

## **Guidance on the use of medical cannabis in the workplace.**

Medical cannabis is used in some form or another by an estimated 1.8 million people in the UK. Yet only 2% of those 1.8 million are accessing medicinal cannabis through a legal prescription – that's despite the fact that it's been legal in the UK since 2018. Why? Because despite the benefits being well-documented for a number of ailments, there are still only three main reasons for a medical professional to prescribe cannabis in the UK, meaning very few people are likely to actually get a prescription.

The main conditions where medical marijuana will be prescribed are currently:

- Children / adults with rare severe forms of epilepsy.
- Adults with vomiting / nausea caused by chemotherapy
- People suffering from muscle spasms caused by multiple sclerosis (MS)

This may lead employers to have concerns about whether their employees are taking medical cannabis, or self-medicating with CBD products or marijuana without a prescription, and what impact this may have on their work. Where employees have a prescription for medical marijuana, it's likely that the employer will already be aware of their condition. Epilepsy, cancer, and MS are serious conditions requiring employers to carry out wellbeing assessments, so any treatment is likely to be already known and reasonable adjustments agreed. One thing to consider is whether the prescription will impact on the employee's ability to carry out their role. For example, if they drive for work or operate heavy machinery, you may need to look at alternative work.

If you carry out workplace drug testing, note the medical cannabis prescription and ensure the employee is not put at a detriment or risk of dismissal as a result of their illness. This would only apply for marijuana, and not negate testing for use of other substances, such as cocaine or alcohol. If the employee were to fail the testing for other substances, they should be subject to the same disciplinary process as anyone else.

For those who do not have a prescription, cannabis is still an illegal drug. There are currently no plans from the government to legalise marijuana, so anyone caught with or under the influence of it without a valid prescription is committing an offence. If this happens in the workplace, it should be dealt with in the same way as any other offence at work, using your HR disciplinary procedures. You might be put in the position where an employee is caught under the influence of marijuana and discloses a medical condition to you, saying they were self-medicating without a prescription. If this happens, you should conduct a thorough investigation into their claims, by referring the employee to occupational health or seeking information from their own doctor, reminding them of your drug policy as you do so.

Whilst legal cannabis remains a rarity, however, CBD products can present other issues. Some individuals will have a prescription for CBD while many others will not. Although taken from the same plant, CBD products generally contain a very limited amount of, or no, THC – that's the component of cannabis that gets you high. Like marijuana, CBD has been shown to have several potential health benefits including:

- Reducing the frequency and severity of seizures in people with epilepsy
- Reducing anxiety

- Reducing pain
- Improving sleep quality in people with insomnia and other sleep disorders.
- Reducing acne
- Reducing nausea and vomiting caused by chemotherapy and other medical treatments.

Although properly regulated CBD products are unlikely to cause an employee to fail a drug test, many of the products available online or in stores are unregulated. This means they can potentially contain THC, have an intoxicating effect or cause users to fail drug tests. That's why many employers opt to include a clause in their drug and alcohol use policy requiring employees to disclose the use of any medication that may impair their work or impact safety at work. This is especially pertinent in industries where people drive, operate machinery, or where there are significant safety hazards. Having such a clause in place can drastically reduce the risk of workplace accidents and limit the risk for employers should an accident happen.

It's important to be sensitive when asking about an employee's health or medication requirements. Make sure that everyone is treated equally, and all employees are subject to the same questions to avoid any suggestion of discrimination.

The above information is for guidance only and employers must take their own legal advice.

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References:

Department of Health and Social Care – the use of medical cannabis.

MHRA requirements.

Equality Act 2010.

NICE Guidelines.