

THE GREEN LIGHT

How legalising and regulating cannabis will reduce crime, protect children and improve safety

By Daniel Pryor and Liz McCulloch

BRIEFING PAPER

EXECUTIVE SUMMARY

- Britain is falling behind the rest of the world on recreational cannabis legalisation. Canada, ten US states and Uruguay have already legalised the drug for recreational use. Other US states and countries are close to legalisation.
- Legalisation is supported by MPs and Police & Crime Commissioners from across parties, and a majority of the UK public.
- The UK's current approach to cannabis is generating misery, fuelling gang violence and increasing knife crime. It is now easier for children to get cannabis than alcohol, and most often dangerous skunk that dominates the illegal market. One-third of Brits have used the drug at some point in their life. Drug law enforcement depends on where you live and your ethnicity, undermining the rule of law.
- The evidence for legalisation is overwhelming. It would protect children, eliminate the criminal—and often violent—market, encourage safer cannabis consumption, and educate people about the effects of cannabis, leading to more informed choices. By contrast, decriminalisation would fail to tackle many of the harms associated with the prohibition of cannabis.
- The ASI has developed a Six Point Plan for Cannabis Legalisation:
 1. Private enterprise: The free market should be responsible for cannabis production and retail to ensure providers are responsive to consumer-wants and to avoid shortages driving a persistent black market. Recreational cannabis could be sold in dedicated licensed stores, behind the counter by trained staff in pharmacies like Boots and mobile apps to compete with drug dealers.
 2. Advertising and branding: Some forms of advertising and branded packaging should be allowed—as in many US states—in order to signal quality, consistency, and safety, giving legal products another advantage over the black market.
 3. Consumption: Edibles and vaping cannabis products should also be allowed to help people move away from tobacco joints.
 4. Taxation: The taxation of cannabis must be low enough to ensure the final product is as cheap as illicit cannabis, or risk continuation of the black market like in California. High potency cannabis (skunk) should be taxed more than lower potency varieties, encouraging consumers to switch to safer products.

5. Education: Users should be presented with the latest evidence on the health effects of cannabis at point-of-sale - like in Canada. 2
6. Criminal justice: Those currently or previously involved in the illegal cannabis industry should have pathways to transfer in to the regulated, legal market. The Government should also expunge previous cannabis convictions, where appropriate, in order to limit the damage that criminal records cause to the life chances of low-risk offenders.

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SECTION 1: THE CASE FOR LEGALISATION

LIZ McCULLOCH, VOLTEFACE

INTRODUCTION

Legalisation of cannabis is no longer a fringe proposal. A wide array of other Western countries are rapidly moving towards legal, regulated cannabis markets. In October 2018, Canada became the first G7 country to legalise the sale and possession of cannabis and there are now ten US states which have legalised it, including California, the fifth largest economy in the world. New Zealand is due to hold a referendum on recreational cannabis legalisation later this year.

In the UK, cannabis is currently a Class B illegal drug. However, 30% of Brits report using cannabis in their lifetime and 17% have used it in the last year.¹ Even when taking into account that these figures are likely to be higher, due to underreporting and the exclusion of some social groups from the dataset, this is a minority of the population and usage rates have remained roughly stable since the early 2000s.²

This chapter outlines the growing public support for cannabis legalisation in the UK, the flaws of the UK's current approach towards cannabis and makes the case for the introduction of a legal, regulated cannabis market.

The UK's current approach to cannabis is:

- Leading to a 'postcode lottery' in which your chance of coming into contact with the criminal justice system can depend on where you happen to live and your ethnicity, undermining the rule of law;
- Creating a £1-3 billion illicit market that is taken advantage of by criminal gangs and fuels violence on our streets;
- Having negative health consequences, including easy access for children who are at higher risk of harm, leading to usage of higher risk, high potency (shunk) cannabis, potentially increasing the likelihood of psychosis;

Legalising recreational cannabis would:

- Reduce the black market by providing a legal way to purchase the product;

¹ Possession is punishable by up to 5 years in prison, an unlimited fine or both. Supply and production is punishable by up to life in prison, an unlimited fine or both. See: Gov.UK. "Drugs penalties." <https://www.gov.uk/penalties-drug-possession-dealing>; HM Home Office. "Drug Misuse: Findings from the 2017/18 Crime Survey for England and Wales". London: HM Government, July 2018: <https://www.gov.uk/government/statistics/drug-misuse-findings-from-the-2017-to-2018-csew>

² Furlong, Scarlett. "We Don't Know How Big The UK Illicit Cannabis Market Is But We Know It Is Vast", Hanway Associates: HM Home Office. "Drug Misuse: Findings from the 2017/18 Crime Survey for England and Wales". London: HM Government, July 2018 <https://www.hanway.associates/news-opinion/2017/12/11/uk-illicit-cannabis-market>; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729249/drug-misuse-2018-hosb1418.pdf

- Curb the associated violent crime that is associated with the illicit trade, including drug-related knife crime and homicides;
- Free up as much as £100 million in taxpayer funds and 1.04 million police hours annually for resources to focus on organised and violent criminal activity;
- Limit underage cannabis usage with age checking in the legal market;
- Deliver greater protections for consumers through quality and potency controls as well as greater public knowledge, including the potential to use taxation to encourage lower strength consumption;
- Increase government tax revenue by as much as £2.26 billion, helping to address the deficit and fund essential services (including drug recovery services);
- Help grow the UK economy by stimulating a new multi-billion pound industry, creating thousands of jobs in manufacturing and cannabis retail.

The full advantages of a legal cannabis market would not be delivered by decriminalisation, which would take away its criminal status for consumption without delivering the benefits of a legal market, such as curbing the associated drug crime. Furthermore, the evidence suggests that the ‘tough on drugs’ approach would not work, with little connection between ‘toughness’ and levels of consumption.

Legalisation is the best option, but it will not solve every problem. It will likely increase adult cannabis use to an extent, however polling and international evidence indicates increased consumption would be limited. The notion that cannabis is a ‘gateway’ drug or substantially increases road accidents is not substantiated by the evidence.

The UK now has the opportunity to catch-up to the rest of the world by legalising cannabis.

THE CHANGING ATTITUDE TO CANNABIS IN THE UK

Over the last year support for the legalisation of cannabis has skyrocketed. There now is a clear appetite for reform in the UK. This shift in opinion has not been instigated by an increasing number of people using cannabis.

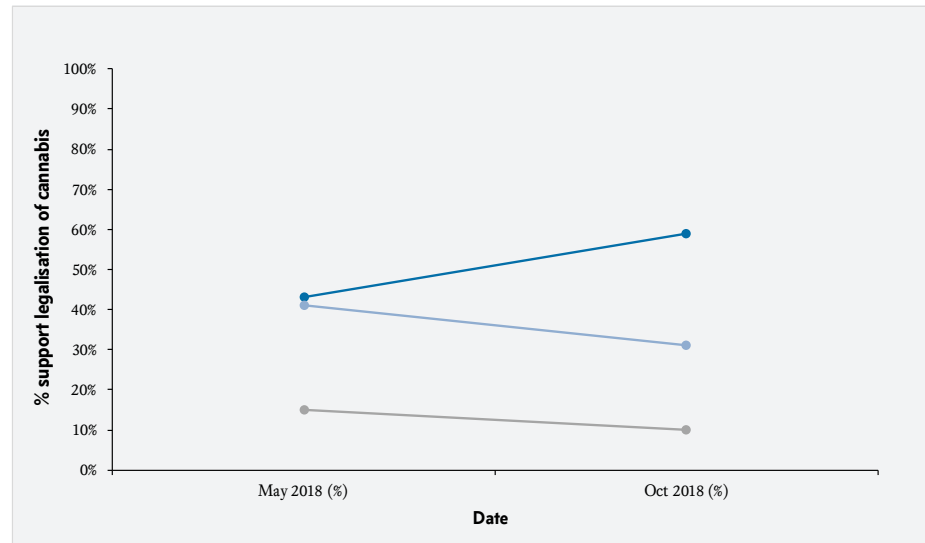
An October 2018 poll by Populus showed that the general public are now almost twice as likely to support the legalisation of cannabis than they are to oppose it.³ This is a significant shift in opinion since May 2018, with those supporting the legalisation of cannabis increasing from 43% to 59%.⁴ Now only one third of the British population (34%) think the sale and possession of cannabis should remain a criminal offence.

³ Populus conducted 2,065 online interviews with a nationally representative sample of UK respondents aged 18+. 59% said they ‘strongly support or tend to support’ the legalisation of cannabis, compared to 31% who ‘strongly oppose or tend to oppose’; Populus. 2018. What are public perceptions around cannabis? Populus, “What are public perceptions around cannabis?”, Populus: <https://www.populus.co.uk/insights/2018/11/what-are-public-perceptions-around-cannabis/>

⁴ Curtis, Chris, “A majority support liberalising policy towards cannabis”, YouGov: <https://yougov.co.uk/topics/politics/articles-reports/2018/05/30/majority-now-support-liberalising-policy-towards-c>

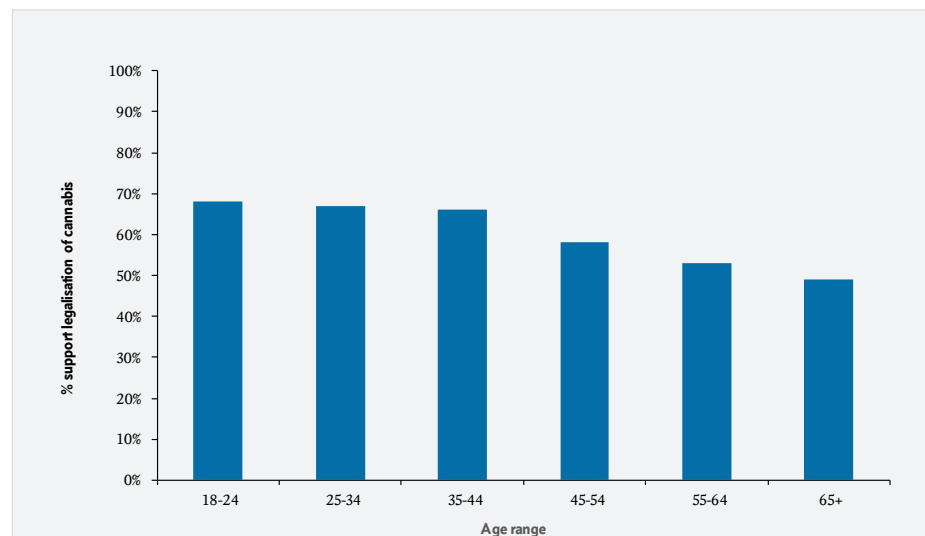
TABLE 1. SUPPORT FOR LEGALISING CANNABIS OVER TIME

	MAY 2018 (%)	OCT 2018 (%)
Strongly/tend to support	43	59
Strongly/tend to oppose	41	31
Don't know	15	10
Total	100	100

FIGURE 1. SUPPORT FOR LEGALISING CANNABIS OVER TIME

SOURCE: VOLTEFACE CANNABIS SURVEY, OCTOBER 2018

The poll showed that there are high levels of support for legalisation across all age groups, with 68% of 18-24 year olds and 49% of 65+ year olds supporting reform, and men and women equally in support, 58% and 60% respectively.

