

Managing Cannabis Use in the Workplace – Helen Vandikar.

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Management of cannabis use in the workplace can be clarified by dividing the topic into four key categories:

1. Supplements - Cannabidiol (CBD), along with products such as vitamin D, evening primrose oil, and glucosamine (often used by athletes), is classified as a supplement. These are self-selected products and are not prescribed medications.
2. Cannabis-Based Medicinal Products (CBMPs) - Prescribed in line with NICE guidelines and listed in the British National Formula (BNF), providing clinicians with prescribing and safety information. The BNF sanctions prescribing for 3 conditions:
 - o Nausea and vomiting associated with chemotherapy
 - o Spasticity associated with multiple sclerosis
 - o Severe (treatment-resistant) epilepsy
3. Privately Prescribed Cannabis Products - for medical conditions not covered by BNF sanctions (e.g. chronic pain, ADHD, or other non-devastating medical conditions). Clinics offering these prescriptions are often led by specialists registered in psychiatry or anaesthesiology (and rarely in pain medicine, ADHD etc.). This sector has developed largely due to the restricted scope of NHS prescribing criteria linked to BNF. And cynically the clinics can make a lot of money!
4. Illicit (Street) Cannabis - Cannabis obtained illegally, with no medical oversight or quality control.

Cannabidiol (CBD)

Cannabidiol (CBD) has been declared safe by the World Health Organization. It is classified as a food supplement rather than a medicine and is regulated accordingly:

- In England and Wales, CBD products are regulated by the Food Standards Agency (FSA). Northern Ireland follows the same framework, while Food Standards Scotland regulates products in Scotland.
- The FSA classifies CBD as a “novel food.” Only products from approved brands on the public list may be sold over the counter in England and Wales. <https://data.food.gov.uk/cbd-products>
- CBD use is not advised during pregnancy or for those taking blood thinning medications.
- The FSA has reduced the recommended daily intake from 70mg to 10mg due to concerns about effects on the liver and thyroid.

CBD is available in several forms, including tinctures (oil drops), vaping products, capsules, edibles (e.g. pastilles, chocolates, sweets, lozenges), topical balms, suppositories.

Some products labelled as “100% CBD” may still contain the psychoactive cannabinoid: Tetrahydrocannabinol (THC) responsible for the “high” associated with cannabis use. This is particularly true of products from unregulated or unreliable sources. Such contamination can lead to positive workplace drug test results and legal consequences (e.g. driving offences).

Workplace Considerations

Unlike prescribed medications, CBD is typically self-administered without clinical oversight. While many medicines carry explicit warnings about driving or operating machinery, CBD products often place responsibility on the individual to judge any potential impairment.

This creates a workplace safety challenge, as self-assessment is not a reliable indicator of impairment. Individuals may believe they are functioning normally despite observable changes in behaviour, judgement, or decision-making. There is also a recognised weakness in self-reporting, as people may fail to recognise impairment or may be reluctant to raise concerns.

As a result, reliance on personal judgement alone may be insufficient to protect workplace safety, particularly in roles involving safety-critical tasks.

Cannabis by Prescription

In many cases, individuals accessing private cannabis prescriptions may have bypassed their GP or not fully explored conventional treatment options. While cannabis may help manage symptoms (of pain, ADHD, or psychological conditions), it does not treat the underlying cause. Instead, it may alter perception or reduce the individual's response to symptoms.

Methods of administration; cannabis-based medicinal products may be administered in several ways:

1. Cannabis oils

Measured using a syringe, allowing precise dosing. This is more complex than standard tablet dosing and requires careful measurement.

2. Cannabis flower

Dried cannabis flower is heated using a medical-grade vaporiser, releasing active compounds as a vapour for inhalation. There are several approved devices, and preparation methods vary depending on the equipment used.

3. Cannabis pastilles (edibles)

Jelly-like medicinal products, often flavoured and coloured, taken orally by sucking or chewing before swallowing. They may resemble confectionery such as fruit pastilles or gums.

