient (API) or a finished Cannabis Based Product for Medicinal use (CBPM) must be in accordance with GMP. Compliance with GMP standards would be separately assessed by the Medicines and Healthcare Products Regulatory Agency (MHRA).</p>

		<p>Furthermore, the production or manufacture of a finished CBPM would also require a manufacturing licence granted under the provisions of the Medicines (Jersey) Law 1995.</p> <p>Separately, the import and export of a controlled substance requires the relevant import/export licence under the Misuse of Drugs (Jersey) Law 1978.</p>
17	<p>Without the licence holder obtaining EU/GMP accreditation, the risk is increased that lower grade crops could be exported from the Island resulting in damage to the Island's reputation.</p>	<p>This is not correct.</p> <p>There is no risk that finished cannabis-based products for medicinal use (CBPMs) or active pharmaceutical ingredients (APIs) could be exported without having been produced in accordance with GMP. GMP certification is a mandatory requirement to produce finished CBPM or API.</p> <p>It might be possible for a GMP-certified company to contract the services of a cultivator to produce raw plant material. If this were to occur, the contracted cultivator would not need to be GMP certified as their sole involvement would be in cultivating the plant. The subsequent processing of any plant material would, however, have to be in accordance with the GMP requirements of the GMP-certified company.</p>
18	<p>There is little evidence to show that checks and balances are in place to ensure the processing of the medicinal cannabis crop is done on an appropriate processing site. There is also little evidence in place to ensure secure monitoring so that the existing cultivation sites do not become 'industrialised'. Without these checks and balances there is a risk that existing cultivation sites could become sites for processing,</p>	<p>Ultimately site selection for processing facilities will be considered under the planning process. It is however unclear what the Panel means by 'processing' – this could range from simple drying and packaging to laboratory extraction of cannabinoids or to the production of finished CBPMs. All have differing requirements.</p> <p>Any licence issued under the misuse of drugs legislation is site specific so any separate site for extraction of production of finished CBPM would be subject to a separate licence application.</p>

	<p>which requires a more commercial approach and a relevant planning application.</p>	<p>Neither of the two existing cultivation licences permit extraction of controlled cannabinoids or the production of finished CBPMs.</p> <p>The Minister for the Environment is not aware of any sites where processing is taking place without planning permission. The distinction between cultivation and processing is clear and is well understood by the IHE (Regulation) Department.</p>
19	<p>The medicinal cannabis industry cuts across a number of political responsibilities, and the Council of Ministers has not appropriately established an holistic Government approach to the matter which has in turn blurred lines of accountability. It is therefore difficult to see where the Ministerial responsibility lies.</p>	<p>The Cannabis Coordination Group has been established to ensure a holistic Government approach at officer level. In addition, a political oversight group including key Ministers was established in 2021. This new industry, like others, does span a number functions and portfolios but the Ministerial responsibility for each aspect is clear:</p> <ul style="list-style-type: none"> • Promotion and support of the new industry – Minister for EDTSC • Applications and issuing of licenses (including import and export licenses)– Minister for Health and Social Services • Crime prevention and import and export controls – Minister for Home Affairs • Planning issues – Minister for the Environment • Taxation and proceeds of crime legislation – Treasury Minister/Minister for External Relations and Financial Services.
20	<p>The Jersey Cannabis Agency does not have clearly defined Terms of Reference and is reliant solely on the Memorandum of Understanding (MoU) currently in place with the Government of Jersey (with the Minister for Health and Social Services as the sole representative of the GoJ) and the UK Home Office.</p>	<p>Noted.</p>

