



PHANZ Position Statement on Cannabis Policy in NZ

The Public Health Association of New Zealand supported a 'Yes' vote on the referendum question "Do you support the proposed Cannabis Legalisation and Control Bill?". This position arose from consultation with its Members, with a draft position statement sent to all current Members, and feedback incorporated into a final version. Given that the referendum narrowly failed to pass, the view of the Public Health Association is that cannabis policy reform should still be implemented, with a long-term robust monitoring and evaluation framework. This position recognises that cannabis-related harms are best addressed through a health-based approach, not through criminalisation, and that the current prohibition approach to cannabis is a source of inequity in New Zealand.

Overview

In October 2020, New Zealanders had the opportunity to vote in a referendum on whether to legalise the recreational use of cannabis. The Government released a proposed Bill, which provided for Government control and regulation of cannabis, including its production, supply and consumption.

The referendum followed amendments in 2019 to the *Misuse of Drugs Act 1975*, which were intended to take more health-centred approach via the Misuse of Drugs Amendment Bill. The amendments affirmed police discretion, and specified that when determining whether a prosecution is required in the public interest for personal drug possession and use, consideration should be given to whether a health approach is more beneficial. While these amendments provided a form of de facto decriminalisation for personal cannabis possession and use, it was subsequently found that this discretion did not have a material effect on prosecutions for drug use and/or possession.ⁱ

It is important to note the differences between decriminalisation and legalisation. Decriminalisation typically applies only to the use of cannabis, however, it remains illegal to grow or supply cannabis; this approach has been taken in countries such as Portugal. Legalisation means that the production, supply and use of cannabis become legal and regulated, in accordance with requirements of the legislation; this approach has been taken recently in Canada.

The primary purpose of the proposed Cannabis Legalisation and Control Bill was to reduce cannabis-related harm to individuals, family / whānau and communities in Aotearoa New

Zealand. The draft Billⁱⁱ provided for legalisation of recreational cannabis use, and shifting cannabis to a health-based regulatory approach, with important public health measures outlined, including:

- Restricting use to those aged 20 and over
- Setting limits on the amount and potency that can be sold and purchased
- Restricting the amount of cannabis plants that can be grown at home
- Requiring health warnings on packaging and at the time of purchase
- Regulating location and trading hours for premises where cannabis could be sold or consumed, in consultation with Local Authorities and communities

The referendum narrowly failed to pass with 'No' receiving 50.7% of the votes (1,474,635), and 'Yes' receiving 48.4% (1,406,973). A subsequent statement from the Justice Minister said that following the referendum *it would be "irresponsible" for the Government to legalise or decriminalise cannabis, or undertake widespread drug law reform in the wake of the "no" vote. "We have no other plans for drug law reform," he said.*ⁱⁱⁱ

It is the view of the Public Health Association of New Zealand that cannabis policy reform should still be pursued, with a focus on improving health outcomes and removing inequitable outcomes. Consultation with Members prior to the referendum showed support for cannabis legalisation, with a strong focus on monitoring and evaluation, reducing inequities (particularly in relation to justice outcomes), and limiting commercial interests.

Why this is an important public health issue

The question of cannabis policy is important from a public health perspective, with the current system of prohibition and criminalisation providing direct harms to some individuals and promoting inequities, while important concerns and questions are raised by the prospect of more liberal cannabis policy.

Of importance, the current prohibition of cannabis is not preventing cannabis use or harms. A 2012/13 New Zealand survey revealed that 11% of people aged 15 or over reported using cannabis in the last 12 months, and 34% of those reported using cannabis at least weekly.^{iv} Given the known issues with self-reporting of illicit substance use in surveys, it is likely that this number is under-estimated. Criminally convicting people who use cannabis does not prevent them from continuing to use cannabis; both Canadian and Australian studies have shown that the vast majority of those who are arrested or convicted will either continue or increase their cannabis use.^{v vi}

The current prohibition approach is not only ineffective at preventing use, but is contributing to harms and inequities, particularly in Māori and people who are socioeconomically vulnerable or disadvantaged, which embeds and reinforces stigma and poverty.^{vii} There is evidence to suggest that criminalisation of cannabis may be more harmful to these people and communities than cannabis use itself.^{viii}

Cannabis use is not without harms, however, and there are legitimate questions to be asked about the impacts of liberalising cannabis policy from a public health perspective, particularly:

- Will more liberal policy increase use, particularly in young people?

International evidence suggests that liberalising cannabis use does not alter consumption patterns in young people^{ix} though a trend towards increasing use in males aged over 25 has been observed in Canada following legalisation.^x It is possible though that this reflects a longer-term trend towards increasing use in this age group that was occurring pre-legalisation, and it is also not well-understood if individuals are using less of other substances such as alcohol given the option to legally use cannabis.

- Will road traffic crashes or workplace accidents increase?