FIGURE 2. BREAKDOWN OF SUPPORT OF LEGALISING CANNABIS BY AGE GROUP

SOURCE: VOLTEFACE CANNABIS SURVEY, OCTOBER 2018

The high profile cases of Billy Caldwell and Alfie Dingley, boys who needed cannabis-based medicines to alleviate their frequent and dangerous seizures, and the subsequent legalisation of cannabis-based medicines, has helped destigmatise cannabis. There is now a recognition that cannabis carries both benefits and potential harms, and can be used for legitimate reasons. Medical cannabis reform has led to the rising availability and visibility of cannabidiol (CBD) products, and legal non-psychoactive chemical components of cannabis, offering the British public a picture of the potential recreational cannabis market.

There is also greater awareness of the threats that drug markets pose to vulnerable groups and their facilitation of violence and exploitation. Over the past two years, county line drug gangs have dominated headlines and it has become less obvious as to why the UK's largest drug market is being left in the hands of criminals.

THE UK'S APPROACH TO CANNABIS

CANNABIS' LEGAL STATUS AND REGIONAL IMPLEMENTATION

Recreational cannabis is unlawful to use and supply in the UK. The Misuse of Drugs Act, introduced in 1971, stipulates that the possession of cannabis can result in a five year prison sentence for users, an unlimited fine or both. Police can also issue a warning or an on-the-spot fine of £90 if a person is found with cannabis. Supply-related offences are treated much more harshly, with offenders facing up to 14 years in prison, an unlimited fine or both.⁵

The legislation stipulates criminal consequences for cannabis possession and supply, however in practice there is a patchwork of implementation, with some police constabularies opting for de facto decriminalisation, where cannabis use is no longer treated as a criminal offence, while others strictly adhering to the 1971 Misuse of Drugs Act.⁶ For example, while Merseyside Police has said that it will continue to actively pursue those involved in the possession and cultivation of cannabis, in Durham, the chief constable has stated that police will not be targeting small-scale growers or users of cannabis, with its Checkpoint diversion scheme providing an alternative to the criminal justice response.⁷ Patchy enforcement of cannabis offences across different police force areas is resulting in an unfair 'postcode lottery' for citizens, as some police forces decide to dedicate their limited resources to higher priority crimes. This provides excessive discretionary power to police forces and is contrary to the core principle of the rule of law: the law applies to all equally, independent of origin or identity.

As well as geographical differences in the enforcement of cannabis offences, evidence indicates that black and minority ethnic communities and people who are

⁵ Gov.UK. "Drugs penalties.", Gov.UK: <https://www.gov.uk/penalties-drug-possession-dealing>

⁶ Gayle, Damien, "Durham police stop targeting pot smokers and small-scale growers", The Guardian: <https://www.theguardian.com/society/2015/jul/22/durham-police-stop-targeting-pot-smokers-and-small-scale-growers>

⁷ Durham Constabulary, "Checkpoint - Critical Pathways", Durham Constabulary: <https://www.durham.police.uk/information-and-advice/pages/checkpoint.aspx>

from deprived areas are over-policed and targeted when it comes to drug offences. Cannabis possession is used disproportionately as grounds to Stop and Search individuals, with research showing that black people are nine times more likely to be stopped and searched for drugs - the majority of which is cannabis - despite using drugs at a lower rate than white people.⁸ Moreover, individuals from BAME communities are far more likely to be convicted of cannabis possession compared to white people.⁹

There is a wealth of evidence to show the damaging impact that a criminal record can have on a person's life chances (especially young people), the challenges of which include: loss of stable accommodation and employment, disruption to families including the loss of parental support, disruption to community drug treatment due to varying levels of quality of care in prisons, increased risk to health while in prison and loss of income.¹⁰ It is unjust that the course of a person's life can be influenced so strongly by their postcode and ethnicity.

Within this patchwork of enforcement, the national picture shows that, among adults, prosecutions and convictions for cannabis-related offences have decreased in the past five years.¹¹ However, this is not the case for young people. Research conducted by Volteface found that there has been an increase in children being prosecuted and convicted for supply-related offences, reflecting the rising exploitation of children in the cannabis supply chain.¹²

A recent Volteface briefing into the policing of cannabis, which drew from interviews with serving police officers, concluded that the current state of policing is deprioritised, inconsistent and purposeful, where cannabis is not policed in and of itself but is used as a 'means to an end'. This can be by providing a reason to get 'hands in pockets' or avenues to higher priority organised crime.

Tackling the illicit cannabis market has stopped being a priority for the police but not for the British public. Polling data conducted for the briefing has shown that 57% of the public think that the supply of cannabis should be a priority for the police. However, with continued cuts to policing and a thriving illicit cannabis market that is hard to disrupt for long, it is difficult to see how the police will meet this expectation.¹³

⁸ LSE, "Drug policing drives racial disparity in the criminal justice system", LSE: <http://www.lse.ac.uk/News/Latest-news-from-LSE/2018/10-October-2018/Drug-policing-drives-racial-disparity>

⁹ Shiner, Michael., Carre, Zoe., Delsol, Rebekah., and Eastwood, Niamh. "The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales". Release: 2018. <https://www.release.org.uk/sites/default/files/pdf/publications/The%20Colour%20of%20Injustice.pdf>

¹⁰ Stacey, Christopher, "A life sentence for young people". Kent: Unlock, 2018. <http://www.unlock.org.uk/wp-content/uploads/youth-criminal-records-report-2018.pdf>

⁸ Runciman, Ruth, "Sentencing drug users", Magistrates Association, 'Winter', 2008. <http://www.ukdpc.org.uk/wp-content/uploads/Article%20-%20Sentencing%20drug%20users.pdf>

¹¹ McCulloch et al, "THE CHILDREN'S INQUIRY", London: Volteface, September 2018. <http://volteface.me/app/uploads/2018/09/The-Childrens-Inquiry-Full-Report.pdf>

¹² Ibid.

¹³ Matharu, H. Means to an End: The Policing of Cannabis. London. Volteface (forthcoming).

Illicit drug markets are strongly associated with exploitation and violent crime. The persistence of such large markets, like the cannabis market, is not an acceptable state of affairs.

The Government's Serious Violence Strategy has acknowledged that "there is strong evidence that illicit drug markets can drive sudden shifts in serious violence".¹⁴ The Youth Violence Commission concluded that "there is a convincing body of evidence – supported by the results of our own survey – that drug markets generate violence and, in particular, create a crime hierarchy where our most vulnerable young people are being groomed to enter the lower levels of drug distribution."¹⁵

Estimates of the exact size of the illicit cannabis market vary. The National Crime Agency reported that "the UK wholesale cannabis market is worth almost £1 billion a year".¹⁶ The Institute of Economic Affairs has estimated that it is worth £2.5 billion per year.¹⁷ These estimates are generated from drug demand behaviour, which is difficult to calculate as users can be reluctant to disclose or accurately report frequency of use. Researchers must also consider the fact that the exclusion of demographics reporting high levels of drug use most likely leads to an underestimation of actual prevalence rates.¹⁸

The weaknesses of this method led to researchers at University College London to attempt to calculate a more accurate estimate using data from legal markets. This study used sales data from rolling papers and roll your own tobacco to attempt to calculate the UK cannabis market, estimating its worth at £3 billion.¹⁹

By leaving control of a £1-3 billion market in the hands of criminal gangs, there is a substantial source of revenue available to finance other criminal activity.

14 HM Home Office, "Serious Violence Strategy", London: HM Government, April 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf

15 Foxcroft et al, "The Youth Violence Commission: Interim Report", London: Youth Violence Commission, July 2018 <http://yvcommission.com/wp-content/uploads/2018/07/Interim-Report-FINAL-version-2.pdf> p.5

16 Jalalzai, Musa. "The Crisis of Britain's Surveillance State: Security, Law Enforcement, and the Intelligence War in Cyberspace". New York: Algora Publishing, 2014. p36.