21	The Panel appreciates the need for a cannabis co-ordination group of civil servants but is concerned that, with no Minister being involved in this group, it might lead to key decisions being taken without considered input from Ministers.	The Cannabis Coordination Group is a cross-Government officer group that refers decisions to the relevant Ministers or the Council of Ministers for consideration and decisions. Numerous references can be found in the minutes of the Cannabis Coordination Group that refer to the escalation of decisions up to Ministers as required. The Panel have been provided with these minutes.
22	The medicinal cannabis industry in Jersey has the potential to employ between 40-50 people in the immediate term, 160–180 in the medium term and 330-360 in the long term.	Levels of employment related to cultivation will be entirely dependent on the number of licenses issued and the type and scale of business activity. In addition, there will be a range of businesses up and downstream of the cultivation activity that will create additional employment opportunities.
23	It has been agreed that a tax rate of 20% will be applied to this industry on all profits.	<p>This was agreed by the States Assembly following a recommendation by the Revenue Policy Development Board at their meeting on 21st March 2021. Deputy David Johnson sits on the Board and was in attendance on that date. The RPDB, including Deputy Johnson, recommended that a 20% rate of income tax be applied to companies in the industry. The meeting notes are publicly available:</p> <p>Microsoft Word - RPDB meeting 30 March 2021 - minutes for publication v1 (gov.je)</p> <p>The group also recommended that normal tax principles should apply – which means the usual approach to capital allowances and taxing net profits will be followed.</p>
24	Now that Jersey has opted for a 20% rate on companies' taxable profits, tax revenues from such activity may be minimal for several years from the date of licence registration.	The pace at which companies achieve revenue and consequently begin providing fiscal receipts to the Treasury is dependent on a range of factors e.g., ensuring compliance with necessary regulations, availability of labour, cost of utilities, levels of profitability and market demand.

25	The medicinal cannabis industry's contribution to the Jersey economy is not expected to exceed wage estimates in the early years.	A number of variables – planning, markets, staffing, prices – will dictate the rate of return to the Treasury. Companies involved in the cultivation of medicinal cannabis are optimistic of creating new tax revenue in the short to medium term.
26	The business model of medicinal cannabis companies generally requires that they invest heavily in the early years of the business. Profits therefore from the industry may be minimal for several years from the date of licence registration.	Profitability derived from the European market - where demand significantly outstrips supply - could be significant if Jersey's producers maintain the current first-to-market trajectory.
27	Based on the information provided, the Panel's advisers have concluded that to date, very little additional "new" taxation would arise in the short to medium term. This includes personal tax, corporate tax and indirect taxation such as GST.	A number of variables – planning, markets, staffing, prices – will dictate the scale and rate of return of fiscal receipts to the Treasury. Companies involved in the cultivation of medicinal cannabis are optimistic of creating new revenue and consequential tax revenue in the short to medium term i.e. within the next 2-3 years.
28	The Minister for Treasury and Resources has informed the Panel that it is not yet possible to forecast how much tax will be raised from the taxation of the cannabis industry in Jersey due to the industry being in its very early stages and forecasts would be speculative.	Noted.

Recommendations:

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Council of Ministers should ensure that there is adequate representation on the JCA of the range of	CoM/MHCS	Accept	As detailed in the previous minutes of the Cannabis Coordination Group,	Q2 2020

	<p>relevant Ministries, including the Minister for Economic Development and the Minister for the Infrastructure, Housing and Environment so that matters related to all sectors impacted by the medicinal cannabis industry are fully considered. This should be carried out with immediate effect.</p>			<p>the principle of expanding the JCA to include broader representation from across Government functions has previously been accepted and will be discussed at the next meeting of the political oversight group.</p>	
2	<p>The Council of Ministers should implement Jersey's own detailed and specific regulations for the medicinal cannabis industry. This work should be carried out immediately with a clear timeline set in place with the Legislative Drafting Office.</p>	CoM/MHCS	Reject	<p>Jersey legislation broadly mirrors that of the UK. While there is not a specific standalone set of regulations the Misuse of Drugs (Jersey) Law 1978, the Medicines (Jersey) Law 1995, the Control of Housing and Work (Jersey) Law 2012 and the Sound Business Practice Policy collectively provide a regulatory framework for the cultivation of cannabis, the production, possession and supply of controlled drugs and the production of a finished cannabis based medicinal product.</p> <p>As the industry develops there is likely to be an ongoing need to update areas of the regulatory framework (as is the case with the financial services sector) and which has always been planned. However,</p>	

				the case for bespoke legislation for just one of many controlled substances at this stage is currently not adequately proven.	
3	The Council of Ministers should ensure that the medicinal licence application process includes a full business case setting out the reasoning behind the project, the project and operational costs and timescales and clearly define all benefits both financial and non-financial to Jersey. A business case template should be developed with immediate effect.	CoM/MHCS	Reject	<p>Applicants for a licence for cultivation, production, possession and supply of cannabis must first incorporate a Jersey Ltd company and must have an approved business licence under the Control of Housing and Work (Jersey) Law 2012. These criteria are met as part of the business licence process.</p> <p>As part of the business licensing process, the applicant must provide a full business plan, including a business case, the benefits to Jersey (both financial and non-financial), the financial forecasts, staffing required and timelines for their plan, as well as any other relevant information or regulatory clearances as required for a business licence application.</p> <p>A business case template would not be appropriate. We do not prescribe the format of a business case since each application will differ in size</p>	