International evidence is inconsistent on whether cannabis legalisation is associated with increased road traffic crashes,^{xi xii} and drug driving is being considered via the Land Transport (Drug Driving) Amendment Bill, which was introduced to Parliament on 30 July 2020. This remains an important consideration, noting that driving while impaired by drugs is currently illegal but represents an increasing contribution to road crash mortality,^{xiii} suggesting that prohibition is not effectively reducing this harm.

- Will rates of psychiatric illness e.g. psychosis increase?

Cannabis use can increase the risk of psychiatric harms (particularly psychosis) in some people, particularly in individuals with early-onset and heavy use.^{xiv} This outcome would be of concern if policy liberalisation was found to be increasing cannabis use, particularly in young people, however, there are also policy options to offset this risk, such as regulation on potency (which is known to be associated with increased psychosis risk^{xv}), effective health promotion and education, and by increasing help-seeking and service access for those experiencing cannabis-related harms. However, many of these policy options are only available for consideration if reform occurs, and cannot be implemented under the current prohibition approach.

- How would changes to cannabis policy affect the Smokefree Aotearoa 2025 goal?

The Smokefree 2025 goals are intended to achieve a substantial reduction (though not elimination) of tobacco smoking in New Zealand. Significant declines in smoking prevalence have been observed in recent years,^{xvi} achieved with a mixture of regulation, education, and taxation; not from prohibition. In this regard, there is no inconsistency between approaches for tobacco and cannabis policy reform. It is noted that the proposed Bill for cannabis legalisation was also broadly consistent with, and in some cases went further than, the *Smoke-free Environments Act 1990*, in that cannabis use would have been restricted for those under 20, advertising and marketing would have been banned, and it would have been prohibited to use cannabis in public places and/or in situations where someone under the age of 20 would be exposed to cannabis smoke.

In summary, cannabis use is prevalent in New Zealand now. While there are potential harms associated with cannabis use, prohibition is not effective at preventing these and in some cases is directly increasing harm and inequities. We advocate for a reallocation of resources away

from prohibition and towards health services, incorporating ‘demand reduction’ and ‘harm reduction’ approaches. This will encourage help-seeking and increase treatment access for those who are experiencing cannabis-related harm, while removing criminal penalties for those who recreationally use cannabis. However, given that countries such as Canada have only recently legalised cannabis and thus long-term trends are yet to be elucidated, it is important that any reform be accompanied by a long-term robust monitoring and evaluation process.

Treaty of Waitangi / Māori health implications

In New Zealand, alcohol and other drug harms are disproportionately experienced by Māori, with almost all indicators of use, dependency and harm showing inequities for Māori compared to non-Māori New Zealanders.^{xvii xviii} This issue is being raised within Stage 2 of the Waitangi Tribunal’s Health Services and Kaupapa Inquiry (Wai 2575), recognising that these health inequities are inconsistent with the Treaty of Waitangi.

Specifically in relation to cannabis, Māori have been disproportionately affected by enforcement of cannabis prohibition. Māori are three times more likely to be arrested and convicted of a crime related to cannabis than non-Māori, even after adjusting for different patterns of use, and this particularly affects Māori men.^{xix} The impact of these convictions can then have ramifications on employment, education, and housing outcomes. Māori also have less access to health treatment for drug issues, and are thus more likely to suffer harm from cannabis use.^{xx xxi}

Principles

When considering cannabis policy within the context of Te Ture Whakaruruhau the Code of Ethical Principles for Public Health in Aotearoa New Zealand, supporting reform of cannabis policy is consistent with the principles of:

- Te Tiriti o Waitangi: as outlined above, the current approach to cannabis promotes inequities in Māori, which is inconsistent with the principle of equality within the Treaty, therefore supporting policy reform is consistent with Te Tiriti o Waitangi
- Beneficence / competence: public health practitioners should make decisions based upon evidence, and the current evidence supports a health-based approach to drug use
- Justice / equity: prohibiting and criminalising cannabis use discriminates at those who are most vulnerable, and disempowers and stigmatises people who use cannabis, which in turn contributes to ongoing inequities in this group

Priorities

Given the ‘No’ vote in the referendum, the Public Health Association recommends that:

- Policy-makers and enforcement agencies should continue to work towards a health-based approach to cannabis use

- Cannabis policy reform should occur, and this should embed a strong public health and harm reduction approach
- The current law, which provides for police discretion to take a health-based approach rather than prosecuting those that possess cannabis for personal use, be strengthened and measures implemented to reduce bias in the application of this discretion
- Counter-measures to protect against harms arising from drug driving are maintained, incorporating a strong focus on impairment rather than simply a positive detection of low levels of THC related to non-recent use of cannabis

PHA actions to support this policy

The Public Health Association will:

- Continue to advocate for a health-based approach to cannabis and other drug use
- Advocate for evidence-based cannabis policy reform, with a strong focus on the need for robust monitoring and evaluation
- Recognise that its members and branches have diverse views on cannabis policy, and that members views and expertise will be sought in regards to any proposed policy reform
- Communicate the evidence on cannabis use, harms, and policy impacts in a way that is non-stigmatising and balanced
- Advocate for, and contribute to, evaluation of the health, social and economic impacts of current and future cannabis policies, and advocate for amendments to policy settings should monitoring and evaluation suggest that these are needed