17 Snowden, Christopher. "Joint Venture: Estimating the Size and Potential of the UK Cannabis Market". London: Institute for Economic Affairs, June 2018 https://iea.org.uk/wp-content/uploads/2018/06/DP90_Legalising-cannabis_web-1.pdf

18 Furlong, Scarlett. "We Don't Know How Big The UK Illicit Cannabis Market Is But We Know It Is Vast", Hanway Associates: <https://www.hanway.associates/news-opinion/2017/12/11/uk-illicit-cannabis-market>

19 Parey, Matthias & Rasul, Imran, 2017. "Measuring the Market Size for Cannabis: A New Approach Using Forensic Economics," CEPR Discussion Papers 12161, C.E.P.R. Discussion Papers: <https://www.ucl.ac.uk/~uctpimr/research/Forensic.pdf>

A national poll commissioned by Volteface revealed that young people perceive cannabis to be easier to purchase than alcohol. As cannabis is an unregulated illegal drug, there are no age restrictions on purchase. Additionally, the presence of dealers on social media, who advertise and sell drugs on platforms such as Snapchat and Instagram, has also recently facilitated easier access for young people.²⁰

Though adult use of cannabis has remained relatively stable, recent figures show that 7.9% of 11 to 15-year-olds have used cannabis, up from 6.7% in 2014.²¹ Young people are identified as a group particularly vulnerable to the harms of cannabis, with younger age of onset of use associated with more deleterious effects and increased longer-term likelihood of harm. Examples of the harm associated with early onset cannabis use include: psychosis, depression, cannabis use disorder, anxiety and cognitive problems.²²

The cannabis which children and adults are using is overwhelmingly likely to be a high potency variety. A recent study by Potter et al analysed a 460-representative sample of seized cannabis which revealed that nearly all of the cannabis available to buy on the black market is of a high potency variety (sinsemilla, or more commonly known as skunk), increasing from 51% of market share in 2005 to 94% in 2017.²³ Highly potent varieties of cannabis will have high amounts of THC (Tetrahydrocannabinol), the psychoactive chemical in cannabis that gets users ‘high’, and low amounts of CBD (Cannabidiol), a protective chemical that may mitigate THC’s negative effects.²⁴

A landmark study published by researchers at King’s College London this year found that people who use high potency cannabis on a daily basis are five times more likely to have a diagnosis of first episode psychosis. This is the tip of the iceberg—other emerging evidence suggests that use of high potency cannabis could

20 McCulloch et al, “THE CHILDREN’S INQUIRY”, London: Volteface, September 2018: <http://volteface.me/app/uploads/2018/09/The-Childrens-Inquiry-Full-Report.pdf>

21 NHS Digital, “Smoking, Drinking and Drug Use Among Young People in England - 2016”, London: NHS, November 2, 2017 <https://digital.nhs.uk/data-and-information/publications/statistical/smoking-drinking-and-drug-use-among-young-people-in-england/2016>

22 Rioux et al, “Age of Cannabis Use Onset and Adult Drug Abuse Symptoms: A Prospective Study of Common Risk Factors and Indirect Effects”, *The Canadian Journal of Psychiatry*, 63 (7). April 22, 2018. pp.457-464: <https://www.ncbi.nlm.nih.gov/pubmed/29682999>; de Graaf et al, “Early cannabis use and estimated risk of later onset of depression spells: Epidemiologic evidence from the population-based World Health Organization World Mental Health Survey Initiative”, *American Journal of Epidemiology*, 172 (2). June 9, 2010: <https://www.ncbi.nlm.nih.gov/pubmed/20534820>; O’Shea et al, “Chronic cannabinoid exposure produces lasting memory impairment and increased anxiety in adolescent but not adult rats” *Journal of Psychopharmacology*, 18 (4): December, 2004, pp502-8: <https://www.ncbi.nlm.nih.gov/pubmed/15582916>; Large et al, “Cannabis use and earlier onset of psychosis: a systematic meta-analysis”, *Arch Gen Psychiatry*, 68 (6): June, 2011, pp555-61: <https://www.ncbi.nlm.nih.gov/pubmed/21300939>; Cha et al, “Differential effects of delta9-THC on learning in adolescent and adult rats,” *Pharmacology Biochemistry and Behavior*, 83 (3), March 2006, pp448-55: <https://www.ncbi.nlm.nih.gov/pubmed/16631921>

23 Potter et al, “Potency of Δ^9 -tetrahydrocannabinol and other cannabinoids in cannabis in England in 2016: Implications for public health and pharmacology.” *Drug Testing and Analysis*, 10, 2018, pp628-35: <https://www.ncbi.nlm.nih.gov/pubmed/29441730>

24 Niesink & van Laar. “Does Cannabidiol Protect Against Adverse Psychological Effects of THC?”. *Frontiers in Psychiatry*, 4, 2013: p130: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3797438/>

increase the risk of dependency, anxiety and depression.²⁵ What's more, the cannabis sold in the UK is frequently contaminated with microbes, heavy metals and pesticides which can lead to infection, carcinogenicity and reproductive and developmental impacts.²⁶

Whilst cannabis remains unregulated, users cannot verify the quality of their purchase even if dealers were to provide information on variety, potency and purity; there would be no assurance that these details are accurate. The UK's current approach to cannabis does not effectively respond to these problems as there is no way to regulate potency or to restrict underage use as long as cannabis stays in the hands of criminal gangs.

MAKING THE CASE FOR LEGALISATION

UK cannabis laws are not doing what they set out to achieve—to protect communities from the harms of illicit cannabis use. This paper will outline how legalisation would benefit the interests of the government, have positive social and health effects, and stimulate economic activity.

REDUCING THE BLACK MARKET

If cannabis were to be legalised in the UK, this would reduce the size of the illicit market by taking it out of the hands of criminals and bringing it under the control of the state.²⁷ As seen with alcohol and tobacco, an illicit market would likely still exist post-legalisation, but it would be smaller and the vast majority of products would be sold legally. Five years after legalisation in Colorado, the executive director of the Department of Revenue gave evidence to the House of Commons health committee, saying that it believed that more than 70% of the cannabis had been brought under control by the legal market.²⁸

CURBING VIOLENT CRIME

By taking such a large proportion of sales away from the illicit cannabis market, it would be reasonably expected that related crime and violence would decrease.

25 Freeman, T., & Winstock, A. (2015). Examining the profile of high-potency cannabis and its association with severity of cannabis dependence. *Psychological Medicine*, 45(15), 3181-3189: <https://www.ncbi.nlm.nih.gov/pubmed/26213314>; Freeman, T., Van der Pol, P., Kuijpers, W., Wisselink, J., Das, R., Rigter, S., . . . Lynskey, M. (2018). Changes in cannabis potency and first-time admissions to drug treatment: A 16-year study in the Netherlands. *Psychological Medicine*, 48(14), 2346-2352.: <https://www.ncbi.nlm.nih.gov/pubmed/29382407>; Morgan, C., Gardener, C., Schafer, G., Swan, S., Demarchi, C., Freeman, T., . . . Curran, H. (2012). Sub-chronic impact of cannabinoids in street cannabis on cognition, psychotic-like symptoms and psychological well-being. *Psychological Medicine*, 42(2), 391-400: <https://www.ncbi.nlm.nih.gov/pubmed/21798112>

26 Dryburgh, L. M., Bolan, N. S., Grof, C. P. L., Galettis, P., Schneider, J., Lucas, C. J., and Martin, J. H. (2018) Cannabis contaminants: sources, distribution, human toxicity and pharmacologic effects. *Br J Clin Pharmacol*, 84: 2468– 2476: <https://www.ncbi.nlm.nih.gov/pubmed/29953631>

27 Snowdon, Christopher. "Joint Venture: Estimating the Size and Potential of the UK Cannabis Market". London: Institute for Economic Affairs, June 2018: https://iea.org.uk/themencode-pdf-viewer-sc/?file=/wp-content/uploads/2018/06/DP90_Legalising-cannabis_web-1.pdf&settings=11111011&lang=en-GB#page=&zoom=75&pagemode=

28 Forrest, Maura, "With legal pot, Colorado and Washington are winning fight against black market, committee hears", *The National Post*, September 12, 2017: <https://nationalpost.com/news/politics/with-legal-pot-colorado-and-washington-are-winning-fight-against-black-market-committee-hears>

A 2013 paper sought to test the extent to which cannabis legalisation had an impact on violent crime typically associated with drug trafficking organisations by examining crime data from US states that have legalised medical cannabis. The ease of availability of medical cannabis in some US states led to a blurring of medical and recreational use, spurring a loss of revenue in the illicit recreational markets. The authors also found that the introduction of medical cannabis legalisation significantly reduced violent crimes in Mexican border states. The affected crimes were homicides, assaults and robberies, all of which are habitually committed by drug trafficking organisations. When exploring the circumstances behind homicides, the authors also found a strong decrease in drug-law related homicides, concluding that the drop in crime was related to reduced activity in illegal drug markets.²⁹

A study that looked into the effects of recreational cannabis on neighborhood crime using geospatial data from Denver, Colorado produced results also suggesting that cannabis dispensaries led to highly localized crime reductions. The authors concluded that their study ‘provides indirect evidence that the reduction in crime arises from a disruption of illicit markets’.³⁰

MORE EFFICIENT USE OF POLICE RESOURCES - FOCUS ON ORGANISED CRIME

Assuming that legalisation would lead to a significant reduction of the UK illicit cannabis market, there could be more effective policing of the illicit market, and of other non-cannabis related crime.

Estimates for how much money goes into cannabis policing in England and Wales varies considerably, but the most recent credible research estimates the total financial cost at around £100 million.³¹ However, the range of uncertainty associated with this estimate is large and could range from £65m to £105m.³² The Liberal Democrats estimated in 2017 that a legal, regulated market for cannabis would save 1.04 million police hours annually by drawing on data from the Treasury and the Ministry of Justice.³³

The shrinking of the criminal population and the more effective targeting of police resources has led to an improvement in FBI crime clearance rates in Colo-

²⁹ Gavrilova, Evelina and Kamada, Takuma and Zoutman, Floris, “Is Legal Pot Crippling Mexican Drug Trafficking Organizations? The Effect of Medical Marijuana Laws on US Crime” . (December 27, 2014): https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2350101

³⁰ Brinkman, Jeffrey and Mok-Lamme, David, “Not in My Backyard? Not so Fast. The Effect of Marijuana Legalization on Neighborhood Crime” (2017-07-18). *FRB of Philadelphia Working Paper* No. 17-19.: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3005262

³¹ Bryan, Mark and Del Bono, Emilia and Pudney, Stephen: “Licensing and Regulation of the Cannabis Market in England and Wales: Towards a Cost-Benefit Analysis”, Oxford: *The Beckley Foundation*, November, 2011: https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Cannabis_Cost_Benefit_Analysis_Report_w_New_Foreword_110915.pdf.pdf

³² Ibid.

³³ Tseloni, Andromachi, “Fact Check: do the police spend over a million hours a year fighting cannabis?”, *The Conversation*, May 24, 2017: <http://theconversation.com/fact-check-do-the-police-spend-over-a-million-hours-a-year-fighting-cannabis-77819>

rado and Washington, where cannabis was legalised in 2012.³⁴ Recent reports from Colorado also suggest that since legalization, ‘law enforcement and prosecutors are aggressively pursuing cases against black market activity’, particularly around organised crime cases.³⁵ Felony marijuana court case filings (conspiracy, manufacturing, distribution, and possession with intent to sell) declined from 2008 to 2014, but increased from 2015 through 2017. Filings in organized-crime cases followed a similar pattern, with a dip in 2012 and 2013 followed by a significant increase since 2014. There were 31 organized crime case filings in 2012 and 119 in 2017. The report suggests that this increase in filings may in part be because legalisation has equipped law enforcement agencies with greater clarity and tools to increase their efforts against black market activity.³⁶

Police resources can be more effectively targeted as the amount of people who engage in criminal activity shrinks with the introduction of legal avenues for the possession and supply of cannabis.

