

AT THE HEART
OF THE MATTER,
NZ DRUG
FOUNDATION.

Te Tūāpapa Tarukino o Aotearoa

Taking control of cannabis

A model for
responsible regulation



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Tēnā koe,

If you're like me, you'd prefer that your kids never use cannabis. But you'll also be aware there is a good chance they will at some point. Despite it being illegal – and perhaps partly because of it – around half of all New Zealanders do.

I want the best for my kids as they get older and the same for all young New Zealanders. If they do decide to use cannabis when they are older, I would much rather they didn't buy it from organised crime, who might also sell them synnies or meth. I'd rather they bought from government-regulated stores where products are packaged in single-serve portions with maximum potency levels and health warnings on every packet. I want them to have their ID checked at the door and be turned away if they are under 20.

I want a world in which cannabis looks as boring as possible and where the proceeds from taxes go straight back into healthcare and treatment rather than funding the lifestyles of organised crime. That's the responsible way to protect young people and help those who struggle with their drug use.

At the general election in 2020, we'll all get to vote on whether cannabis should be legalised and regulated. We'll be voting on whether a draft Bill to regulate cannabis should go through Parliament and become law, or not.

However you plan to vote, you'll want to make sure the Bill is as good as possible. If New Zealanders vote to legalise cannabis, we need to be ready with a draft law that will protect young people, take money from the hands of the black market and put that towards healthcare instead.

The government is going about it the right way. They have released a framework that focuses on improving health outcomes and protecting young people. This booklet provides an overview of their proposals, and discusses key areas we recommend be included as they draft the Bill.



Ross Bell
Executive Director

We all want a happier, **healthier**, more equal New Zealand.

For us, that means treating cannabis use as a public health issue, not a criminal one.

Most people who use cannabis do so without harm to themselves or others. But for some, cannabis can have a serious negative effect on their lives. Those people, and their families, are the ones who deserve our focus here – they have been shamelessly failed by prohibition.

Cannabis is the bread and butter of organised crime, and for too long we've left the regulation of this harmful substance in their hands. To have any hope of reducing harmful use, we need to take back control.

We want government to take back control of cannabis. Regulation means:

- **Better health protections for everyone, especially young people.**
- **Thousands fewer friends and family members pointlessly convicted each year.**
- **Tax money for prevention, education and drug-related healthcare.**

This booklet is intended to help inform the drafting of the law that we will all be voting on at the referendum in 2020.

If New Zealand votes yes at the referendum, it will be an important step towards treating drug use as a health issue, not a criminal one.



Five goals to aim for

By legalising and regulating cannabis, we can make some transformative changes. Here are the goals we'd like the Government to focus on as they draft the Bill.

1

Minimise the harm caused by cannabis use

- Limit access to young people through enforcement of purchase age limits, for example.
- Reduce convictions and shut the pipeline into the criminal justice system, especially for those currently most targeted, including young people and Māori.
- Eliminate stigma, and make it easier for people to seek help for problematic use.
- Make it easier to provide prevention and education programmes.
- Ensure people who use cannabis suffer less harm. For example, regulate potency and portion sizes, require health warnings on products and test for contaminants.

2

Safer communities with less drug-related crime

- Reduce profits to the black market and gangs.
- Reduce access to dealers who may push other drugs, thus reducing use of more harmful substances.
- Shift Police efforts towards violent and serious crime.
- Invest tax from legal sales in prevention, education, harm reduction and treatment programmes for alcohol and other drugs.
- Promote small-scale community development to benefit communities that have suffered under prohibition.

3

Better outcomes for Māori

- Achieve better health outcomes for Māori by decreasing stigma and increasing investment in kaupapa Māori health interventions.
- Ensure Māori no longer bear the brunt of drug convictions.
- Realise economic benefits for Māori, who have been the worst hit by prohibition.

4

Uphold human rights

- As expected in a free and democratic society, ensure criminal penalties are not out of proportion to the harm caused to others.
- Reduce the long-term harms caused by convictions.

5

An evidence-based policy that responds to address harms

- Ensure money is spent on what works to reduce harm, such as treatment rather than enforcement.
- Establish a system that can respond to the harms suffered by individuals and communities and be responsive to changing circumstances in a way that prohibition cannot.

The Government has made a strong start

The Government has made a responsible start on the proposed law, setting objectives around reducing the harms that cannabis can cause, especially for young people. They propose to set up a tightly regulated market, with oversight at every point in the supply chain. Cannabis will only be sold in licensed stores and only to those over the age of 20.

The Government is also clear that it's important to disempower organised crime and the illegal trade in cannabis. They want to lower the damaging conviction rates and to increase safety, for example, by testing and labelling products.

Importantly, the Government acknowledges that we have not always done the best job of regulating alcohol and tobacco in New Zealand: profit has repeatedly been prioritised over health. The Government is committed to learning from past mistakes and has proposed a system that is tightly controlled and puts health first.

There are some areas that could be improved as they develop the new law, particularly around promoting community development and working with Māori to design a system that works to redress the harms caused by prohibition.

We've listed a few key principles that we'd like the Government to follow as they design the draft law. If they keep these top of mind, we're in safe hands.