				<p>and nature depending on the applicant company, although every business case must address the criteria set out above.</p> <p>Licences to produce a medicinal product, in this case a CBPM, are subject to the provisions of the Medicines Jersey (Law) 1995 and a producer does not need to be a cultivator of cannabis.</p>	
4	<p>The Council of Ministers should ensure the Chief Pharmacist informs the Jersey Financial Services Commission (JFSC) of any proposed change of ownership of the licensee whether approved or non approved. This would allow the JFSC to check the change against its existing register. Any changes of ownership should be accompanied by a copy of the approval from the Chief Pharmacist. This should be implemented with immediate effect.</p>	CoM/MHCS	Accept	Agreed.	
5	<p>The Council of Ministers should ensure that clearly defined building and development plans are put in place at licence application stage for the use of utilities such as water and electricity with standalone structures (such as substations, pump houses etc) if required. This should be overseen by the Planning Department and put in place with immediate effect.</p>	CoM/MENV	Reject	<p>The Minister for the Environment considers that the correct time and place for planning officials to assess any building or development proposals is at the formal planning application stage. Involving planners at the license application stage potentially confuses the quite separate issues. Applicants can</p>	

				seek pre-application planning advice should they wish.	
6	The Council of Ministers should ensure the licence fee for the cultivation, production and export of medicinal cannabis is reviewed immediately and benchmarked against the minimum required resource to regulate this industry in Jersey. This should be carried out with immediate effect.	CoM/MHCS	Reject	It is not appropriate or necessary to review the fees immediately. As the sector grows it is likely that fees will need to be reviewed on a regular basis to ensure that they cover the full costs of administering applications. In addition, once cultivation begins, the cost associated with ongoing regulation and compliance inspections will also need to be factored in.	
7	The Council of Ministers should ensure that all Environmental Impact Assessments submitted as part of a medicinal cannabis licence application are made public and, a process introduced that allows both the public and key stakeholders to comment on any such EIA prior to the approval of any licence with immediate effect.	CoM/MENV	Reject	The cannabis licensing application process does not include a full, formal EIA. A formal EIA would be required as part of any planning process. The Minister for the Environment considers that all proposals for sites for medicinal cannabis cultivation should go through the planning process. This requires a change to the Planning and Building (General Development) (Jersey) Order 2011. Bringing cultivation within planning control would require the submission	

				of a formal (and public) EIA. It is anticipated that, if actioned, this process could be completed by Q1 2023.	
8	The Council of Ministers should ensure that officers of the Planning and Environment Department are solely responsible for the assessment and approval of any EIA submitted with a medicinal cannabis licence application prior to the Jersey Cannabis Agency (JCA) determining the application with immediate effect.	CoM/MENV	Reject	<p>The cannabis licensing process should not be confused with the planning process. They are entirely separate.</p> <p>The EIA for the planning process is overseen and assessed by planning officials in the planning application process, under planning legislation. There should be no need to bring this element forward into the license application.</p> <p>This matter has been addressed in a Written Question (317/2021) previously:</p> <p>The Minister for Health and Social Services recognised that the use of the term EIA in his licencing conditions for medicinal cannabis was not correct and, requires clarification. It is the Minister's intention to amend his licence conditions to clearly delineate the difference between the regulation of</p>	

				<p>medicinal cannabis and the EIAs required by the Planning and Building Law to regulate development.</p>	
9	<p>The Council of Ministers should ensure that prior to a medicinal cannabis licence being issued, a detailed plan for site security should be set out within any licence application. No cultivation of cannabis should begin on site until all the approved security measures are implemented and signed off by the JCA and penalties put in place to ensure compliance.</p>	CoM/MHCS	Reject	<p>It is already a requirement for an application to provide a security assessment report prepared by an independent security advisor/specialist. This requirement is specified in the application guidance provided to potential applicants.</p> <p>Licence conditions prevent any cultivation, storage or processing of any controlled substance from taking place without appropriate security being in place.</p>	

