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By email

11th September 2023

Dear Chair,

Cannabis Growing in Jersey

Thank you for your letter of 29th June, in which you provide a number of questions with regards to cannabis growing in Jersey. Regrettably there has been a delay in formally responding to your questions. This has been caused by overlapping periods of leave during the Summer recess and the necessity of ensuring that the relevant Ministers have been sighted on the response.

I have set out below answers to each of your questions in turn:

- 1. What lessons have been learnt from government's reported 'active support of the cannabis cultivation industry' and the cessation of Jersey Hemp's growing operations owing to the prohibition of import of cannabidiol (CBD) products to the United Kingdom (UK)?*

Given the threat of legal action in regards to this specific case it would be inappropriate to add to my previous statement, issued alongside the Minister for Health and Social Services:

The Government of Jersey remains actively committed to supporting the cannabis cultivation industry and officers within the Department for the Economy, HCS and IE continue to work with the industry to help business navigate the local regulatory and business environment.

We are aware that Jersey Hemp is in contact with HM Government with respect to exports to the UK.

As a separate jurisdiction, we cannot comment on those talks and would also not speculate on their outcome.

Licenses to export cannabis out of Jersey are required under the Misuse of Drugs (Jersey) Law 1978. These are issued on a shipment-by-shipment basis and would only be issued once the competent authority of the importing country has issued an import licence.

All businesses that are licenced to cultivate cannabis in Jersey are responsible for making sure they comply with the relevant legislation in the jurisdiction into which they export products.

- 2. Bearing in mind the declassification of CBD from the United Nations Single Convention on Narcotic Drugs and the stricter controls, will you, or the wider Council of Ministers, be undertaking to ensure that hemp products (including flowers) can be exported to jurisdictions other than the UK, including by:*
 - i. (i) cultivating a direct relationship with the International Narcotics Control Board ('ICNB');*
 - or*

ii. *(ii) through seeking a letter of entrustment from the UK*

to enable direct Jersey government reporting to the ICNB and export to other jurisdictions such as France?

The International Narcotics Control Board (INCB) is an international body established under the 1961 Single Convention on Narcotic Drugs.

The UK is the state Party to the 1961 Single Convention, which means that the provisions of the Convention apply to Jersey through an extension by the United Kingdom.

The principle that only state parties may sign up to United Nations (UN) conventions is outlined in the Vienna Convention on the Law of Treaties (VCLT). The VCLT is an international treaty that governs the rules and procedures related to the formation, interpretation, and termination of treaties.

According to Article 2(1)(a) of the VCLT, a treaty is defined as "an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." This definition implies that treaties are agreements between states.

In practice, when the UN adopts a convention, it is open for signature by states. By signing the convention, a state expresses its consent to be bound by the obligations contained within it. Once a state has signed and ratified the convention, it becomes a state party to that convention and is legally bound by its provisions.

While non-state actors, such as international organizations or non-governmental organizations (NGOs), may participate in the negotiation and implementation of conventions, the formal act of signing and becoming a party to a convention is reserved for states. This principle helps maintain the sovereignty and equality of states as the primary subjects of international law.

While in principle the Government of Jersey could seek to develop a relationship with the INCB on an informal basis – which would not require a letter of entrustment – any such relationship would not change the obligations affecting the UK and, by extension, Jersey.

3. *What implications does the decision of HM Government have upon your aspirations to support the development of the medicinal cannabis industry into a highly regulated, robust and innovative, export focused element of our rural economy?*

It should be noted that there has not been a change in policy by the UK Government and the individual case you refer to relates to the enforcement of the existing UK legislation in respect of CBD products and the requirement for import and export licences for this compound.

The Government of Jersey remains committed to developing a well-regulated, robust and innovative medicinal cannabis sector.

4. *How do you and senior officers in charge of cannabis industry development propose to reconcile the framing of cannabis as an agricultural or "rural activity", with evidence from existing markets potentially indicating large-scale production of cannabis locally is unlikely to succeed in achieving a competitive position in the agricultural industry?*

Cannabis is not regulated as a rural activity but rather controlled under the Misuse of Drugs (Jersey) Law 1978 as a controlled substance and under the Medicines (Jersey) Law 1995 as a medicine (on production of a cannabis based product for medicinal use).