This will also lead to a reduction in the number of people caught up in the criminal justice system, with figures from the Drug Policy Alliance showing that cannabis arrests have plummeted in US states that have legalised recreational cannabis. However, disproportionality does still exist, as black and Latino people are more likely to be arrested for cannabis offences in comparison to white people.³⁷

LIMITING UNDERAGE USE

Legalising cannabis would provide the state with greater control over who purchases and consumes cannabis.

Since the early 2000s, the UK has made greater use of regulatory powers around alcohol, making purchasing more difficult for those who are underage. There has been increased legal enforcement against retailers who sell to children and most outlets now operate a Challenge 21 or 25 policy. This shift in policy has been named as one of the reasons why fewer children are drinking alcohol. Data from Serve Legal, a private company offering test purchase services, shows that 45% of vendors sold to underage consumers in 2007, but that this had declined to 24% in 2010 and by 2015, only 13% of supermarkets and 17% of convenience stores failed test purchases.³⁸

³⁴ Makin, D. A., Willits, D. W., Wu, G., DuBois, K. O., Lu, R., Stohr, M. K., ... Lovrich, N. P. (2019). “Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State”. *Police Quarterly*, 22(1), 31–55: <https://journals.sagepub.com/doi/abs/10.1177/1098611118786255?journalCode=pqxa>

³⁵ Colorado Department of Public Safety, “Colorado Division of Criminal Justice Publishes Report on Impacts of Marijuana Legalization in Colorado”, *Colorado: Department for Public Safety*, October 26, 2018: <https://www.colorado.gov/pacific/publicsafety/news/colorado-division-criminal-justice-publishes-report-impacts-marijuana-legalization-colorado>

³⁶ Ibid.

³⁷ Drug Policy Alliance, “From Prohibition to Progress: A Status Report on Marijuana Legalization”, Washington DC: Drug Policy Alliance, January 2018: <http://www.drugpolicy.org/legalization-status-report>

³⁸ Institute of Alcohol Studies, “Underage Drinking”, London: Institute of Alcohol Studies, August 2016: <http://www.ias.org.uk/uploads/pdf/Factsheets/FS%20Underage%20drinking%20082016.pdf>

Emerging evidence in US states does suggest that underage use of cannabis has declined, or at the very least, has not increased. The 2015/16 National Survey on Drug Use and Health indicated that there had been a gradual increase in past 30-day marijuana use among 12 to 17-year-olds in Colorado, increasing from 2006/07 (9.1%) to 2013/14 (12.6%). However, since retail stores opened in 2014, the state has seen decreased use among 12 to 17-year-olds, with 9.1% reporting use in 2015/16—the lowest level it has been since 2007/08.³⁹

According to Healthy Kids Colorado Survey (HKCS), the proportion of high school students reporting marijuana use in their lifetime or use in the past 30 days has remained statistically unchanged from 2005 to 2017. However, the proportion of students trying marijuana before age 13 went down from 9.2% in 2015 to 6.5% in 2017.⁴⁰

CONTROLLING QUALITY AND POTENCY

For adult consumers, there would be greater protections, as suppliers would have to adhere to industry standards, ensuring that there are no contaminants, the product is of a quality-grade and there is accurate product information. This would promote informed consumer decision-making, particularly in regards to the potency of the product being consumed.

Regulators may decide to utilize pricing controls that incentivise the consumption of lower potency cannabis, or place a cap on high potency products. The Canadian Task Force on cannabis legalisation and regulation advised that Government Ministers ‘design a tax scheme based on THC potency to discourage purchase of high-potency products’.

Currently, no countries have implemented these regulations as potency has not been prioritised as a salient policy issue. However, it is anticipated that, as the market matures and lessons are learnt from the US states, the potency of cannabis will be regulated through pricing controls, much like alcohol.⁴¹

INCREASING TAX REVENUE

Policy priorities should primarily support social justice, not economic gain. However, it is undeniable that reform would boost jobs and tax revenue.

A study by the Treasury for the Liberal Democrats estimated that licensing cannabis could help reduce the UK budget deficit by up to £1.25bn a year – from taxes raised and cost reductions.⁴² The Transform Drug Policy Foundation has advised

³⁹ Reed, Jack, “Impacts of Marijuana Legalization in Colorado”, Colorado: Colorado Department of Public Safety, October 2018 <https://zerofatalitiesnv.com/wp-content/uploads/2018/11/SB-13-283-report-2018.pdf>

⁴⁰ Colorado Department of Public Safety, “Colorado Division of Criminal Justice Publishes Report on Impacts of Marijuana Legalization in Colorado”, Colorado: Department for Public Safety, October 26, 2018: <https://www.colorado.gov/pacific/publicsafety/news/colorado-division-criminal-justice-publishes-report-impacts-marijuana-legalization-colorado>

⁴¹ Kleiman, Mark A. R, “Canada Confronts Cannabis,” *Foreign Affairs*: <https://www.foreignaffairs.com/articles/canada/2018-06-28/canada-confronts-cannabis>

⁴² Hopkins, Nick. 2019. “Legal Cannabis ‘Worth Millions’ To UK”. BBC News: <https://www.bbc.com/news/health-51444444>

that depending on the regulatory model, credible estimates for taxable revenue range between £500 million and £2.26 billion.⁴³

In 2015, marijuana was the second largest excise revenue source and to date, the US state of Colorado has generated \$927,009,550 in tax revenue.⁴⁴ This has contributed significantly to areas such as: substance abuse and treatment contracts, mental health services for juvenile and adult offenders, substance abuse prevention, public awareness cannabis education campaign and school bullying prevention and education.⁴⁵

STIMULATING ECONOMIC ACTIVITY

Another benefit which is significant but not often mentioned, is the extent to which a legal cannabis market can stimulate economic prosperity by bringing with it a new growing industry. A report published by the Marijuana Policy Group estimated that in 2015, the legal cannabis industry in Colorado created more than 18,000 new full-time jobs and generated \$2.39 billion in economic activity.⁴⁶ Based on current sales for cannabis in Canada, it is predicted that the market will grow to £3.9 billion by 2020.⁴⁷

ALTERNATIVE APPROACHES

These beneficial regulatory powers would be futile if the UK opted for decriminalisation over legalisation. The terms are frequently conflated but they are two vastly different policies. Decriminalisation takes away the status of criminal law from certain acts, and with regard to drugs, it is usually used to refer to demand, otherwise known as acts of acquisition, possession and consumption. In plain terms, this would mean that criminal sanctions would no longer be levied against drug users, however, administrative sanctions could still be applied, such as fines or warnings.⁴⁸

co.uk/news/entertainment-arts-34512015

43 Rolles, S., Barton, M., Eastwood, N., Lloyd, T., Measham, F., Nutt, D. and Sumnall, H. (n.d.). *A framework for a regulated market for cannabis in the UK: Recommendations from an expert panel*. London: The Liberal Democrats: http://fileservr.idpc.net/library/A_framework_for_a_regulated_market_for_cannabis_in_the_UK.pdf

44 Marijuana Policy Group. 2019. "The Economic Impact Of Marijuana Legalization In Colorado". Denver, Colorado: MJP: <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf> & "Marijuana Tax Data". 2019. Department Of Revenue: <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>

45 Colorado Legislative Council Staff (2016). *DISTRIBUTION OF MARIJUANA TAX REVENUE*. Denver, Colorado: Colorado General Assembly.: https://www.colorado.gov/pacific/sites/default/files/16-04%20Distribution%20of%20Marijuana%20Tax%20Revenue%20Updated_2.pdf

46 Marijuana Policy Group. 2019. "The Economic Impact Of Marijuana Legalization In Colorado". Denver, Colorado: MJP: <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf>

47 Peters, Diane. 2019. "How Big Will Canada'S Legal Cannabis Market Be?". Blog. JSTOR Daily: <https://daily.jstor.org/how-big-will-canadas-legal-cannabis-market-be/>

48 European Monitoring Centre for Drugs and Drug Addiction. 2019. "Decriminalisation In Europe? Recent Developments In Legal Approaches To Drug Use". Lisbon, Portugal: European Commission: <http://www.emcdda.europa.eu/html.cfm/index5734EN.html>

In contrast to decriminalisation, “legalisation is the process of bringing within the control of the law a specified activity that was previously illegal and prohibited or strictly regulated”.⁴⁹ In the context of drugs, this would mean that supply, use and possession would be regulated by the state’s norms, much like alcohol and tobacco. Regulation would still be supported by criminal sanctions, like, for example, driving under the influence.⁵⁰

In the UK there has been growing calls for the Government to back decriminalisation, with high profile recommendations made by the Royal College of Physicians, Faculty of Public Health, the Royal Society for Public Health and the British Medical Journal. Constabularies in Durham, the West Midlands, Avon and Somerset, Devon and Cornwall and Thames Valley are also implementing diversion schemes which are guided by the principle of decriminalisation, where drug users are diverted away from the criminal justice system and into an education programmes, much like a speed awareness course.⁵¹

Whilst there is evidence that decriminalisation would alleviate some drug-related harms and reduce the burden on the criminal justice system, this would not address the illicit marketplace.⁵² Thus, if cannabis was decriminalised, there would be no change in the ease with which children can access cannabis, the rising availability of high potency cannabis, or the power, wealth and associated violence of the illicit cannabis market.

Critics argue that the reason we face such problems is because the UK has never been fully committed to the war on drugs. There has only been a rhetoric of toughness, encouraging the UK to wage this “war”.⁵³ The evidence suggests this would not work, with a 2014 Home Office international comparators report concluding that there is a ‘lack of any clear correlation between the ‘toughness’ of an approach and levels of drug use’. It found that prevalence rates are more influenced by “historical patterns of drug use, cultural attitudes, and the wider range of policy and operational responses to drugs misuse in a country, such as treatment provision”.⁵⁴

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Jamieson, David. 2019. “Reducing Crime And Preventing Harm: WEST MIDLANDS DRUG POLICY RECOMMENDATIONS”. Birmingham: West Midlands PCC: <http://fileserver.idpc.net/library/West-Midlands-Drug-Policy-Recommendations.pdf>; Durham Constabulary, “Checkpoint - Critical Pathways”, Durham Constabulary: <https://www.durham.police.uk/Information-and-advice/Pages/Checkpoint.aspx>; Kelsey, R. (2018). *Police leader meets cannabis club*. BBC News.: <https://www.bbc.co.uk/news/uk-45288789>; Police and Crime Commissioner of Devon and Cornwall. 2019. “Commissioner’S New Scheme To Reduce Reoffending.”: <https://www.devonandcornwall-pcc.gov.uk/news-and-blog/devonandcornwall-pcc-news-blog/2017/03/commissioner%E2%80%99s-new-scheme-to-reduce-reoffending/>; “Police ‘Won’t Arrest Drug Users’ In Pilot”. 2019. BBC News: <https://www.bbc.co.uk/news/uk-england-46591100>.