10	The Council of Ministers should ensure that a specialised training programme is delivered to Customs and Immigration officers in relation to handling the import and export of medicinal cannabis products. A training plan should be developed within 6 months of the presentation date of this report.	CoM/MHA	Reject	Training to be attentive to illicit drug importation and possession is already a function of officers from the States of Jersey Police and Jersey Customs and Immigration Service who are kept up to date by their day-to-day activity and also through existing professional links with national experts.	
11	The Council of Ministers should ensure the Responsible Person who is nominated by the licence applicant at application stage should hold the relevant qualifications to undertake this role. This should include relevant experience in both the science and biological industry and in the disposal of hazardous waste materials. This should be made part of the licence application process and carried out with immediate effect.	CoM/MHCS	Reject	<p>Responsible Person (RP) has a specific meaning in relation to the distribution of finished medicinal products which must be in accordance with Good Distribution Practice (GDP) and for which the qualifications and experience are defined. Use of the term Responsible Person should therefore be avoided.</p> <p>The person in the company responsible for overall regulatory affairs and compliance is different. As part of the assessment of an application, the knowledge and competence of an applicant is assessed with the assistance of Home Office colleagues. A</p>	

				successful applicant will need to demonstrate that they have suitable staff to support them to undertake any licensable activities.	
12	To protect the quality and reputation of produce grown in Jersey, the Council of Ministers should ensure there is a requirement to apply for EU/GMP accreditation prior to receiving a medicinal cannabis licence to cultivate, process or export cannabis products. This should be monitored by a designated body (JCA) with key milestones in place to ensure the process is being followed and the licence holder is taking the relevant steps to achieve this. This should form part of the licence application process criteria and should be carried out with immediate effect.	CoM/MHCS	Reject	<p>It is not possible to obtain a GMP certificate without growing cannabis as part of the GMP assessment will be to confirm that crops can be grown and processed to consistent standards and that any subsequent processing of the cultivated cannabis is in accordance with GMP standards. The proposal that GMP certification be achieved prior to issuing a licence to cultivate is therefore not possible. Licences to cultivate must therefore be granted before final GMP assessment can take place.</p> <p>GMP is already mandatory to produce API or finished CBPM, so this provision already exists.</p> <p>Assessment of compliance with GMP would be undertaken by the MHRA as part of the initial inspection undertaken by them to grant the GMP certificate and also as part of</p>	

				the renewal process for any GMP certificate.	
13	The Minister for Planning and Environment must ensure that any sites to be used for the cultivation of medicinal cannabis remain solely for that use. Should a licence holder require a site for processing of the medicinal cannabis crop once harvested, a separate planning application for this industrial activity should be submitted for these purposes in a suitably zoned area. This should be carried out with immediate effect.	MENV	Reject	This is already in place and so no further action is required.	
14	The Council of Ministers must recognise cross departmental requirements and ensure synergies are developed especially between the Minister for Health and Social Services, the Minister for Economic Development, Tourism, Sport and Culture, and the Minister for the Environment. This should be carried out with immediate effect.	CoM/EDM	Reject	This is already in place through the political oversight group the next meeting of which will be in Q1 2022.	
15	The Council of Ministers should ensure the Jersey Cannabis Agency has representatives of other Departments as members. At a minimum, this should include Department of Infrastructure, Housing and Environment, Economic Development, and the Chief Pharmacist and with further support from Law enforcement officers. This group should also be responsible for undertaking due diligence on new licence applications. This should be carried out with immediate effect.	CoM/MHCS	Accept	As detailed in the previous minutes of the Cannabis Coordination Group, the principle of the expansion of the JCA to include broader representation from a wider set of Government functions has previously been accepted will be discussed at the next meeting of the political oversight group.	Q1 2022