Prescription Controls and Authenticity

Standard NHS prescriptions (FP10 forms) are controlled documents with unique reference numbers. Cannabis prescriptions include a combination of THC- and CBD-containing products:

- THC content (psychoactive component affecting cognition and behaviour)
- CBD content (non-psychoactive component)

There is a risk of fraudulent prescriptions, as documents could be altered. Employers should ensure:

- Prescription reference numbers are unique
- Documentation is checked for authenticity

Workplace Testing and Verification Challenges

A key issue for employers is that drug testing cannot distinguish between street and legally prescribed cannabis. There are no reliable markers to differentiate between sources, and this creates several risks:

- An employee may present a valid prescription and be using street cannabis in addition to, or instead of, prescribed controlled products
- Employers cannot verify whether the prescribed product has actually been dispensed or used

Employment and Fitness for Work

Privately prescribed cannabis is legal and should be treated in line with other prescribed medications. In drug testing programmes, this may result in a "negative with explanation" (or verified negative) outcome if policy requirements are met. However, legality does not automatically equate to fitness for work. An employee may comply with policy yet still be unsuitable to perform certain duties safely.

Employers must consider:

- The nature of the role (particularly safety-critical tasks)
- Contractual requirements
- The potential for impairment
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Medication Use in the Workplace

Where cannabis is legally prescribed, employees may need to take it during working hours. As with other medications, employers cannot unreasonably prevent this. Practical considerations include the method and frequency of administration, is there a risk to other employees of secondary exposure?

Notably smoking cannabis remains illegal, but vaping is permitted for prescribed products. Employers should determine:

1. Whether workplace use is appropriate at all
2. Whether designated areas are required separate to existing smoking areas
3. How to manage exposure risks to colleagues

Policy Considerations

Additions to existing drug and alcohol policies should explicitly address cannabis-related issues. Employers are increasingly including specific sections covering CBD products (including THC contamination risks), privately prescribed cannabis, and cannabis-based medicines recognised in formal guidance (for BNF-sanctioned conditions)

Clear definitions are essential to avoid misunderstanding. Some organisations may group categories (e.g. “medicinal cannabis”), but clarity is critical. Employees should also understand that:

- Even products labelled as CBD may contain trace THC
- This may lead to positive drug test results
- Responsibility lies with the individual as the donor

Education and Awareness

Education for employers, employees and managers around this evolving topic is crucial. All parties must understand the differences between cannabis products, risks of impairment and policy/disclosure expectations. Informed decision-making is essential to ensure safe and consistent application of workplace policies.

Example Workplace Policy Approach (a UK police force)

This example policy demonstrates a clear, structured approach to managing cannabis in the workplace by dividing it into three categories. (Use of illicit cannabis would typically result in dismissal and may lead to criminal prosecution.)

1. CBD Products

Employees are permitted to use CBD products. However, the policy makes clear that:

- If an employee tests positive for cannabis, CBD use will not be accepted as a defense
- The individual may be managed under the Drug and Alcohol (D&A) policy, which could result in dismissal

This reflects known risks in the market. Products labelled as “100% CBD” may still contain detectable THC, particularly those from unregulated or unreliable sources. Such contamination can lead to positive workplace drug test results and legal consequences (e.g. driving offences)

2. Cannabis-Based Medicinal Products (CBMPs)

If cannabis-based products are not prescribed by a qualified medical practitioner, any positive test will be managed under the D&A policy, with potential dismissal.

This aligns with formal guidance, as recognised cannabis-based medicinal products are those listed in sources such as the British National Formulary (BNF).

3. Privately Prescribed Cannabis (Medical Cannabis)

Cases involving privately prescribed cannabis are reviewed on an individual basis. The employer will typically:

- Verify the prescription with the individual's GP or specialist
- Confirm the condition being treated
- Assess the impact on fitness for work

Decisions are made case-by-case, balancing legal use with safety and role requirements.