⁵² Adda, Jérôme, Brendon McConnell, and Imran Rasul. 2014. “Crime And The Depenalization Of Cannabis Possession: Evidence From A Policing Experiment”. *Journal Of Political Economy* 122 (5): 1130-1202: <http://www.ucl.ac.uk/~uctpimr/research/depinalization.pdf>

⁵³ Aitkenhead, Decca, and Peter Hitchens. 2019. “Peter Hitchens: ‘I Don’t Believe In Addiction. People Take Drugs Because They Enjoy It’”. *The Guardian*, 2019: <https://www.theguardian.com/books/2012/oct/21/peter-hitchens-addiction-drugs-war>

⁵⁴ HM Home Office. 2019. “Drugs: International Comparators”. London: HM Government: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/368489/DrugsInternationalComparators.pdf

And at what cost would the UK ‘win’ the war on drugs? If the Government was to prioritise enforcement under existing Misuse of Drugs Act legislation, 2.6 million cannabis users could be imprisoned or given a criminal record, an outcome which would have far and reaching consequences for life chances.⁵⁵

Recent polling data indicates that there is little appetite for this.⁵⁶ Only one third of the British population (34%) think the sale and possession of cannabis should remain a criminal offence, suggesting that the public does not want limited police resources diverted away from other crimes for the policing of cannabis.

Legalisation offers a route to tackle illicit cannabis markets without implementing costly punishments that have the potential to fracture the lives of communities, families and individuals.

ADDRESSING CONCERNS

Legalisation is the best solution, but it is not a silver bullet. There are a number of risks and concerns needing to be considered before implementing reform.

INCREASED CANNABIS USAGE AND ASSOCIATED RISKS

It is very likely that creating a regulated, recreational cannabis market will lead to an increase in adult cannabis use, due to more accessibility. Moreover, it is likely that some people will use cannabis more frequently.

But, how much of an increase would there be? The Centre for Social Justice commissioned YouGov to ask this very question and found that, of the people who had never tried cannabis, only 10% said they would try it if it was legalised. Equally, of the people who had tried cannabis, only 14% said they would use it more frequently.⁵⁷

We should not base firm conclusions on hypothetical intentions, but this data indicates that the vast majority of those who had never tried cannabis would not try it if it was legalised and most current or past users would not use it more frequently.

In Colorado in 2017, 7.6% of adults report using cannabis on a daily or near daily basis, increasing from 6% in 2014 when recreational sales began. Prevalence of adult marijuana use (used in the past 30 days) was at 15.5% in 2017, increasing from 13.6% in 2014.⁵⁸

⁵⁵ HM Home Office. 2018. “Drug Misuse: Findings From The 2017/18 Crime Survey For England And Wales”. London: HM Government: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729249/drug-misuse-2018-hosb1418.pdf

⁵⁶ What are public perceptions around cannabis? Populus, “What are public perceptions around cannabis?”, Populus: <https://www.populus.co.uk/insights/2018/11/what-are-public-perceptions-around-cannabis/>

⁵⁷ Volteface (2019). *Polling Statistics from the Centre for Social Justice’s Cannabis: The Case Against Legislation*. [online] Available at: <http://volteface.me/features/polling-statistics-centre-social-justices-cannabis-case-legislation-friday-29th-march-2019/>

⁵⁸ Department of Public Health and Environment. (2019). *Behavioral Risk Factor Surveillance Survey*

If legalisation does lead to greater uptake, there is a risk that problems associated with cannabis use will also rise. The WHO advises that 9% of frequent cannabis users develop a dependency, by drawing on a study conducted in the US in the 1990s.⁵⁹ As there is a time lag between use, formation of dependence and entry into treatment, it is not yet clear what impact legalisation has had on addiction.⁶⁰

However, it should not be assumed that the 9% estimation of dependency will translate in a UK legal market, as this figure has been generated from illicit markets and from a different country.

Early onset of cannabis in an unregulated market use can lead to more problematic use, but in a regulated market the state can restrict underage access to cannabis. Data from US states has shown that the largest increase in use has occurred among people aged over 50, rather than among young adults.⁶¹ The development from an adolescent to an adult brain is thought to end at around 25 years old and there is greater potential for cannabis to cause harm during adolescence.⁶² It is thus encouraging that, if there is to be an increase, it is occurring among older generations.

The North American experience has shown that the cannabis on sale in legal markets and the modes of consumption are quite different from the traditional smoked joint rolled with tobacco. Vaping cannabis without tobacco is an increasingly common mode of consumption, with 29% of adults who use cannabis in Colorado reporting vapourisation.⁶³ The market is diversifying and innovating to produce low dose edibles and beverages that cater to expanding mainstream audiences and that can be enjoyed much like a glass of wine over an evening.⁶⁴ In Colorado, 40% of adults who use cannabis report eating or drinking as a mode of consumption.⁶⁵

(BRFSS): *Monitoring trends in marijuana use*. [online] Available at: <https://www.colorado.gov/pacific/cdphe/adult-marijuana-use-trends>

59 World Health Organisation (2016). *The health and social effects of nonmedical cannabis use*. [online] Geneva, Switzerland: World Health Organisation, p.11. Available at: <https://apps.who.int/iris/bitstream/handle/10665/251056/9789241510240-eng.pdf;jsessionid=A6B45F4CA148FF63D9EEC27AECC35A07?sequence=1> p.11

60 European Monitoring Centre for Drugs and Drug Addiction (2017). *European Drug Report: Trends and Development*. Lisbon, Portugal: EU Commission: <http://www.emcdda.europa.eu/system/files/publications/4541/TDAT17001ENN.pdf>

61 Halpern, A. (2019). The mature stoner: why are so many seniors smoking weed?. *The Guardian*: <https://www.theguardian.com/society/2019/jan/14/the-mature-stoner-why-are-so-many-seniors-smoking-weed>

62 Meier, M. H., A. Caspi, A. Ambler, H. Harrington, R. Houts, R. S. E. Keefe, K. McDonald, A. Ward, R. Poulton, and T. E. Moffitt. 2012. "Persistent Cannabis Users Show Neuropsychological Decline From Childhood To Midlife". *Proceedings Of The National Academy Of Sciences* 109 (40): E2657-E2664: <https://www.pnas.org/content/109/40/E2657>

63 Department of Public Health and Environment. (2019). *Behavioral Risk Factor Surveillance Survey (BRFSS): Monitoring trends in marijuana use*. [online] Available at: <https://www.colorado.gov/pacific/cdphe/adult-marijuana-use-trends>

64 David, C. (2018). Lower-Potency Cannabis Options Speak To An Increasingly Attentive Mainstream Audience. *Forbes*: <https://www.forbes.com/sites/davidcarpenter/2018/10/31/lower-potency-cannabis-attentive-mainstream-audience/#382b9c0e64e6>

65 Department of Public Health and Environment. (2019). *Behavioral Risk Factor Surveillance Survey (BRFSS): Monitoring trends in marijuana use*. [online] Available at: <https://www.colorado.gov/pacific/cdphe/adult-marijuana-use-trends>

Very high potency products have emerged but in states such as Colorado, the average potency of cannabis flower has only increased slightly since legalisation, according to state testing data.⁶⁶ It should be noted that no government in a legalised country or state has yet regulated potency through pricing controls, like we do with alcohol. Potency is not treated as a pressing concern in North America, with the reduction of the black market and freedom of choice given greater priority. The protection of public health is best ensured when consumers know what they are buying and can choose preferred products and manage their dosage ('titrate') accordingly.

CANNABIS AS A 'GATEWAY' DRUG

The gateway theory suggests that once a person tries cannabis they are more likely to then experiment with other drugs, as initiation of use removes social obstacles that prevents wider experimentation with drugs. The theory also makes the case that when an individual spends time with other drug users, it is more likely that they will be encouraged to use other drugs.

It should first be emphasised that the majority of cannabis users do not go on to use any other illegal drug.⁶⁷

In those instances where people do go onto use other illicit drugs, cannabis legalisation would be beneficial by reducing people's exposure to illicit drug markets and bringing consumers into regulated retail settings.

Empirical evidence also suggests that people's use of cannabis could be displacing other substances, rather than contributing to their use. Debates around cannabis legalisation are typically viewed through the paradigm of reducing the harms associated with cannabis, however, it must be recognised that cannabis is a drug with a lower harm risk profile than other commonly used legal substances, such as alcohol and tobacco. In a seminal study, researchers at Imperial College London assessed the harms of commonly used drugs, calculated by their overall harm to users and harm to others. The study concluded that cannabis was less harmful than alcohol, heroin, crack cocaine, methamphetamine, cocaine, tobacco and amphetamine.⁶⁸

The US as a whole is currently in the midst of an opioid crisis, but in Colorado there has been a reversal of the upward trend in opioid-related deaths. A 2017 study

⁶⁶ Orens, A. Light, M. Lewandowski, B. Rowberry, J. and Saloga, C. (2018). Market Size and Demand for Marijuana in Colorado 2017 Market Update: <https://www.colorado.gov/pacific/sites/default/files/MED%20Demand%20and%20Market%20%20Study%20%20082018.pdf>

⁶⁷ Morgan, J. and Zimmer, L. (1995). *The Myth of Marijuana's Gateway Effect*. [online] Druglibrary.org. Available at: <http://druglibrary.org/schaffer/library/mjgate.html>; See: Substance Abuse and Mental Health Services Administration (2015). *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health*. Washington D.C.: SAMHSA: <https://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>; Morral, A., McCaffrey, D. and Paddock, S. (2002). Using Marijuana May Not Raise the Risk of Using Harder Drugs. *Rand Corporation*: http://www.rand.org/pubs/research_briefs/RB6010.html; Tarter, R. (2006). Predictors of Marijuana Use in Adolescents Before and After Licit Drug Use: Examination of the Gateway Hypothesis. *American Journal of Psychiatry*, 163(12), p.2134.: <https://www.ncbi.nlm.nih.gov/pubmed/17151165>