16	<p>The Council of Ministers should ensure the remit of the Jersey Cannabis Agency is expanded to include both the monitoring function of the medicinal cannabis industry, and compliance with security, quality of production, clear moral conduct of people working in the industry and issuance of trade licences. The monitoring function would also include ensuring Customs and Excise and the States of Jersey Police are well informed about the process of the medicinal cannabis industry and are trained to be attentive to illicit drug importation and possession. This should be carried out with immediate effect.</p>	CoM/MHCS/ MHA	Reject	<p>The remit of the Jersey Cannabis Agency is to satisfy the requirements of the UNCND.</p> <p>The States of Jersey Police (SoJP) and Jersey Customs and Immigration Service (JCIS) do not deal with the compliance around the medicinal cannabis licensing framework – but of course JCIS would conduct monitoring to ensure that products arriving/leaving the Island have the necessary documentation, including any required licenses. However, the JCIS and the police are and will continue to be well informed about the process of the medicinal cannabis industry via the Cannabis Coordination Group. In terms of being trained to be attentive to illicit drug importation and possession, clearly this already is a function of officers from both teams. who are kept up to date on trends by their day-to-day activity and being linked into the national drugs expert community.</p> <p>Currently, SoJP have 6 nationally accredited drugs experts and JCIS</p>	
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				have 5 who provide Jersey Courts with impartial evidence during drug trafficking cases. As part of their continued professional development, they attend seminar events and the annual drugs expert course. They are also linked into all drugs experts UK wide. This provides the experts with up-to-date trends.	
17	<p>The Council of Ministers should ensure the Cannabis Co-ordination Group is more transparent and publishes its minutes on the Government of Jersey website. Furthermore, it should carry out a wider communications strategy to help the public gain a better understanding of the potential benefits of the medicinal cannabis industry in Jersey. The Council of Ministers should also carry out a communication strategy with members of the public which may help the public gain a clearer understanding of what the future holds for the medicinal cannabis industry in Jersey.</p> <p>This should be carried out within 6 months of presentation of this report.</p>	CoM	Reject	<p>Minutes have been made available but would need to be appropriately redacted where they refer to policy in development or other restricted or sensitive information as per Government guidelines when placed in the public domain.</p> <p>A communications plan has been approved which has the objective of explaining medicinal cannabis and the nature of the industry. However, the Government cannot promote unlicensed medicinal products and cannot pre-empt clinical decisions. It is therefore not appropriate to highlight any potential benefits of CBPMs to the general public.</p>	Q1 2022
18	The Council of Ministers should ensure a clearly defined structure chart is in place showing the layout	CoM	Reject	This has already been created and was presented at the States	

	<p>and responsibility for each of the supporting groups for the medicinal cannabis industry. This should show defined reporting lines from each of these groups to the relevant Minister with Terms of Reference setting out clear objectives. This should be carried out with immediate effect.</p>			<p>Members Briefing on 18th November 2021.</p> <p>This new industry, like others, does span a number of functions and portfolios but the Ministerial and departmental responsibility for each aspect is clear:</p> <ul style="list-style-type: none"> • Promotion and support of the new industry – Minister for EDTSC • Applications and issuing of licenses (including import and export licenses)– Minister for Health and Social Services • Crime prevention and import and export controls – Minister for Home Affairs • Planning issues – Minister for the Environment • Taxation and proceeds of crime legislation – Treasury Minister/Minister for External Relations and Financial Services. 	
19	<p>The Council of Ministers should consider alternative tax bases for the medicinal cannabis industry in Jersey as the indicative taxable profits for the industry may be minimal for several years from the</p>	CoM/TRM	Reject	<p>Jersey's tax system is based on the principles of 'low, broad, simple and fair'.</p>	

	<p>date of licence registration. This should be carried out with immediate effect.</p>			<p>As with all other sectors, companies in the cannabis industry will be able to claim legitimate business expenses against their income. The medicinal cannabis industry uses advanced technologies that are expensive, which, as noted in the report, will have the effect of deferring tax on profits.</p> <p>The Council of Ministers does not believe there is sufficient justification for departing from well-established and internationally recognised tax principles.</p> <p>Moreover, Government of Jersey officials communicated early on to the relevant companies that a 20% rate of income tax on profits would be imposed. All businesses, especially those in their early stages, rely on certainty of treatment. It would be disruptive to the emerging economy if the Government decided, at this late stage, to impose a different form of taxation.</p>	
20	<p>The Council of Ministers should undertake a reputational risk assessment to determine the</p>	CoM/EDM	Reject	<p>Medicinal cannabis is listed on the Department for the Economy Risk</p>	