Evidence base

To inform the referendum and provide a summary of the current evidence, the Office of the Prime Minister’s Chief Science Advisor convened an expert panel in 2019, consisting of a diverse group of researchers and clinicians. Collectively, this independent panel produced a report on the impact of legalising recreational cannabis use, which was publicly released in July 2020 titled “Legalising cannabis in Aotearoa New Zealand: What does the evidence say”? Though this report was written to inform voters prior to the referendum, it provides a current, timely, balanced and independent summary of issues related to cannabis in New Zealand and is available at <https://www.pmcsa.ac.nz/topics/cannabis/>.

ⁱ Data release of drug-related offences under Official Information Act, sources: <https://www.newstalkzb.co.nz/on-air/mike-hosking-breakfast/audio/chris-cahill-the-impact-of-law-to-decriminalise-drugs-revealed/> and <https://www.nzherald.co.nz/nz/revealed-the-impact-of-last-years-watershed-law-change-to-decriminalise-drug-use/Z7KXOV62W4PRVIC5UN2FTXXN6E/>

ⁱⁱ A summary of the proposed Bill can be found at <https://www.referendums.govt.nz/cannabis/summary.html>

ⁱⁱⁱ Media story following statement from Justice Minister Andrew Little on 31 October 2020, source: <https://www.nzherald.co.nz/nz/referendum-results-prime-minister-jacinda-ardern-explains-why-she-voted-for-cannabis-reform/ZVOO2PEHGQKGAC645FEXBQKXIA/>

^{iv} Ministry of Health, “Cannabis Use 2012/13: New Zealand Health Survey”, 2015

^v Erickson, P. G. (1980). Cannabis criminals: the social effects of punishment on drug users (p. 179). Toronto: Addiction Research Foundation.

^{vi} Lenton, S., Bennett, M., & Heale, P. (1999). The social impact of a minor cannabis offence under strict prohibition-the case of Western Australia.

^{vii} Eastwood, N., Fox, E., & Rosmarin, A. (2016). A Quiet Revolution: Drug decriminalisation Across the Globe (pp. 1-51). Release drugs the law and human rights.

^{viii} Te Uepū Hāpai i te Ora – the Safe and Effective Justice Advisory Group, “He Waka Roimata: Transforming Our Criminal Justice System”, 2019

^{ix} Melchior, M., Nakamura, A., Bolze, C., Hausfater, F., El Khoury, F., Mary-Krause, M., & Da Silva, M. A. (2019). Does liberalisation of cannabis policy influence levels of use in adolescents and young adults? A systematic review and meta-analysis. *BMJ open*, 9(7), e025880.

^x Rotermann, M. (2020). What has changed since cannabis was legalized?. *Health Rep*, 31, 11-20.

^{xi} Fischer, B., Daldegan-Bueno, D., & Boden, J. M. (2020). Facing the option for the legalisation of cannabis use and supply in New Zealand: an overview of relevant evidence, options and considerations. *Drug and alcohol review*.

^{xii} Lane, T. J., & Hall, W. (2019). Traffic fatalities within US states that have legalized recreational cannabis sales and their neighbours. *Addiction*, 114(5), 847-856.

^{xiii} Ministry of Transport, Discussion Document: Enhanced Drug Impaired Driver Testing, 2019

^{xiv} Hall, W. (2015). What has research over the past two decades revealed about the adverse health effects of recreational cannabis use?. *Addiction*, 110(1), 19-35.

^{xv} Di Forti, M., Morgan, C., Dazzan, P., Pariante, C., Mondelli, V., Marques, T. R., ... & Butt, A. (2009). High-potency cannabis and the risk of psychosis. *The British Journal of Psychiatry*, 195(6), 488-491.

^{xvi} Tobacco Control Data Repository. 2020, available from: <https://tcdata.org.nz/TobaccoSectorOverview.html>

^{xvii} Walker, K., Issues of tobacco, alcohol and other substance abuse for Maori. 2019, Ministry of Justice: Wellington.

^{xviii} NZ Drug Foundation, State of the Nation 2019. 2019, NZ Drug Foundation: Wellington.

^{xix} Fergusson, D. M., Swain-Campbell, N. R., & Horwood, L. J. (2003). Arrests and convictions for cannabis related offences in a New Zealand birth cohort. *Drug and Alcohol Dependence*, 70(1), 53-63.

^{xx} Theodore, R., Ratima, M., Potiki, T., Boden, J., & Poulton, R. (2020). Cannabis, the cannabis referendum and Māori youth: a review from a lifecourse perspective. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 1-17.

^{xxi} Walker, K., Issues of tobacco, alcohol and other substance abuse for Maori. 2019, Ministry of Justice: Wellington.