7 principles to inform decision making

- 1 Keep health considerations central.** Choose an approach that minimises the harm caused by cannabis use, especially to young people and to those who use heavily or are dependent.
 - 2 Prevent development of a Big Cannabis industry.** This is essential if we want to keep health considerations, rather than business interests, central.
 - 3 Honour te Tiriti o Waitangi.** This means working in partnership with Māori from day one to design a model for legalisation that promotes mana motuhake, mana tangata and hauora Māori across the areas of health, justice and economic development.
 - 4 Value community interests,** especially those of vulnerable groups and rural and/or Māori communities. By ensuring the benefits of legalisation go to communities that have suffered under punitive drug laws, we can redress historical damage.
 - 5 Provide for education, prevention, harm reduction and treatment** in the model.
 - 6 Don't create harsh new criminal penalties** where these will be felt most heavily by vulnerable communities.
 - 7 Start cautiously,** monitoring health and other effects as we go.
-

Controlling cannabis will protect young people

We all want our young people to be healthy, to thrive and not to use harmful drugs as they go through life.

But if we are realistic, we should acknowledge that the majority will experiment with illicit substances at some point. Around one-third of high school students have used cannabis at least once by the time they leave school. Luckily, most suffer no harm from this. Those who have health issues as a result of their drug use need our support and compassion, not a conviction that they carry for their whole life.

Regulating cannabis doesn't increase use by young people

The good news is that in jurisdictions where cannabis has been regulated, young people don't use more frequently. A recent meta-analysis of 1.4 million young people in the USA found that in states that legalised cannabis, young people were 8% less likely to use cannabis than before, and 9% less likely to use frequently (based on past 30 day use).

Regulating cannabis really can make it less harmful.

Canada legalised cannabis in October 2018. It's too early to say for sure what the long-term impact has been. But we do know that, in the six months following legalisation, the prevalence of young people aged 18-24 using cannabis didn't increase.

What sort of 'message' do we want to give young people?

Some argue that legalising cannabis would 'send a message' to young people that it is OK to use cannabis. But young people are far cleverer than this gives them credit for – tobacco is legal, but young people don't take this to mean that smoking cigarettes is a good idea.

By regulating cannabis, we would send the message that we respect people enough to give them unbiased information about harmful substances and trust them to make difficult decisions for themselves. By putting warning labels on products, we would send the message that we care about people's health. By setting an age limit of 20, we would send the message that it's not appropriate for people under that age to use cannabis at all.



high school students have used cannabis at least once by the time they leave school

Source: Youth 2000 series



In US states where cannabis has been legalised youth are

8% less likely to try cannabis
9% less likely to use frequently

Source: Anderson et al. (2019) JAMA Pediatrics

How will regulation protect young people?

Regulating cannabis means we can control what's sold in the market, to whom and by whom.

We can:

- **Limit access** to young people. Young people under the age of 20 would not be able to enter cannabis retail stores or buy products. Of course, some will still find a way to get hold of cannabis, but it will be harder to access than it is now.
- **Set maximum potency levels** and steer people towards less harmful ways to consume than smoking.
- **Set portion sizes** so that young people who do use despite the law know how much is too much.
- **Require child-proof packaging** and put health warnings on packets.
- **Prohibit advertising** and the development of products that might appeal more to young people, such as confectionery.
- Make it more likely that young people get **factual, non-biased information** they can trust about cannabis. Research shows young people don't trust drug education that is focused on extreme case studies and bears little resemblance to their own experiences. A regulated market is more likely to provide information based on research than scare tactics and stigma. This will minimise harmful use in the long term.
- **Collect taxes** that will be put towards better healthcare for young people and others who struggle with their drug use. Young people will be more likely to acknowledge that they need help because they won't have to deal with the stigma caused by prohibition.

Finally, regulating cannabis will protect young people by ensuring they will no longer face the lifetime burden of a pointless cannabis conviction. Convictions can impact mental health, relationships, employment and travel.



Limit access to young people



Set portion sizes and potency levels



Require child-proof packaging and factual information



Prohibit advertising



Collect taxes to go towards healthcare

1,391

people under 30 years of age were convicted of a cannabis offence in 2018

Regulating will mean better outcomes for Māori

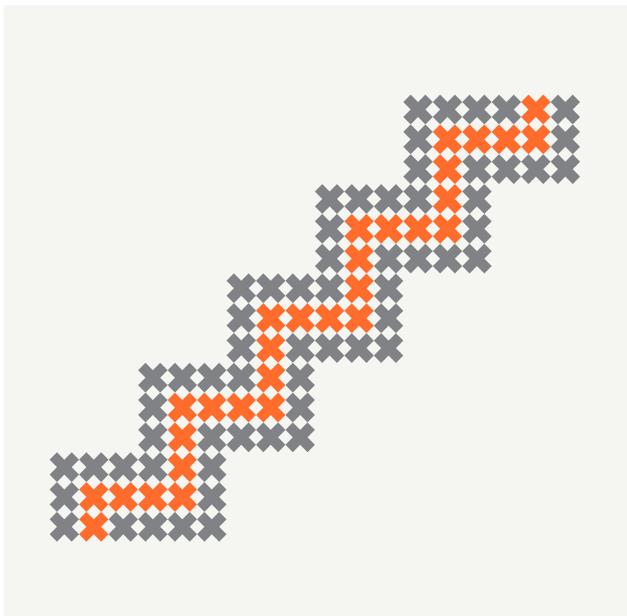
Legalising and regulating cannabis should promote mana motuhake, mana tangata and hauora Māori: it should mean improvements in health, justice and economic development.