5. *If medicinal cannabis is to be treated as an agricultural product, to what extent will the Rural Economy Incentive Scheme apply to it?*

Medicinal cannabis producers are eligible under the Rural Support Scheme (RSS), in so far as business growing these crops can benefit from award credits for crop production area in a protected environment. However, it should be noted that payment rates (equivalent to £131 per vergee in 2023) would have limited impact when considering the capital and expenditure costs of these businesses or the income potential from these products.

To date, there have been no applications for RSS payments in relation to medicinal cannabis and none are expected to be received before the application deadline of 30th September.

6. *Has the Minister considered a cluster-based economic development strategy that is data driven and not speculative, leveraging the island's world-class financial services cluster to develop a distinct competitive position in the cannabis industry that is sustainable in the medium- to long-term?*

Leveraging our success in financial services, the Island has proven itself to be well placed to attract medicinal cannabis producers to locate themselves in Jersey, bringing with them significant inward investment.

7. *As discussed in our Quarterly Hearing of the 1st June 2023, is it accurate to say there is no dedicated team in place for the development of the medicinal cannabis industry, and, instead, there is an informal grouping of officers with the Group Director of the Economy reporting to the Medicinal Cannabis Ministerial Group (MCMG)?*
i. If so, how do you justify this arrangement, and how does it ensure good governance and transparency in the decision-making process?

There are a number of officers working to support the development of the medicinal cannabis industry. It is important to note a distinction between the regulatory functions exercised by officers within HCS and I&E and the economic development function performed by officers within the Department for the Economy.

The Department for the Economy is currently exploring the resourcing for additional officers to support the sector. It is further recognised that as the industry matures and grows, additional dedicated resources may be required to support the regulation and development of the sector.

The Group Director for Economy has also established a Medicinal Cannabis Officer Group to coordinate Government activity in relation to the medicinal cannabis sector.

8. *Is there a documented mechanism in place to handle potential conflicts of interest for all individuals involved in the development of regulations and the granting of licenses in the medicinal cannabis industry?*
i. Specifically, are there procedures in place to gather declarations of interest and ensure that these individuals do not have any financial or other interests that could compromise their impartiality. An example of relevant regulations in other jurisdictions is that of Article 126(b) of Directive 2001/83/EC (i.e., "EU GMP") and the World Health Organisation's (WHO) Global Benchmarking Tool (GBT) indicator RS06.04?

The Government maintains well established policies for managing potential conflicts of interest and these are set out within the [People Services Policy Toolkit](#).

9. *With regard to the appointment of consultants for the strategic development plan of the medicinal cannabis export industry and the considerations of value for money, can the Minister kindly provide the following information:*

i. *Have consultants been appointed to develop a long-term policy for driving the development of Jersey's medicinal cannabis industry regulations? If so, could you please specify the process and criteria used for their selection and appointment?*

The development of the regulatory framework that governs Jersey's medicinal cannabis industry is led by the Minister for Health and Social Services, and myself, as appropriate.

The work of the consultants will inform the policy process by identifying opportunities and risks to the sector but the consultants are not responsible for developing policy which remains the role of Government.

ii. *What are the specific terms of reference for the appointed consultants? In particular, can you provide information on their roles, responsibilities, and deliverables in developing the detailed and specific regulations for the medicinal cannabis industry?*

The contract agreed with the consultancy firm for this piece of work contains a confidentiality clause regarding sharing with a third party. My officers have asked the consultants whether they would waive this to allow for the contract to be shared with the Panel as it may be commercially sensitive.

iii. *How is the government ensuring value for money in this endeavour, considering the context of a successful internationally compliant export industry and tangible economic benefits? Are there specific methodologies or benchmarks in place to evaluate the cost-effectiveness and efficiency of the consultants' services?*

The contract regarding these services was reviewed by Commercial Services and signed in line with the financial scheme of delegations. Regular progress updates have been held with the consultancy firm during their work to ensure that the agreed deliverables are within scope and delivered on time and within budget.

iv. *Will the government facilitate an opportunity for key stakeholders to provide comments and feedback on the initial strategic development works? Will the government also commit to on-going and regular consultation with stakeholders (e.g., industry, healthcare providers, patients) to ensure transparency, inclusivity, and informed decision-making in shaping the regulations?*

The consultancy firm have met with existing members of the industry, stakeholders and Government officers within both HCS and Economy.