⁶⁸ Nutt, David J, Leslie A King, and Lawrence D Phillips. 2010. "Drug Harms In The UK: A Multicriteria Decision Analysis". *The Lancet* 376 (9752): 1558-1565: <http://www.ias.org.uk/uploads/pdf/news%20stories/dnutt-lancet-011110.pdf>

compared changes in level and slope of monthly opioid-related deaths before and after Colorado stores began selling recreational cannabis and concluded that legalization of recreational cannabis sales and use resulted in a reduction of 0.7 opioid-related deaths per month. It concluded that this reduction represents a reversal of the upward trend in opioid-related deaths in Colorado.⁶⁹

This displacement effect has also been seen with alcohol, with US states that have legalised cannabis seeing a reduction in binge drinking post legalisation.⁷⁰

When looking at road traffic accidents, researchers in Virginia found that when demographic factors are taken into consideration, the presence of THC had no statistically significant effect on crashes, whereas alcohol had a more significant impact.⁷¹

In line with this, a study that analysed traffic fatality data found deaths fell by 11% on average in states that legalised medical cannabis, which could be partly attributed to people driving under the influence of cannabis, rather than alcohol.⁷² Medical cannabis legalisation can be treated as a good proxy for recreational legalisation, because its ease of availability has led to an overlap in the two markets.

A study that analysed annual numbers of motor vehicle crash fatalities between 2009 and 2015 in Washington, Colorado, and 8 control states, found that ‘three years after recreational marijuana legalization, changes in motor vehicle crash fatality rates for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalisation’.⁷³

There has been mixed evidence on the impact that recreational cannabis legalisation has had on traffic accidents and fatalities. One study found that in states that had legalised cannabis and their neighbouring states there was a temporary increase in the rate of traffic fatalities, calculated as one additional traffic death

69 Livingston, Melvin D., Tracey E. Barnett, Chris Delcher, and Alexander C. Wagenaar. 2017. “Recreational Cannabis Legalization And Opioid-Related Deaths In Colorado, 2000–2015”. *American Journal Of Public Health* 107 (11): 1827-1829: <https://www.ncbi.nlm.nih.gov/pubmed/29019782>

70 Adams, Mike. 2018. “Binge Drinking Drops In States With Recreational Marijuana”. *Forbes*, 2018.: <https://www.forbes.com/sites/mikeadams/2018/04/05/binge-drinking-rates-drop-in-states-with-recreational-marijuana-laws/>

71 Purnell, Spence, and Allie Howell. 2018. “DOES MARIJUANA LEGALIZATION INCREASE TRAFFIC ACCIDENTS?”. Los Angeles, California: Reason Foundation: <https://reason.org/wp-content/uploads/2018/08/evaluating-research-marijuana-legalization-traffic-accidents.pdf> ; National Highway Traffic Safety Administration. 2019. “Drug And Alcohol Crash Risk: A Case-Control Study”. Washington D.C.: US Department of Transportation: https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812355_drugalcoholcrashrisk.pdf

72 Julian Santaella-Tenorio, Christine M. Mauro, Melanie M. Wall, June H. Kim, Magdalena Cerdá, Katherine M. Keyes, Deborah S. Hasin, Sandro Galea, and Silvia S. Martins, 2017: **US** Traffic Fatalities, 1985–2014, and Their Relationship to Medical Marijuana Laws *American Journal of Public Health* 107, 336–342: <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2016.303577> ; Anderson, M. and Rees, D. (2011). *Medical Marijuana Laws, Traffic Fatalities, and Alcohol Consumption*. IZA Discussion Paper Series. Bonn: IZA: <http://ftp.iza.org/dp6112.pdf> ;

73 Aydelotte, Jayson D., Lawrence H. Brown, Kevin M. Luftman, Alexandra L. Mardock, Pedro G. R. Teixeira, Ben Coopwood, and Carlos V. R. Brown. 2017. “Crash Fatality Rates After Recreational Marijuana Legalization In Washington And Colorado”. *American Journal Of Public Health* 107 (8): 1329-1331: <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.303848>

per million residents.⁷⁴ The authors hypothesised that the increase was temporary because legalisation leads to newer or more inexperienced users and the effect was seen in neighbouring states because legalisation encouraged ‘cannabis tourism’, where people travel over state lines to procure cannabis and drive back under the influence.

However, another study found that three years after legalisation in Washington and Colorado there was no statistical difference in traffic fatality rates, when compared to similar states without recreational cannabis legalisation.⁷⁵ The study controlled for underlying time trends and state-specific population, economic, and traffic characteristics. In line with this, a simulation of Colorado and Washington using a synthetic control approach found that if cannabis had not been legalised there would have been similar trends in cannabis-related, alcohol-related and overall traffic fatalities.⁷⁶

Ultimately all effects have been small or statistically insignificant. Further studies over a longer time are needed to establish the effects of recreational legalisation on traffic accidents and fatalities.⁷⁷

CRIMINAL DIVERSIFICATION

The final concern surrounding legalisation is that if the cannabis market is taken away from criminal gangs, these gangs may simply move into other black markets. For example, following legalisation, a dealer may decide to sell cocaine instead of cannabis. However, criminals participate in the illegal cannabis market because it is currently more profitable than alternatives. Legalisation would therefore inevitably hurt criminal profits and reduce incentives to break the law. Furthermore, cannabis profits are often used by criminals to subsidise other areas of illegality, which provides a further avenue for legalisation to reduce crime.

While there will be some who will diversify into other illegal activities, there will also be many others who would switch to legal professions. Smart policy decisions that make it easier for those previously involved in the cannabis industry to transfer to legal employment would maximise the impact of legalisation on undermining the criminal market and reduce the extent of criminal diversification.

In the US, there is not sufficient evidence to assess the extent to which criminal gangs have diversified into other criminal activities as there are still opportunities

⁷⁴ Lane, Tyler J., and Wayne Hall. 2019. “Traffic Fatalities Within US States That Have Legalized Recreational Cannabis Sales And Their Neighbours”. *Addiction* 114 (5): 847-856: <https://onlinelibrary.wiley.com/doi/abs/10.1111/add.14536>

⁷⁵ Aydelotte, Jayson D., Lawrence H. Brown, Kevin M. Luftman, Alexandra L. Mardock, Pedro G. R. Teixeira, Ben Coopwood, and Carlos V. R. Brown. “Crash Fatality Rates After Recreational Marijuana Legalization In Washington And Colorado”. *American Journal Of Public Health* 107, no. 8 (2017): 1329-1331: <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.303848>

⁷⁶ Hansen, Benjamin, Keaton S Miller, and Caroline Weber. *Early Evidence On Recreational Marijuana Legalization And Traffic Fatalities*. Cambridge MA: NMER, 2018: <https://www.nber.org/papers/w24417>

⁷⁷ Aydelotte, Jayson D., Lawrence H. Brown, Kevin M. Luftman, Alexandra L. Mardock, Pedro G. R. Teixeira, Ben Coopwood, and Carlos V. R. Brown. “Crash Fatality Rates After Recreational Marijuana Legalization In Washington And Colorado”. *American Journal Of Public Health* 107, no. 8 (2017): <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.303848>

to make profits from illicit cannabis. This is done through exploiting the inconsistencies in state laws and is driven by the profit-making opportunity that comes from bringing legal cannabis over borderless state lines into illicit markets. It is unlikely that the UK would replicate the US model, where for example, cannabis would be legalised in Wales, but not England.

Lessons can be learned from the US, but legalisation must be considered first and foremost as an opportunity to implement the best possible regulatory model. Just like in any other policy area, poor regulation leads to poor policy outcomes. North America has taken on the bold task of navigating these pitfalls and the UK is in an ideal position to learn from their mistakes and implement a regulatory model that reduces the size of the illicit cannabis market, restricts underage use and improves public health.

CONCLUSION

To sum up, the evidence supporting the introduction of a legally regulated cannabis market in the UK is vast. As discussed, the current approach to cannabis creates a ‘postcode lottery’ of enforcement depending on where you live and your ethnicity, it facilitates a thriving illicit market that is operated solely by criminal gangs and has negative health consequences, allowing easy access for children and unregulated products and potency which can increase health harms. A legally regulated cannabis market would protect children, eliminate the illicit market, educate people on the effects of cannabis and encourage safer cannabis consumption.

The debate has transcended whether the UK should legalise cannabis and we should now turn to how this could best be done.

SECTION 2: GUIDE FOR LEGAL, REGULATED CANNABIS IN THE UK

DANIEL PRYOR, ADAM SMITH INSTITUTE

INTRODUCTION

The question of cannabis reform is increasingly not if, but when, and most importantly, how? While the overall shape of a legal, regulated, recreational cannabis market in the United Kingdom will be uniquely British, we have the luxury of being able to learn from the experiences of jurisdictions that have already taken this step. This chapter outlines the likely effects of different approaches to legalisation. It is not, however, an exhaustive blueprint for every facet of a regulated market.

The ASI has developed a Six Point Plan for Cannabis Legalisation if the UK wants to reduce underage and problem use of cannabis, the size of the illegal cannabis market and the various harms it causes, inform the general public about evidence of the physical and mental health effects of cannabis, and provide adult cannabis users with a range of choices via a functional legal market:

- 1. Private enterprise:** The free market should be responsible for cannabis production and retail, to ensure providers are responsive to consumer-wants and to avoid shortages or a persistent black market. Recreational cannabis could be sold in dedicated licensed stores, behind the counter by trained staff in pharmacies like Boots and mobile apps to compete with drug dealers.
- 2. Advertising and branding:** Some forms of advertising and branded packaging should be allowed—as in many US states—in order to signal quality, consistency, and safety, giving legal products another advantage over the black market.
- 3. Consumption:** Edibles and vaping cannabis products should also be permitted to help people move away from tobacco joints.
- 4. Taxation:** The taxation of cannabis must be low enough to ensure the final product is as cheap as illicit cannabis, or risk continuation of the black market like in California. High potency cannabis (skunk) should be taxed more than lower potency varieties, encouraging consumers to switch to potentially safer products.
- 5. Education:** Users should be presented with the latest evidence on the health effects of cannabis at point-of-sale - like in Canada.
- 6. Criminal justice:** Those currently or previously involved in the illegal cannabis industry should have pathways to transfer to the regulated, legal market. The Government should also expunge previous cannabis convictions, where appropriate, in order to limit the damage that criminal records cause to the life chances of low-risk offenders.