An end to prohibition will benefit Māori by reducing Māori cannabis convictions by as many as 1,279 per year. That means fewer whānau coming into contact with the criminal justice system and fewer trapped in endless cycles of reconviction.

Reducing Māori cannabis convictions by as many as

1,279

per year



Voting yes to legalisation would improve health outcomes for Māori by bringing in tax dollars that the Government has promised to spend on drug-related education, treatment and prevention programmes. It would also reduce and eventually eliminate the stigma associated with cannabis dependency, meaning more Māori actively seeking help when they find themselves using too often or too heavily.

Lastly, we want to ensure Māori communities are able to make the most of economic opportunities from a regulated cannabis market.

The Government acknowledges that Māori are disproportionately harmed by prohibition and that we need to protect Māori rights and interests if cannabis becomes legal. This is a good first step, but we need to ensure the Government has a clear plan in place for how they will meet their fundamental obligations under te Tiriti o Waitangi as they design the model.

Based on conversations we have had with Māori leaders around the country, we've come up with a few key principles to help.

3 principles to guide the Government's work to uphold and promote Māori rights and interests

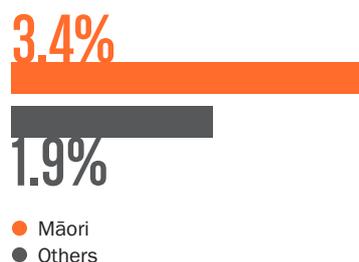
- 1 Actively uphold the Crown's fundamental obligations to Māori under te Tiriti o Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples. This means ensuring whānau, hapū and iwi Māori are engaged at each point in the development of the regulations in a process of co-design. A kaupapa Māori agency with a broad mandate should be established to lead this on behalf of Māori.
- 2 Recognise that legalisation must be about righting the wrongs of the past and empowering and supporting the people who have suffered disproportionate harms under prohibition.
- 3 Ensure the regulatory model is designed to promote mana motuhake, mana tangata and hauora Māori across the areas of health, justice and economic development.

We also have a few specific recommendations that will dramatically improve outcomes for Māori if cannabis is legalised and regulated.

We recommend

- 01** Earmark a percentage of funding for treatment, education and harm reduction for kaupapa Māori services to reflect disproportionate Māori cannabis use and harm rates.
- 02** Don't create new criminal penalties where these are likely to disproportionately affect Māori. Civil sanctions such as fines would be more appropriate for most personal offences – when penalties are needed at all. For offences by retailers and companies, heavy penalties would still be applied.
- 03** Allow people with previous drug convictions to work in the legal industry. Previous cannabis-related convictions should be wiped.
- 04** Choose a production and distribution model that favours Māori communities who wish to participate in the legal market and smaller-scale or employee-owned regional and rural operations.
- 05** Explore options that give Māori communities preferential access to the legal market such as fast-tracked licensing and proactive assistance to develop business plans.

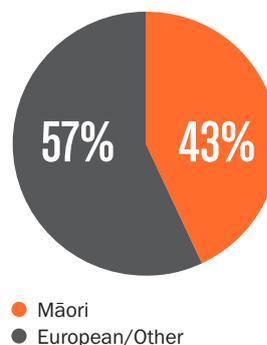
Percentage experiencing legal problems from cannabis use in past 12 months (2012)



Among cannabis users, nearly twice as many Māori as non-Māori report legal problems from their use

Source: Cannabis Use 2012/13: New Zealand Health Survey

Ethnicity of those in prison with drug offences as their main offence 2018



Māori make up about 43% of those in prison for drug offences

Source: Statistics NZ online tables, annual sentenced prisoner throughput for latest calendar years

Controlling cannabis will mean better health outcomes for everyone

People who need support with their cannabis use should be able to access a full range of evidence-based treatment options at the time that they need them.

The good news is that the Government intends to put the money raised by cannabis taxes towards reducing the harm caused by drugs, including early intervention and treatment services. Money would also go towards public education and prevention programmes, targeting young people using cannabis, impairment at work and cannabis-impaired driving.

Economists estimate that legalising cannabis here would generate around \$240 million in taxes every year. That amount would more than cover the current shortfall in addiction treatment for all drugs, including alcohol.

❓ How dangerous is cannabis?

We know that the majority of people use cannabis without serious harm. However, a small proportion experience negative impacts such as anxiety, depression, memory loss and mood swings. Those who use cannabis long term may face health risks such as respiratory disease (if smoked) and mental illnesses such as schizophrenia, at least for those who may be predisposed.

Cannabis impairs driving, especially when combined with alcohol. It also carries the risk of dependency in around one in 10 users. Heavy use by young people has been linked to poorer outcomes in education and employment as well as a reduction in IQ points, though the research on this is mixed.

Our verdict? Cannabis can be harmful, so our law should focus on minimising harm, especially to young people. The best way to minimise harm is to tightly regulate use.

To reduce drug harm effectively we need to invest in:

Prevention and education

This would be targeted at ensuring that fewer people make the choice to use cannabis and those who do start later in life, use less frequently and experience less harm.

