

Spliff Rules

**Revised Guidance on
Cannabis Law and Policing**

January 2007

Introduction:

In January 2004, cannabis was moved from Class B to Class C within the Misuse of Drugs Act 1971.

This meant that the penalties for possessing cannabis trained.

At the same time, the Association of Chief Police Officers (ACPO) issued guidance to Police Forces in England and Wales as to how the law on cannabis should be enforced.

In January 2007, ACPO issued new guidance, changing the guidance on policing.

Some of these changes make the legal situation better for people who use cannabis; others make it worse.

This document is written for people who use cannabis, or other people interested in cannabis, so they can understand how the law and policing on cannabis works.

Is cannabis legal?

No! Cannabis remains a controlled drug. The production, possession and supply remain an offence, and could bring a criminal record and a custodial sentence.

What did the move from Class B to C mean?

The main change was that the penalty for possession went down from five years to two years.

However, the penalties for supply remain at a maximum of fourteen years, and other legislation was changed so that police still have the power of arrest.

How is cannabis meant to be policed?

The ACPO guidance to police says that in most situations, people should not be arrested for possession of cannabis. Instead police should generally confiscate the cannabis and give the person a "Cannabis Warning."

Is a "cannabis warning" the same as a caution?

No. A "cannabis warning" is less formal. It doesn't count as a criminal record, but it will be recorded on a force-wide basis so it may come up during checks.

What happens when you get a "cannabis warning."

The guidance says that the police should:

- See if other more serious offences such as supply may be committed
- Seize the cannabis
- Issue a "cannabis warning"
- Explain that this will be recorded and documented but that it does not constitute a criminal record.

How many “cannabis warnings” can I get?

One of the big changes in the new ACPO guidance is that it says that individuals should only get two cannabis warnings, and that after this they should be treated more formally. This might mean being arrested, or getting a summons later on.

The police will be expected to record each “cannabis warning,” and so, during a radio check, details of previous warnings may well come up.

Can people under 18 get a “cannabis warning.”

No, under 18s cannot get cannabis warnings. So they will continue to be handled under the Crime and Disorder Act. They could end up with a Reprimand, a Final Warning, or being charged and prosecuted for these offences.

Will people get arrested for possessing cannabis?

It depends. The law gives the police the POWER of arrest but they are not OBLIGED to do so. The ACPO guidance says that officers should assess the “necessity of arrest.” Generally, the guidance says that arrest will not be required, but outlines situations where officers may need to arrest. These include

An arrest may be necessary where

- The name and/or address of the suspect are not known or there are reasonable grounds for doubting whether a name given is a real name.
- *E.g it is necessary to prevent the offender suffering physical injury or causing injury to someone else, or a person is smoking cannabis in the company or vicinity of other people and arrest is necessary to reduce the harm or risks faced by any individual if intervention is not taken, or a locality has been identified through the National Intelligence Model as one where there is fear of public disorder associated with the use of cannabis which cannot be effectively dealt with by other means, such as where an open drugs (cannabis) market causes harm to communities.*
- It is necessary to protect a child or vulnerable person from the offender *e.g. use is taking place near young people*
- It is necessary to allow the prompt and effective investigation of the offence. *e.g. there is a more serious offence like supply, or the person has had more than two previous cannabis warnings*

Will under 18s be arrested?

The other big change to the ACPO guidance is that people under 18 will not automatically be arrested for cannabis possession. The guidance now says that the police should consider taking them home, verifying identity and address and then proceed with them under the Crime and Disorder Act. This means that further formal action will be taken.

How much can I have on me before it is classed as supply?

There is no fixed amount. The Government was going to create “threshold

quantities” above which you would be assumed to be intending to supply. But they abandoned this approach.

What is classed as “supply”?

Depending what you say or do, even the smallest amount of cannabis could be considered supply. The definition of supply is not based just on quantity, but also on intention and action. So passing a spliff can count as supply, and even supplying a small quantity can count as supply. The maximum penalty for supply of cannabis is fourteen years.

Will all police forces work in the same way?

Not necessarily.

It is important to stress that this is guidance only. Different regional forces may develop their own approaches, and individual officers may interpret the guidance differently.

Can I still be stopped and searched for if police suspect that I have cannabis on me?