This chapter expands on the above plan, presenting the economic theory and real-world evidence behind such an approach.

The way in which cannabis is regulated in a legal market is almost as important as the debate over its legalization. It is therefore essential to craft a regulatory framework that can deliver on the goals of legalisation, including:

- Reducing underage and problem use of cannabis;
- Reducing the size of the illegal cannabis market and the various harms it causes;
- Encouraging cannabis users to switch to less harmful patterns of consumption;
- Reducing the negative impacts of public cannabis consumption on local communities;
- Informing the general public (especially current cannabis users and young people) about the latest evidence on the physical and mental health effects of cannabis; and
- Providing adult cannabis users with a range of choices via a functional legal market.

In some cases, there will be unavoidable trade-offs between these aims: just as there are under the current system of criminalisation and any other approach to cannabis. However, in a legal, regulated market, policymakers would be able to exert a greater control over which trade-offs should be made. Compared to the illegal market, virtually all forms of legalisation are better equipped to satisfy the above aims.

International experience underlines the importance of a regulatory system that is simple for individuals, companies, civil servants and the general public to understand. It must be adequately resourced, properly planned, and preceded by a public information campaign detailing how and why our approach to cannabis is changing. However, even if the UK successfully learns lessons from legalised systems around the world, there will inevitably be some further degree of learning after the initial implementation period and an ongoing adjustment of regulation accordingly.

We cover five key areas of cannabis regulatory policy: production, sales, marketing, purchasing and consumption. We will outline policy goals, give recommendations for policy implementation and point out some of the potential risks involved.

PRODUCING CANNABIS

CANNABIS LEGALISATION GOALS:

- **Ensuring supply is adequate to meet market demand from day one.**

Many places that have legalised recreational cannabis immediately faced problems with a lack of adequate supply to meet initial consumer demand. While some teething problems with a newly legal market are impossible to avoid, it is important to utilise the momentum of legalisation from the outset and introduce as many illicit users to the legal, regulated market as possible.

This issue is also important in the long-term, as shown by Uruguay’s overly restrictive approach which continually fails to match market demand for much of its time under legalisation.⁷⁸ If the legal market is unable to meet demand, cannabis users will return to the criminal market, undermining one of the key benefits of legalisation.

- **Preventing legal production leaking into illegal markets.**

If products from legal, licensed cannabis producers are easily lost to illegal distributors and sellers, this will undermine the positive effects of legalisation on reducing the size of criminal market. Cannabis production facilities must implement adequate security measures and oversight to ensure a firewall between the legal market and illicit trade.

- **Maintaining high production quality standards.**

In order to ensure consumer confidence and minimise the health risks of consuming low-quality cannabis, rigorous production standards must be enforced in the legal, regulated market. Cannabis products must therefore undergo rigorous lab testing for potency levels and potential contaminants such as mould, heavy metals and inappropriate pesticides. Such a situation is impossible in an illegal market.

- **Creating an efficient, competitive production market.**

In order to ensure the legal market is unambiguously able to outcompete the black market on prices, a variety of production models must be accessible to regulated market entrants. Worldwide, the recreational cannabis market is still in relative infancy and encouraging industry-wide resilience to changing market conditions is vital to ensure continued superiority over the illegal market.

- **Moving current illegal production into a legal, regulated market.**

Given established black market production, providing incentives and reasonable amnesties for non-violent black market producers is a pragmatic method of undermining illegal activity. It will also turn non-violent criminals into legal, regulated entrepreneurs that can make a contribution to public finances and wider society.

BEST FIT POLICY:

1. **Regulators should provide private industry with a suitable production licensing regime that allows for a range of different business models.** The involvement of private industry is vital if governments are to ensure that legal supply is high quality, large enough and at a price that ensures the black market can be outcompeted. Furthermore, ensuring access for smaller-scale producers (sometimes called ‘micro-cultivators’) by offering low license application

⁷⁸ For more details on the shortcomings of the Uruguay model, see Hudak, John, Geoff Ramsay, and John Walsh. *Uruguay’s Cannabis Law: Pioneering A New Paradigm*. Washington D.C.: Brookings, 2019.: https://www.brookings.edu/wp-content/uploads/2018/03/gs_032118_uruguay28099s-cannabis-law_final.pdf

fees and proportionate minimum capital requirements is an effective means of preserving competition and choice while limiting inefficient concentrations of market power.

2. **Cannabis production facilities and transportation must be subject to suitable security measures in order to prevent leakage into the illegal market.** Large-scale commercial cannabis production (both indoors and outdoors) should follow areas that have already legalised by requiring ‘seed-to-sale’ inventory tracking, perimeter monitoring and other forms of building security.
3. **Individuals currently involved in illegal cannabis cultivation should be granted a ‘grace period’ to move their activities into a legal, regulated market.** The government can take back greater control of the illegal market by encouraging current cultivators to comply in line with new regulations on commercial production, non-profit cannabis social clubs, or home growing for personal use. A suitable transition period for doing so would be appropriate given the time necessary for knowledge of the legal, regulated market to disseminate throughout the population.
4. **Commercial cannabis must be tested for potency and contaminants before being sold at retail.** Appropriately licensed and qualified third-party laboratories are sufficient to fulfill this function. While new third-party testers are likely to enter the market, there is already a wealth of relevant industry experience in existing agriculture and food safety testing labs. Testing of edible cannabis-based products should arguably be subject to greater oversight. There is a strong case for treating edible products under a stricter testing regime, since there is a greater risk of misdosage. Smoking and vaping cannabis makes it easier for users to auto-titrate (adjust cannabinoid consumption according to potency), whereas even small variances in batches of edible products may produce dramatically different effects from those intended by the user.⁷⁹

RISKS:

1. **Government should not own cannabis production facilities or set production quotas for legal cannabis products.** A well-regulated private system of cannabis production is perfectly capable of meeting security and quality obligations. Centrally planned cannabis production will lead to chronic undersupply, or indeed harmful oversupply, as it did in Uruguay (which could not utilise the price mechanism effectively). Production limits may also incentivise firms to grow higher strength cannabis in an unnecessary distortion of the market.
2. **Policymakers must avoid either mandating or prohibiting vertical integration between cannabis producers, distributors, and retailers.** Arguments in favour of mandating vertical integration center on the idea of easing the burden on regulators, who would only have to deal with one firm instead of several firms. However, this does not obviate the need for tracking cannabis product transfers within firms. It seems implausible to suggest that the gains from making things easier for regulators would outweigh the efficiency losses from forced

⁷⁹ van der Pol, Peggy, Nienke Liebrechts, Tibor Brunt, Jan van Amsterdam, Ron de Graaf, Dirk J. Korf, Wim van den Brink, and Margriet van Laar. “Cross-Sectional And Prospective Relation Of Cannabis Potency, Dosing And Smoking Behaviour With Cannabis Dependence: An Ecological Study”. *Addiction* 109, no. 7 (2014): 1101-1109: <https://assets-sites.trimbos.nl/docs/9c0cb91b-b917-410c-ab60-c05dc5df1198.pdf>

vertical integration: research examining the experience of Washington State found that “requiring vertical integration...will decrease market efficiency” and create barriers to entry, therefore hampering the ability of the legal market to outcompete the criminal market.⁸⁰ Prohibiting or limiting vertical integration as a means of promoting competition would create similar distortions and reduce the efficiency necessary to stamp out the black market.⁸¹

SELLING CANNABIS

CANNABIS LEGALISATION GOALS:

- **Ensuring adult cannabis users have a range of accessible legal retail options to purchase cannabis.**

If a legal cannabis market is extremely difficult for adults to purchase from, they will continue to use the black market. This black market is characterised by dealers who are able to deliver to a customer’s door at short notice and legal alternatives must be able to do the same. While cannabis users are willing to pay a premium for the legality of their purchases, this is limited to the extent that they are able to order reliably online or travel to a nearby retail store.

- **Creating an appropriate regulatory framework for cannabis social clubs and home growing for personal use.**

Cannabis social clubs, which produce cannabis cooperatively for use among members and are non-profit bodies, provide a niche, specialist market for enthusiasts. In June 2018, there were 160 official cannabis social clubs in the United Kingdom (many of which are currently adopting voluntary production standards).⁸² These clubs exist alongside small-scale home-grows, often maintained by patients growing cannabis for medical use. Everyone involved in such operations is currently a criminal in the eyes of the law but should be offered the opportunity to continue in a legal, regulated market.

- **Moving current illegal sales into a legal, regulated market.**

In order to maximise the effectiveness of legalisation in reducing the size of the UK’s thriving black market, regulators should prioritise diverting existing illegal sales into legal, regulated channels. The black market will not disappear overnight, but incentivising existing cannabis dealers to legitimise their operation will hasten its demise, while providing the opportunity for on-the-job rehabilitation and up-skilling of low-level dealers.

⁸⁰ Hansen, Benjamin, Keaton Miller, and Caroline Weber. THE TAXATION OF RECREATIONAL MARIJUANA: EVIDENCE FROM WASHINGTON STATE. Cambridge MA: NBER, 2017.: <https://www.nber.org/papers/w23632.pdf>

⁸¹ E.g. in California.

⁸² Selsby, Jenn. “This Is Why People Are Breaking The Law To Grow Medical Cannabis In The UK”. *New Statesman*, 2018: <https://www.newstatesman.com/politics/health/2018/06/why-people-are-breaking-law-grow-medical-cannabis-uk>

One advantage of a legal, regulated cannabis market is that retail outlets will be required to effectively restrict access for young people. Just as with alcohol, some underage people will always find ways around ID checks—but enforcing age restrictions at licensed vendors will be a significant improvement on the present entirely unregulated market. There are very few alcohol dealers on the streets for a reason.