Harm reduction

This would include information and tools that reduce the risk of cannabis harm, for example by promoting vaping over smoking, or by nudging people towards lower-potency products.

Treatment

We need to address issues early, not wait until problems are extreme. That means providing a full range of options including online or phone help, support groups and one-to-one counselling, as well as more intensive support such as residential treatment. Effective treatment options include community-based, kaupapa Māori and youth services.

So what is the Government proposing exactly? Time to get into the detail ...



Grow and sell.

- 10 What's the best model for growing and selling cannabis?
- 12 Cannabis would be sold at licensed stores
- 13 If you're under 20, you won't be allowed to buy
- 14 It will be legal to grow cannabis for personal use
- 15 Online sales

What's the best model for growing and selling cannabis?

The Government proposes a controlled and tightly regulated market for cannabis with oversight and licensing requirements at each point in the supply chain. Cannabis will be sold in licensed stores.

The focus will be on reducing health harms and learning from past experiences in the tobacco and alcohol industries. For example, the Government wants to ensure that companies don't encourage more people to use cannabis.

That means restricting advertising, keeping products boring and ensuring retail outlets are low key. Another key aim is to reduce the control of the black market.

Most importantly, we need to avoid the creation of a 'Big Cannabis' industry that will target heavy users and try to influence policy, to the detriment of public health.

Growing

The balancing act



We should allow many small-scale growers by limiting maximum plot size, for example:

- make it less likely that big business gets a toe-hold and uses that to influence the law
- promote community development, encourage illicit growers to 'go legal' and redress some of the harms caused by prohibition.

VS

We should only license a few large-scale growers to:

- keep the system simple, cheap and easy for government to administer
- make it easy to maintain good quality control over products.

We're keen to redress the harms caused by criminalisation, so we think the system should actively push opportunities in the direction of the communities most damaged by prohibition. That means keeping growers small-scale. We also like that this would mean less chance of big business influencing policy decisions.

We could ensure this doesn't mean any loss of quality control over products by allowing growers to set up hubs or cooperatives to look after product testing, packaging and even wholesaling.

Retail

The balancing act



Public health: minimise the harm caused by cannabis use by encouraging people to consume less heavily and less frequently and delay consumption as long as possible.

This means restricting the market by regulating what products can be sold, when, where and to whom. It means prohibiting sponsorship and advertising and making rules about product type and quality, packaging, health warnings and age limits.

VS

Profit motivation: the goal in a profit-driven market is to increase consumption, especially by the 20% of people who use 80% of the product – these are also the people who suffer the most harm.

Profit-driven markets actively lobby to reduce health-focused regulations. For example, the alcohol industry lobbies for longer opening hours, lower taxes and no minimum pricing.

The more large-scale and profit-driven a model is, the harder it will be to keep the central focus on reducing drug harm.

It's no secret that we're more worried about public health than we are about companies making a buck. We need to prevent big business influencing how cannabis is sold, where, and to whom. Luckily, the Government is on board with this goal.

We favour a non-profit or government-led model

While the Government is proposing to strictly regulate cannabis, they haven't yet said whether they think the supply chain should be run by non-profits, government, private businesses or a mixture of all three.

Developing an entirely profit-driven supply model leaves us open to the risk that industry will grow in influence and that this will negatively impact public health.

We can tackle some of the risks with strict regulations against advertising and sponsorship, by setting minimum prices and by restricting the number of products available. But we know from experience with the alcohol and tobacco industries that big business can be persistent in its work to erode health gains.

We'd like to mitigate the risk that we'll see the same with cannabis by keeping at least some of the supply chain non-profit or government-run.

What's an example of a good model? We'd like to see small-scale growers providing the raw materials. Testing, packaging, production and distribution could be carried out by government-run wholesalers or non-profit trusts. Any new products would need to be licensed based on public health criteria. Retailers could compete on the open market but would only be able to sell products that had been approved and packaged by wholesalers.

We recommend

- 01** Choose a model that cannot be undermined by profit motives. This probably means keeping at least part of the supply chain non-profit.
- 02** Keep growers small-scale to promote community development and keep out Big Cannabis. Create Systems that allow small-scale growers to ensure their products are high quality and packaged correctly, for example, by licensing production 'hubs' or cooperatives.
- 03** Don't artificially restrict the amount of cannabis available, because that won't affect demand – but do restrict the type of products that are allowed.



Cannabis would be sold at licensed stores

If the public votes yes at the referendum, cannabis would be sold in specially licensed stores.

The Government doesn't want to attract new customers (especially young people) to try it, and they aim to keep the amount sold and consumed as low as possible.

That means shops probably won't be able to advertise or put up large signs and products won't be visible from the street.

So who decides where shops are located, how many there are and what the opening hours will be?

The balancing act



Communities should decide who sells cannabis, when, and where because:

- people should have the right to choose what happens in their neighbourhoods – a community that is concerned about cannabis should have the right to veto a new shop
- when communities don't have a proper say, health suffers – just look at how alcohol and gambling shops cluster in poor areas despite community opposition.

VS

Rules should be set by central government:

- to ensure best practice is followed in every region in New Zealand
- because we tried giving communities control over alcohol retail in their areas and it didn't work – bully tactics by the alcohol industry put a huge drain on local councils and communities.