	<p>impact of the medicinal cannabis industry on Jersey's existing core industries. This should include the mitigation of such risks and cover financial, operational, competitive, security, privacy and compliance. This should be carried out with immediate effect.</p>			<p>Register. As such, risks in this area are regularly reviewed and any required mitigation logged and actioned. Business activity related to Cannabis is also covered under the Sound Business Practice Policy (Table 2) which is implemented and overseen by the Jersey Financial Services Commission.</p>	
21	<p>To improve social awareness and reduce risk of misuse, a public engagement process should be carried out to educate members of the public on the differences of recreational and medicinal cannabis and also highlight the potential benefits of medicinal cannabis. A plan of communication should be compiled with immediate effect.</p>	CoM/EDM	Reject	<p>See response to Recommendation 17 above.</p>	
22	<p>The Council of Ministers should consider a range of possible incentives for on-Island medicinal cannabis growers, to apply for patent and Intellectual Property (IP) protection. This should include research and development and intellectual property, which hold potential benefits. This should be discussed with external stakeholders within 6 months of presentation of this report.</p>	CoM/EDM/M ENV	Accept	<p>Whilst it is unclear what type or level of incentives the Panel are seeking to recommend, it seems reasonable to consider where commercial opportunities exist for developing IP and building on the existing research and development programme in liaison with the Jersey Cannabis Advisory Board.</p>	Q3 2022

23	The Council of Ministers should consider encouraging the promotion of medicinal cannabis for the use in veterinary medicine which is a new niche area. This should be carried out with immediate effect.	CoM/MENV	Reject	<p>The use of veterinary medicines in Jersey is carefully regulated in line with recognised international standards to protect both animal health and welfare and human health.</p> <p>Market forces may, in due course, direct the use of Jersey-produced cannabis towards animal medicine. The Department of Environment promotes the safe use of medicines in animals (veterinary medicines). A considerable amount of data on safety and efficacy needs to be produced before a medicine can be considered for approval as a veterinary medicine. Currently in Jersey (and Great Britain) there are no approved veterinary medicines containing active substances derived from cannabis.</p>	
24	The Council of Ministers should ensure all existing medicinal cannabis licence holders implement any changes to their current medicinal cannabis business following any recommendations agreed by the Council of Ministers as a result of this report. These should be carried out within the timeframe	CoM/MHCS	Reject	Medicinal cannabis is taken to refer to a finished CBPM as defined in the Panel's report. Currently no company holds a licence to manufacture a finished CBPM, so	

	stipulated, currently one year from the implementation of the recommendation.			<p>this recommendation is not currently relevant.</p> <p>The current annual renewal cycle for licences to cultivate cannabis provides an opportunity to review any relevant and necessary conditions in relation to this. Similarly, a review of conditions relating to the production, possession and supply of controlled substances can also take place at the annual renewal of any licence.</p>	
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Minister’s Conclusion (EDTSC Minister on behalf of Council of Ministers):

The work of the Scrutiny Panel is much respected and valued and it is encouraging to note that the Scrutiny Panel do not question the ambition of this Government to establish and develop Jersey as a centre of excellence for the cultivation and sale of medicinal cannabis. The potential of the cannabis industry to enhance Jersey’s future economic prosperity is recognised. Given this support, it is disappointing to have to reject so many of the Panel’s recommendations.

The complexity and fast-paced nature of an emerging global industry makes thorough scrutiny a potentially valuable addition to the ongoing dialogue about how to achieve a well-regulated, premium-quality medicinal cannabis industry that sits alongside Jersey’s other high-quality products such as Jersey Dairy, Jersey Royals, the finance industry and seafood for which the Island has become well known.

In the course of their research, it appears the Panel have failed to consult directly with industry representatives. This contributes to a lack of clarity and balance in the report. The conclusions indicate some misunderstanding about critical aspects of the licensing and regulatory regime in Jersey. In addition, whilst it is stressed that there is no criticism of the independence or expertise of the Panel’s advisors, it is considered that in this case it would have been preferable for the Panel to have commissioned assistance from a jurisdiction that is not in direct competition with Jersey.

It is accepted that further work is required to ensure there is greater public understanding of the opportunities offered by this new sector and to continue to ensure how any risks will be ameliorated. Jersey is establishing a well-regulated industry which will not only generate significant revenue for the Island, create jobs and support our rural economy, but will also create products which will help alleviate suffering for people around the world.