Yes, you can.

How should a person react if stopped and is found to be possession of cannabis:

- try to remain calm and polite
- remember, you do not have a legal right to possess cannabis; depending on how you act you may walk away without any cannabis but without a criminal record.
- Don't try and argue that the police can't arrest you – they can
- Don't say that the drug is not yours and it belongs to someone else – this could be considered intent to supply
- If you are happy to do so, acknowledge that the drug is cannabis, it is yours for personal consumption and agree to surrender it;
- You will be asked for your name and address; if you refuse to provide this (or the police think it may be a false address) or attempt to leave, the police may choose to arrest.

I've read in the media that, when cannabis is reclassified, this will put in the same legal class as Steroids and antidepressants. Is this true?

No, it is not. It is a mistake being made by the media. Anabolic steroids are class C drugs, but they occupy a different schedule to Cannabis. Cannabis is a schedule 1 drug, which means that possession and supply is unlawful and it has no medical uses. Anabolic steroids are schedule 4(ii) drugs. This means that supply without authority is unlawful but possession of steroids is not unlawful. You cannot be prosecuted for possession of steroids; you can be prosecuted for possession of cannabis.

The comparison with anti-depressants (e.g. Prozac) is also inaccurate.

Antidepressants

are typically covered by the Medicines Act, not the Misuse of Drugs Act, and so there is no offence of possessing them without prescription. The media and others are confusing anti-depressants with tranquillisers like Valium and other benzodiazepines. With these drugs, possession without a licence is illegal and carries a maximum sentence of two years for possession.

How about people who use cannabis for medical reasons?

They are not exempted from the legislation. At some point, some cannabis-derived medicines will enter the market and these will occupy a different schedule to cannabis and cannabis resin. Possession of these on prescription will be legal. Possession of other forms of cannabis will not be.

What about Cannabis Cafes?

The Government has made its opposition to cannabis cafes very clear and expects the police to shut down such operations. In such situations they would be able to prosecute people for possession and café managers for allowing use or supply to take place on the premises.

What's that bit about premises?

As the law stands, it is an offence to allow the use of cannabis on premises that you occupy or manage. This means that if you allow use to take place in your home, workplace, or a leisure venue, you could be prosecuted. Worse still, unless premises legislation is revised, allowing premises to be used for smoking cannabis will remain an arrestable offence and will carry a larger sentence than actually possessing cannabis itself. Organisations and individuals will still be obliged to prevent cannabis use and supply in premises that they occupy and manage.

In the media, the reclassification of Cannabis has been compared to the way traffic offences are handled.

Is this a fair comparison?

No, not at all. The only similarity is the way that they are processed. Typically, you would give your name and address and later get sent a summons to magistrates court in the post. The big difference is that for possession of cannabis you could get a criminal conviction, a fine, community sentence or a custodial sentence. This would mean that you would have a criminal record that could affect housing, employment and travel.

I'm experiencing short-term memory loss; what were the main points again?

- Cannabis has moved from class B to Class C. It remains an illegal controlled drug.
- The penalty for possession has gone down to a maximum of two years
- The penalty for supply has stayed the same, at a maximum of 14 years
- Police have been advised that generally, people found in possession not be arrested, but the drug should be confiscated and the person given a warning

- The police always have the power to arrest
- Under 18s may not be arrested, but they will not get a Cannabis Warning and will be handled under the Crime and Disorder legislation.
- Allowing premises to be used for supply or smoking of cannabis remains a serious offence.
- The only source of cannabis will remain in the hands of illegal suppliers and this means that the hoped for separation of cannabis and other controlled drugs will not happen.

Where can I find out more:

For the ACPO guidance, go to:

<http://www.acpo.police.uk/asp/policies/Data/ACPO%20Cannabis%20Guidelines.doc>

For updates and information about cannabis from cannabis activists go here:

<http://www.ukcia.org/>

<http://www.cannaprag.net/>

For Government-funded information on cannabis go here:

www.talktofrank.com

For Information on cannabis and dependency go here:

<http://www.knowcannabis.org.uk/>



www.ixion.demon.co.uk

kfx@ixion.demon.co.uk

Written by: Kevin Flemen

KFx, January 2007