We think the rules around store locations and density should be set out in the legislation to protect all communities equally. But it's only fair that communities should be allowed to make the rules even more restrictive if they want to. That way, they won't have to waste resources fighting for basic rights, but they'll still have a say about how things work in their area.

However, councils should only be allowed to prohibit shops in their regions if people have access to online sales. Otherwise, customers will just continue to use the black market.

What happens internationally?

Shops in San Francisco must abide by a 'good neighbour' policy. This ensures they operate in a clean, quiet and responsible way with minimal disruptions to neighbours.

We recommend

- 01** Licensed shops should sell cannabis products and utensils only – not tobacco or alcohol. Only those over the age of 20 should be allowed to enter, and no products or advertising should be visible from the street. Stores should display information on the harmful effects of cannabis and how to access help for drug-use issues. Staff could be trained to provide health advice.
- 02** A central authority should be responsible for issuing licences to sell cannabis based on rules set by legislation. Licensed shops should be situated a minimum distance from schools and sensitive sites, off-licences and other cannabis outlets. Opening hours should be restricted.
- 03** Local councils should have the right to prohibit retail outlets within certain areas if they choose to do so.

If you're under 20, you won't be allowed to buy

The Government has set a purchase age of 20 years. It was a tough call – there are good arguments for setting the purchase age at 18, 20 or even 25.

The balancing act



Set the purchase age high because:

- young people are the most vulnerable to the negative health effects of cannabis and the longer we delay them from using cannabis, the better – cannabis affects young brains differently and development doesn't stop until the mid to late 20s
- we can see from our experience with alcohol that the lower we set the age, the earlier people will start consuming and the greater the harms.

VS

Set the purchase age low because:

- young people are consuming cannabis anyway – more than anyone else, they should receive the public health protections of a legal regulated market, such as portion control and health warnings
- if we set the purchase age high, more young people will be criminalised or otherwise penalised
- a lower age means more young people can access healthcare without fear of stigma.

Choosing 20 as the purchase age strikes a sensible balance between limiting consumption by young people and recognising the advantages of allowing them access to products that carry health warnings and potency controls. We'd like to see the same age restriction of 20 applied to alcohol.

Will underage people who use cannabis face penalties?

The government has suggested a legal use age of 20 for cannabis. This would mean young people could be penalised, potentially with a criminal charge, for using a legal substance. Caution is advised here: we're aiming for a less-punitive approach to drug use and fewer convictions for vulnerable communities.

What happens internationally?

Most provinces and territories in Canada have a purchase age of 19 for cannabis. American states that have regulated cannabis all have 21 as the minimum purchase age, to align with their alcohol laws. In Uruguay, the legal age is 18.

We recommend

- 01 A legal purchase age of 20, as proposed.
- 02 Caution around setting a legal use age as this could result in further penalising vulnerable communities with negligible impact on use. Instead, keep rules in line with alcohol.
- 03 Retailers who sell to people under 20 should face serious penalties, such as large fines and loss of license. Funding will need to be set aside to enforce this.

It will be legal to grow cannabis for personal use

The Government has proposed that people will be allowed to grow their own cannabis plants at home. Sharing home-grown cannabis between friends would be permitted provided no money is exchanged ('social sharing').

The balancing act



Prohibit home grow because:

- products may be diverted to the black market
- plants are not subject to quality control, potency controls or labelling requirements
- allowing plants at home may increase access for young people.

VS

Allow home grow because:

- people will grow plants regardless of the law and many will be our most vulnerable citizens – we can't justify penalising them for growing a legal product
- few people will grow at home anyway – buying is simpler, and most people will prefer the certainty of buying processed products
- it will allow medicinal cannabis patients who grow their own products to access these, and at cheaper prices than from a pharmacy
- we allow parents to keep alcohol in the home despite potential risk to young people – it should be no different with cannabis plants.

If cannabis becomes legal, it will become difficult to justify penalising people for growing it. It helps to think about how we treat alcohol in a legal market. Home brew is legal, and diversion of home-made alcoholic products to the black market is not really an issue. Similarly, growing tobacco is legal but very few do it.

To avoid continued criminalisation and targeting of vulnerable communities, we advise caution about overly limiting the number of plants grown at home. This would acknowledge that some people grow for friends and whānau, and that those using cannabis medicinally often use a range of plants with different properties.

Regardless of where (or if) we set a limit on plant numbers, it would still be illegal to sell products grown at home, and this would carry a penalty.

We recommend

01

Allow people to grow plants at home as proposed, and share with friends. Selling products grown at home would remain illegal.

02

Ensure any penalties for home grow 'offences' are civil, not criminal. A key goal should be to prevent cannabis offences being used as 'convenience charges' to target vulnerable populations.

Online sales

Although online sales are not currently proposed by the Government, there are good reasons to consider allowing sales through one centralised website.

The balancing act



Restrict sales to physical stores because:

- it's easier to enforce age restrictions at stores than online
- authorities can make site visits and monitor what is happening in physical locations more easily
- the convenience of online sales may encourage more purchases.

VS

Allow online and remote sales because:

- it would be easy and cheap to regulate suppliers and their products through a centralised portal
- if people cannot easily access cannabis in their area, they will continue to use the black market
- small-scale growers could get easy access to an online market, bringing economic development
- a centralised online system would allow us to track consumption patterns and allow targeted harm-reduction messages.