It is anticipated that any changes to regulations would include the standard process for public consultation and thorough industry engagement.

10. *Regarding the proposed expansion of the Jersey Cannabis Agency, can the Minister clarify how this expansion will address confusion surrounding the separate requirement for a National Regulatory Authority (NRA) to enforce standard WHO controls for medicines in the cannabis industry? Will the Jersey Cannabis Agency be limited to fulfilling the requirements of a national cannabis agency as required by the single convention on narcotics? How will regulatory compliance and oversight be effectively ensured for medicinal products?*

Any expansion to the Jersey Cannabis Agency will be subject to the views and policy priorities of the Minister for Health and Social Services. This question should therefore be referred to them. Regarding the perceived confusion surrounding the 'National Regulatory Authority', please see the answer to question 11.

11. *Can the Minister agree on terminology for the various regulatory bodies, with a 'Jersey Cannabis Agency' (JCA) being the required regulatory enforcement body for controlled narcotics and a 'National Regulatory Authority' (NRA) being the required regulatory enforcement body for medicinal products? Are there any additional bodies/functions, i.e., economic/social based initiatives and government bodies/ALOs, clearly distinguished as separate but relevant entities?*

The UN Single Convention on Narcotic Drugs 1961 mandates that signatories establish National Cannabis Agencies to regulate cannabis cultivation. The UK Home Office has designated its Drugs and Firearms Licensing Unit (DFLU) to serve as the National Cannabis Agency for the UK.

The Jersey Cannabis Agency is established under an MoU with the UK Home Office which allows the Island to issue licenses to cultivate, possess and supply cannabis-based product for medicinal use as a regulatory authority (a sub-agency) in its own right. As the State party to the Convention, the UK must ensure that the cultivation of cannabis in Jersey is compliant with the Convention.

12. *Can you confirm the government plans to seek advice from the WHO's Regulatory System Strengthening (RSS) team and follow the WHO's capacity building package to ensure compliance with international standards?*

This question should be referred to the Minister for Health and Social Services as it relates directly to the discharging of her regulatory responsibilities.

13. *In keeping with WHO guidance on developing regulatory frameworks and the five-step capacity building package, will the government undertake a gap analysis of our existing legislation and regulatory framework against the international standard Global Benchmarking Tool?*

As above, this question relates to the regulatory responsibilities of the Minister for Health and Social Services.

14. *With respect to the risk assessment to which paragraph 5.4 of your Ministerial Delivery Plan refers:-*
- i. *Can you provide an update on the progress of this risk assessment and the steps being taken to ensure compliance with international drug control treaties? Has the risk assessment considered the recent International Narcotics Control Board (INCB) press*

release dated 9th March expressing concern over “poorly regulated” medicinal cannabis programmes?

The risk assessment is anticipated to have been completed during September. It should be noted however that the scope of this risk assessment focuses on the development of the industry within Jersey, compliance with international obligations remains the responsibility of the regulator and is managed as part of the existing regulatory regime.

- ii. *Will the revisions to Jersey’s proceeds of crime legislation be considered and addressed, noting potential inconsistency with Article 3 of the 1988 United Nation convention against illicit traffic in narcotic drugs and psychotropic substances convention on trafficking?*

The Proceeds of Crime Law 1999 falls within the responsibility of the Chief Minister. Any amendments to legislation are drafted and made with consideration to obligations arising from international agreements which have been extended to Jersey. It is unclear where the Panel believes there may be a potential inconsistency with the Convention.

- iii. *Does the risk assessment assess the risks of medicinal cannabis being treated as an agricultural product rather than a controlled narcotic in terms of risk to the Island’s international reputation?*

Further to my answer to question 4, the cultivation of medicinal cannabis is not regulated as a rural activity but rather controlled under the Misuse of Drugs (Jersey) Law 1978 and Medicines (Jersey) Law 1995 as a controlled substance.

I hope the above provides clarity to the areas you have raised.

Yours sincerely,



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