This approach highlights the importance of clear categorisation and explicit policy wording. By distinguishing between CBD, prescribed medicinal cannabis, and illicit use, employers can reduce ambiguity and ensure consistent decision-making.

Relevant Legal Case and Policy Developments

Trueman vs Three Responders (Case Reference: 1805815/2022)

This ongoing legal case, discussed publicly by representatives at Express Medicals Ltd., raises important questions about the treatment of privately prescribed cannabis in comparison to other prescribed medications.

The claimant argues that, due to concerns about addiction, he does not wish to take opiate-based medication and instead seeks to use privately prescribed cannabis. He questions why cannabis is treated differently from other prescribed drugs i.e. opiates, which he may otherwise be entitled to based on his medical condition.

At present, there is no final outcome, but the case is being closely monitored due to its potential implications for employers, employees, and workplace policies. There is a growing interest in sharing similar cases to better understand:

- Emerging legal arguments
- Patterns in employer responses
- Areas where further guidance or education is needed

Improved clarity in these areas could help reduce ambiguity and associated workplace risks.

Impact on Workplace Policy: Network Rail Example

Network Rail has updated its Drug and Alcohol (D&A) policy to clarify its position on the use of cannabis and other medications. The policy defines a "legitimate medical reason" as a licensed therapeutic treatment recognised within the BNF.

As a result, cannabis-based medicinal use is only accepted where it aligns with BNF-sanctioned conditions, meaning privately prescribed cannabis for other conditions does not meet the policy.

These changes were introduced to:

1. Clarify expectations for employees using prescribed or over-the-counter medications, including cannabis-based products
2. Ensure a consistent and transparent framework for decision-making

Overall, this approach reflects a proactive effort to address the legal and practical challenges associated with cannabis in the workplace, supported by legal guidance.

Q&A

Question An employee's defence may be that they have not used cannabis for several days. There is often uncertainty about how long cannabis metabolites remain in the body compared to substances such as cocaine. Is it true that cannabis remains detectable for longer?

Response: When cannabis is used, its active compounds are absorbed and stored in the body's adipose (fat) tissue. These compounds are then released slowly back into the bloodstream and metabolised over time. Although the parent compound remains in the blood for a relatively short period, the process of gradual release from fat tissue means that metabolites can be detected for much longer, particularly in frequent or heavy users. As a result:

1. A urine test may remain positive for several days/weeks after last use
2. Detection times vary depending on frequency of use, body composition, and metabolism

For this reason, some employers are moving towards oral fluid testing, which has a much shorter detection window and is more likely to reflect recent use.

The "I used it days ago" defence is typically based on the assumption that any intoxication or impairment would have passed. However, most workplace drug and alcohol policies do not rely on subjective measures such as impairment. Instead, they are usually based on the presence of drugs or their metabolites in the body exceeding a defined threshold. In this context, being "unfit for work" is often linked to test results, rather than an assessment of observable impairment.

Testing specifically for impairment or intoxication would require blood analysis, which is more invasive and less practical in routine workplace settings. As a result, it is unlikely to be widely adopted.

Organisations such as the European Workplace Drug Testing Society (EWDTS) provide guidance on appropriate testing methods, reinforcing the need for clear, consistent policy frameworks.

Question: What about international jurisdictions where non-medicinal (recreational) cannabis use is legal?

Response: The United States provides a useful comparison, as cannabis may be legally available for both recreational and medical use, depending on the state. In workplace testing, many organisations follow a two-threshold approach:

- An initial screening test at 50 ng/mL
- If the result is non-negative, a confirmatory laboratory test at a lower threshold of 15 ng/mL using more sensitive methods

However, with increasing legalisation and broader patterns of use, some employers are raising the initial screening threshold (e.g. to 75 or 100 ng/mL). This reflects an attempt to balance workplace safety with the reality of more widespread, lawful consumption.

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