Online sales of cannabis should be allowed to ensure both consumers and producers can access the legal market along with the safety benefits that market brings. This should ideally be through a single website operated by a non-profit under contract to the Government. It could be run similarly to Trade Me, with licensed retailers able to offer products in a controlled way.

Online sales would provide a way for small-scale growers who are currently operating illegally to become part of the mainstream economy, bringing economic development to areas of the country that desperately need it.

The biggest argument against online sales is the concern that underage people will be able to order online. We think a system can be designed that will work to protect young people. Strict age checks could be made at purchase using RealMe, and registered couriers could be required to check age again on delivery.

We recommend

- 01 Allow online sales through a single website, operated by a non-profit under contract to the Government.
- 02 Ensure strict requirements for age checking at point of purchase and delivery.



Consume.

17 Where will you be able to use cannabis?

18 What products will be available?



Where will you be able to use cannabis?

The Government proposes to restrict cannabis consumption to private homes and 'licensed premises'. It's not yet clear what type of premises would be licensed for consumption. Consumption on the street or in parks would not be allowed.

The balancing act



Restrict consumption spaces to:

- to avoid normalising use or encouraging new users
- to avoid compounding harms if people consume cannabis and alcohol together.

VS

Create more spaces where consumption is legal because:

- otherwise people will break the law and continue to be targeted – this is an equity issue
- many people (especially young people) cannot use cannabis at home because of family or because their landlord doesn't allow it.

In line with our principle of regulating cautiously, we agree with the Government's proposal to limit consumption to private spaces and licensed premises, at least initially.

On the other hand, it's important that we don't target and penalise vulnerable people because they do not have a safe private space or can't afford to travel to a licensed venue. Those consuming outside of the regulations (on the street for example), should be required to move on – but under no circumstances should they face criminal penalties.

We don't object to cannabis being consumed in licensed stores at point of sale, as allowed in some overseas jurisdictions, provided they abide by smoke-free laws. We should avoid the proliferation of other licensed premises such as cannabis cafés, as these may encourage and normalise cannabis use.

What happens internationally?

Colorado, Oregon and Washington State have banned cannabis consumption in public places. In British Columbia and most other provinces in Canada, smoking and vaping cannabis is generally permitted in places where tobacco smoking is allowed. One Canadian state has allowed cannabis lounges to be established.

We recommend

- 01 Allow for the consumption of cannabis in homes and in licensed premises, as proposed.
- 02 Consider allowing consumption at point of sale, but do not allow stand-alone "cannabis cafés".

What products will be available?

The Government proposes to legalise and regulate cannabis-infused products including edibles, drinks, lotions and patches as well as cannabis concentrate products including resins, oils and waxes.

The balancing act



Allow edibles because:

- allowing cannabis edibles could help people move away from smoking, which is a harmful way to consume.

VS

Restrict edibles because:

- allowing edible cannabis products may encourage people to use cannabis who otherwise wouldn't have, especially young people
- consuming edibles can lead people to consume too much, too quickly – it's hard to judge when you've had enough.

There are good public health arguments for keeping the range of products available in New Zealand to an absolute minimum so as not to encourage new cannabis users and increase overall demand. Making it easy to introduce products such as edibles will spur companies to find new creative ways to market cannabis to vulnerable users.

For this reason, we would prefer not to see edibles sold in the legal market, but if they are sold, products should be licensed and approved on a case-by-case basis according to strict health criteria.

Other products that provide an alternative to smoking such as vaping or tinctures that can be added to drinks should be readily available and offered as alternatives to raw cannabis.

Concentrates and other high-potency products

There is a public health argument for allowing some high potency concentrates to be sold as there is already a small existing market for these. Home-made products use dangerous extraction processes and can be toxic. Allowing sales would mean those who are most at risk of harmful use can access safer products.

Any products sold should be only those that are already used in New Zealand – we don't want to encourage people to try anything they wouldn't otherwise have used. Concentrates should be stored out of sight behind the counter and labelled high risk and unsuitable for inexperienced users.

? What happens internationally?

Canada will allow edibles to be sold legally from October 2019. These will be sold in single-serve packages, with a limit of 10mg of THC per serving. But context is everything – Canada already had a booming black market in cannabis-based edibles to deal with. We don't.

We recommend

- 01 Products that encourage vaping should be encouraged. Concentrates could be regulated and sold but must carry health warnings.
- 02 The range of products available should be restricted as much as possible to avoid encouraging new people to try cannabis. In particular, added flavourings that appeal to young people should be avoided, as should products that combine cannabis with tobacco or alcohol. If edibles are regulated for sale, proceed with caution.
- 03 All products should carry harm-related messaging and information on potency and dosage.

Regulate.

- 20 Potency, pesticides, portion control and packaging
- 21 What happens if you break the law?
- 22 How would cannabis be priced and taxed?
- 22 Advertising and marketing



Potency, pesticides, portion control and packaging

Potency

The Government intends to limit the potency of cannabis available in the legal market. Higher-potency products (those containing high levels of the active compound THC) can result in people using more than they intended – especially novice users. Use of higher-potency products has also been correlated with a small increased risk of health harms such as cannabis use disorder.

Luckily, THC levels in cannabis here are relatively low compared to products sold in North America. We can keep the levels low by setting a maximum allowable potency level for raw cannabis based on what is currently available on the black market.

Just as important as keeping THC levels low is that products should contain a minimum level of CBD – the component in cannabis that is thought to have anti-psychotic properties.

Limiting the potency of products other than raw cannabis such as concentrates and resins may mean that people continue to make their own using dangerous production techniques. We would prefer that products already being used here are regulated so that people can access less-toxic products.

As with raw cannabis, these could be restricted in potency based on what is currently available on the black market. They should be stored behind the counter out of sight of casual purchasers.

Portion control

From a harm reduction perspective, possibly just as important as controlling potency is restricting portion size. We would be keen to see a similar approach to that in Canada, where products are sold in single-serve portions containing no more than 10mg of THC. This will allow consumers to monitor and limit their consumption.

Packaging and labelling

The Government's proposal includes strict labelling and packaging requirements for cannabis products. Labels will include information on content, potency, effects and dosage in line with best practice for harmful substances. Both THC and CBD levels should be clearly stated on labels.

Pesticides, moulds and fungicides

One of the great advantages of a legal regulated market is that it is possible to require minimum product safety standards. In North America, cannabis products are tested for moulds and heavy metals. Pesticides and fungicides pose a particular danger when used on cannabis crops. Any products used here must be guaranteed safe for consumption when combusted at high temperatures.

We recommend

- 01 Cannabis packaging should be child-proof and portion-controlled. Packaging should include harm minimisation messaging and information on potency.
- 02 We recommend a maximum potency level for raw cannabis, in line with what is currently available. Higher potency concentrates should also be available, but only behind the counter.
- 03 Customers should be guided by harm minimisation advice towards lower potency products, and lower-harm methods of use.

What happens if you break the law?

Careful thought will need to be put into how to punish offences in a legal cannabis market. The goal of encouraging people to comply with the law must be weighed against the principle of not introducing new and harsh penalties, the brunt of which may be carried by vulnerable people.

For serious offences such as selling to young people, there should be hefty fines and/or retail licences should be revoked, as is the case with alcohol.

For less-serious offences, such as breaching rules around personal cannabis possession, social supply or home cultivation, penalties should be kept to a minimum. Where they are needed at all, they should be civil – such as fines – rather than criminal in nature. Buying cannabis underage could carry a moderate fine as it does with alcohol.

In Canada, new legislation imposes a maximum 14-year prison sentence for supplying cannabis to young people. Theoretically, a 19-year-old may be prosecuted under this law for sharing cannabis with their 18-year-old friend. There is no public health justification for such a harsh penalty, and it's likely to have a terrible impact on some groups, particularly young people. We would like to avoid similar hard-line penalties being brought in here.

It would make sense to align penalties with alcohol law. This will ensure that decisions are not inadvertently influenced by moral considerations developed under prohibition.

We recommend

- 01 Penalties for companies selling to young people or breaking regulations around packaging and advertising should include heavy fines and potential loss of licence. Proper resourcing for enforcement should be built into the system.
- 02 Penalties for breaking rules in a home or social situation should be kept to a minimum to avoid ongoing criminalisation of vulnerable people. Rules could be aligned with alcohol laws to avoid confusion.



How would cannabis be priced and taxed?

Controlling the price of cannabis will be an important way to reduce demand. If the price falls too low, consumption is likely to increase, but if it's set too high, people will keep buying from the black market.

The Government is clear that they want to avoid prices falling too low. Luckily, there is an easy way to avoid that – set a minimum price per serving based on THC content. Higher-potency products should cost more to guide people towards lower-potency products.

Any pricing controls must be kept flexible and reassessed regularly – they will need to be adjusted to respond to changes in the black market and in consumption patterns. We suggest that minimum prices are initially set at the rate of the black market or slightly higher to encourage people away from the black market without increasing demand.

Tax should be used as a tool to reduce consumption rather than to increase revenue. This should be clearly stated in the legislation.

We recommend

- 01 Cannabis sales should be subject to minimum pricing based on THC content. The price should not be set so high that vulnerable people are excluded from the legal market.
- 02 Levies should be payable on each purchase, with proceeds going towards prevention, education, harm reduction and treatment for all drugs as proposed by the Government. Levies should cover the costs of regular research, monitoring and evaluation of the effects of the new law.

Advertising and marketing

Allowing advertising would encourage new users to the market and would promote harmful and heavy use – as it does in the case of alcohol. We applaud the Government's intention to ban the advertising of cannabis products. This is an important sign that the Government intends to place health before profit in how it regulates cannabis.

Marketing of products may need to be allowed in limited places – such as at point of sale – so that consumers know which products are available. Some restricted marketing of stores may also need to be allowed so that consumers know how to access the legal market. Any allowable marketing should be factual and should include information on how to minimise harm from cannabis use.

Products should be sold in plain packages with health advice clearly visible on the label.

We recommend

- 01 Ban advertising of cannabis products, as proposed. Extend this to include a ban on industry sponsorship, discounting and 'special deals' on products.

Other burning issues.

24 How do we keep the roads safe?

24 What about medicinal cannabis?

25 How do we keep workplaces safe?

25 We need to keep a close eye on what happens after legalisation and adapt if needed

How do we keep the roads safe?

Drug driving is already an issue under the status quo, and we all have an interest in making the roads safer for everyone. Unfortunately, overseas findings on the effects of legalisation on road safety are mixed and can't reliably show whether legalisation has actually been responsible for any changes seen (both positive and negative).

Car insurance claims in Colorado, Nevada, Oregon and Washington show a correlation between legalisation of cannabis for recreational use and an increase in reported car crashes. However the states showed mixed results around the severity of these crashes: for example, Colorado experienced a small increase in fatal crashes, while Oregon showed no change. Meanwhile, legalisation of medicinal cannabis across US states has been associated with an 11% decrease in traffic fatalities, and no change to the number of drivers testing positive for cannabis.

Our conclusion? It is highly unlikely that legalisation of cannabis will cause a big upswing in fatal accidents on our roads. But regardless of whether cannabis is legalised, we must ensure drivers are better educated than they are now around the risks of impaired driving and that drug drivers face a real risk of being caught.

The Government is currently consulting on introducing roadside saliva testing for cannabis and other substances. They are also planning to roll out drug-driving prevention and education campaigns using some of the same techniques that have been successful in changing behaviour around drink driving.

We recommend

- 01 Allocate ongoing funding from cannabis taxes to roadside impairment testing and public education campaigns.

What about medicinal cannabis?

The Ministry of Health is developing new regulations to allow medicinal cannabis to be grown and prescribed in New Zealand. These will come into force at the end of 2019.

It's likely that the medicinal and adult use cannabis systems will be kept quite distinct. The medicinal cannabis regulations will provide high-quality pharmaceutical-level products for patients who require careful dosing and standardised products such as children with epilepsy. Products will be prescribed by a doctor.

Because medicinal cannabis products are likely to be expensive, we think many patients will use 'recreational' products instead. The legal market should be developed with those patients in mind.

Products will be prescribed by a doctor



Medicinal cannabis patients need access to products with a range of CBD and THC ratios. They may need access to greater quantities at cheaper prices than other consumers. If growing their own at home, they may need to grow more plants to develop the strains and products that they need.

We recommend

- 01 Consider tax refunds or subsidies for those using recreational cannabis for medicinal purposes. If a limit is set on the number of home grow plants available, allow medicinal patients to grow more if they need to, on the advice of their doctor.

How do we keep workplaces safe?

If cannabis is regulated, it doesn't follow that more people will turn up to work stoned, in the same way the majority of workers don't turn up to work drunk now.

Regardless of whether we regulate cannabis or not, it's important for employers to have a drug and alcohol policy that outlines what is acceptable in their workplace and what will happen if the policy is not followed. The policy should consider whether impairment could lead to injury or harm, such as when staff are operating heavy machinery.

Because THC can be detected in urine long after the intoxicating effect has ended, testing for it is not useful in most circumstances. The focus of any policy should be on safety in the workplace, not to find out whether staff members use drugs outside of work hours. The best way to reduce impairment in the workplace is through quality management, a culture of reporting health and safety risks and a system that encourages people to speak up if they notice someone is impaired.

🔍 What happens internationally?

In Canada, where cannabis is legal, it is up to workplaces to decide their own policies. Testing staff for cannabis is generally not allowed except where impairment could lead to injury or harm. The Canadian Armed Forces allow cannabis to be consumed up to 8 hours before a soldier reports for duty or 24 hours beforehand if they are carrying out safety-sensitive duties such as handling weapons.

We recommend

- 01 Give more support to employers to develop plans about how to keep workplaces safe and to understand when it is appropriate to drug test employees.

We need to keep a close eye on what happens after legalisation and adapt if needed

Whatever model is chosen to regulate cannabis, we must ensure the rules can be responsive, with review periods built into the legislation.

To assess the impact of legalisation – whether positive or negative – we must track not only prevalence of harmful cannabis use but also the effect on consumption of other substances, including alcohol, illicit drugs and diverted prescription medicines.

We recommend

- 01 Introduce a set of indicators to track drug trends and harms, and establish a baseline before legalisation.
- 02 Ensure the regulations are responsive and flexible, and build review periods into the legislation.



Illustration by Christopher Davidson

E mahi ana ki te whakamimiti a Aotearoa i ngā mamae ā whakapōauau

Working for an Aotearoa New Zealand free from drug harm

AT THE HEART OF THE MATTER. NZ DRUG FOUNDATION.

Te Tūāpapa Tarukino o Aotearoa

The NZ Drug Foundation works to reduce drug-related harm in Aotearoa New Zealand. Formed in 1989, the Drug Foundation has always been about basing policy and law on evidence and an acceptance of public health values. Over the past 30 years, we have contributed to significant change in how New Zealand responds to alcohol, tobacco and other drug use. Our work covers policy, public education, information delivery and community engagement.

Getting people around the table to find effective solutions to drug issues is at the heart of our work. Ensuring that the interests of tangata whenua are reflected in both policy and practical services is a key part of our work, as is maintaining close links with people working in treatment agencies, harm-reduction services and education programmes.

Website:
<http://nzdrug.org/drug-law-2020>

Services we run or support



#HEALTH Not Handcuffs