BEST FIT POLICY:

- 1. Offering multiple licensing pathways for different retail models to enter the cannabis market.** This would include specialist retail stores, online vendors, and behind-the-counter sales by appropriate trained staff at high street pharmacies such as Boots or Superdrug. Of these retail options, the most important is online purchases (subject to the same age verification requirements that apply to ordering alcohol online). Illegal cannabis delivered quickly to your home is the current state of the UK market and failing to empower regulated vendors with similar delivery capacities will unnecessarily preserve the black market post-legalisation. For users, it is important that legal cannabis is, at the very least, more convenient to access than illegal cannabis.
- 2. Establish reasonable legal requirements for those who wish to run cannabis social clubs.** Cannabis social clubs cater to a unique section of the UK cannabis market, combining a small-scale hobby with a sense of community and empowerment over one's personal health decisions. Given their benefits to members, specialist nature and non-profit ethos, establishing a separate regulatory category for CSCs would be more prudent than banning them post-legalisation.
- 3. Governments should allow a limited degree of home growing of cannabis for personal use.** While more difficult to effectively police than a commercial market, home growing allowances for personal use would avoid medical patients being criminalised for producing cannabis that may be better suited to their personal condition.⁸³ Just as legalisation frees up police resources to concentrate on enforcing regulations in the commercial market, the same is true for home growing. Given an effective commercial market, the scale of home growing is also likely to be minimal and cannabis produced is unlikely to be sold on illicitly. Furthermore, home growing can act as an effective incubator for skills required to enter the legal cannabis industry.
- 4. Trading Standards should enforce appropriate age restriction regulations on retailers.** This could include a policy of presenting ID on the door for specialist cannabis retail stores, applying existing online purchase rules, appropriate checks in pharmacies, and exclusion zones for cannabis-related businesses around schools and other areas frequented by children.⁸⁴ The minimum age of purchase for cannabis products should be set at 18. This is the age recommended by University of Essex research into the potential shape of a cannabis market in England and Wales.⁸⁵ Their justification, which we concur with, is

⁸³ A suitable limit may be set at six plants in an individual's residence.

⁸⁴ Including 'Challenge 25' or similar policies.

⁸⁵ Beckley Foundation. *Licensing And Regulation Of The Cannabis Market In England And Wales: A Cost/Benefit Analysis*. Oxford: Beckley Foundation, 2013: <https://beckleyfoundation.org/resource/licensing-and-regulation-of-the-cannabis-market-in-england-and-wales-a-costbenefit-analysis/> (page

that “if the age limit were set at 21, it would impose prohibition on people aged 18-20 who, in other respects, are treated as full adults by the law...a ban on this large group could endanger the attempt to displace the illicit market, especially if imposed without compelling evidence of substantially greater harm for this age group than for over-21s.”⁸⁶

5. **Previous cannabis-related convictions should not disqualify individuals from participating in a regulated, legal cannabis market.** In order to redress past criminal injustices and move illegal retail into a regulated market, government should explore the possibility of clearing previous cannabis convictions where appropriate.⁸⁷ Furthermore, it should ensure that individuals with previous cannabis convictions are not disadvantaged in retail licensing applications. Regulators should explore different pathways (including grace periods) for illegal producers to move into the regulated, legal market.

RISKS:

1. **The Government should not implement a lottery system for granting cannabis retail licenses.** Creating a lottery system for retail licenses hampers the ability of the regulated market to adequately meet demand by restricting and creating uncertainty for potential suppliers. This is essentially an anti-competitive measure that inevitably prevents market entry for some retailers who may well be better equipped to provide higher quality, safer cannabis products from operating.⁸⁸
2. **Online cannabis sales platforms should not run by a single state monopoly.** Just as granting the government a monopoly on takeaway delivery or postage would result in inefficient, poorer quality service, restricting online sales to a single state-run entity would harm accessibility and prove a boon for the illegal market. A useful model would be the UK takeaway delivery app market, with firms just as UberEATS, Just Eat and Deliveroo all competing to provide quality service.

MARKETING CANNABIS

CANNABIS LEGALISATION GOALS:

- **Allow brand formation to incentivise higher quality cannabis products.**

Sensible advertising provisions for cannabis products would allow brand formation, which incentivises producers to improve the quality and consistency of their products. A large body of evidence shows that for most product categories (including alcohol and tobacco), advertising does not increase aggregate demand: rather, it in-

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⁸⁶ *ibid.*

⁸⁷ This could be modelled on the Californian approach, *AB-1793 Cannabis Convictions: Resentencing*. Vol. 113619. Sacramento: California State Congress, 2019: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1793

⁸⁸ The pitfalls of a retail license lottery system were made clear in Ontario, with many applicants struggling to open in time for business. The London Free Press. “All 25 Ontario Pot Shops Won’t Be Ready To Open April 1”, 2019: <https://lfpres.com/news/provincial/all-25-ontario-pot-shops-wont-be-ready-to-open-april-1/wcm/e46b41a8-9b0f-4882-9370-cde56bdd2cad>

creases market share for individual firms.⁸⁹ Furthermore, allowing brand formation increases the cost of counterfeiting legal cannabis products that risk compromising the integrity of a regulated market by reducing quality, safety, and compliance.

- **Ensure all cannabis marketing and products are solely targeted at adult consumers.**

As a safeguarding measure and to reinforce public perceptions of cannabis as a product for adult use only, regulators should ensure that cannabis-related marketing across all platforms should not feature anything that is likely to appeal to underage people. This should also include appropriate restrictions on advertising locations and targeting that strengthens the fact that cannabis as an adult product but preserves the aforementioned benefits of brand formation. Edible products that are likely to appeal to children should also be prohibited, although caution should be exercised in determining which products fall under this definition in order to preserve consumer choice.

- **Minimise the risk of accidental cannabis consumption by children.**

While edible products should form part of a regulated cannabis market (as a less harmful consumption method than tobacco and cannabis joints), sensible precautions to prevent accidental ingestion by children are necessary to avoid risks to health. However, other cannabis products are extremely unlikely to be ingested by children; firms should consequently not be burdened with unnecessary packaging requirements.

BEST FIT POLICY

1. Model cannabis advertising rules on existing guidance for e-cigarettes.

These rules include a ban on broadcast (e.g. TV, radio) advertising, ads only featuring anyone who is (or seems) over the age of 25, not including anything likely to appeal to underage people, and restrictions on locations for advertising.⁹⁰ They also allow promotional advertising, appropriately targeted online advertising and brand formation to an appreciable extent.

2. Edibles should be required to have child-resistant packaging and no designs that may appeal to children. This should be modelled on Colorado's regulations of "child-resistant packaging requirements, requirements for edibles to be marked with a universal symbol so they can be identified even outside their packaging...and prohibitions on the manufacturing and sales of edibles in the shape of a human, animal, or fruit."⁹¹

3. Cannabis packaging should feature a standardized cannabis symbol. This follows Canada, which mandates that such a symbol must feature on "all can-

⁸⁹ Harris, Ralph, and Arthur Seldon. *Advertising In A Free Society*. Hobart Papers. London: The Stellar Press, 2014: <https://iea.org.uk/publications/research/advertising-in-a-free-society>

⁹⁰ Asa.org.uk. (2018). *Electronic cigarettes: Children and young people.*: <https://www.asa.org.uk/advice-online/electronic-cigarettes-children-and-young-people.html>

⁹¹ Colorado Department of Public Safety, "Colorado Division of Criminal Justice Publishes Report on Impacts of Marijuana Legalization in Colorado", Colorado: Department for Public Safety, October 26, 2018: <https://www.colorado.gov/pacific/publicsafety/news/colorado-division-criminal-justice-publishes-report-impacts-marijuana-legalization-colorado>

nabis products that contain THC in a concentration greater than 10 micrograms per gram⁹².

POLICY RISKS:

- 1. Avoid implementing plain packaging for cannabis products.** Available evidence shows that plain packaging does not reduce overall tobacco consumption or initiation.⁹³ The same is likely to be the case for the recreational cannabis market, where plain packaging would likely hinder effective brand formation to the detriment of quality, consistency and consumer choice. Stopping producers from competing on their brand image also incentivises them to compete solely on price, which may inadvertently lead to increased use in a way that branding would be unlikely to do.

PURCHASING CANNABIS

CANNABIS LEGALISATION GOALS:

- **Incentivise less harmful consumption patterns for existing users.**

Partially owing to continuing criminalisation, the extent and nature of cannabis physical and mental health effects remains under researched. Current evidence suggests that high potency cannabis (high in THC, low in CBD) may be more harmful than lower strength strains, although this is heavily disputed.⁹⁴ It is therefore important to incentivise people to switch to potentially less risky cannabis products, just as we treat different strengths of alcohol under the law.

- **Ensure the price of legal cannabis undercuts the price of black market cannabis.**

While raising revenue for public education on cannabis and treatment services for problem users (the ‘cannabis dividend’) is important, this cannot be at the expense of failing to make a significant dent in the size of the illegal cannabis market. Governments must therefore resist prioritising revenue in their approach to taxation policy, instead setting taxes at a point where the price of legal cannabis is at least equal to current black market prices. Consumers are willing to pay a premium for legal, regulated products—but only up to a point. In fact, high levels of cannabis taxation are fiscally short-sighted given that revenues depend upon the legal (and therefore taxable) market displacing the illegal market.

- **Provide consumers with a wide choice of legal cannabis products.**

⁹² Health Canada. *Standardized Cannabis Symbol*. Image, 2018: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/regulations-support-cannabis-act/standardized-symbol.html>

⁹³ Pryor, Daniel. *1 MILLION YEARS OF LIFE How Harm Reduction In Tobacco Policy Can Save Lives*. London: Adam Smith Institute, 2019: <https://static1.squarespace.com/static/56edde762cd9413e151ac92/t/5b2a58eaf950b7e84b9a4a20/1529501933343/1+Million+Live+Paper+-+Daniel+Pryor.pdf> (page 3)

⁹⁴ Pryor, Daniel. 2019. “Reefer Madness 2.0”. Blog. *Adam Smith Institute*: <https://www.adamsmith.org/blog/reefer-madness-20>

Adult cannabis users prefer a wide range of cannabis products and a vibrant legal market should cater to different preferences. By doing so, regulated vendors can out-compete black market offerings and consumer choice can be maximised (subject to common-sense limitations). It is vital that an innovative legal cannabis market is also able to provide less harmful alternatives to the most popular form of cannabis consumption (tobacco and cannabis joints), by allowing products like edibles, drinks and vaporisers.⁹⁵

- **Educate and inform consumers about the latest evidence on the health effects of cannabis use.**

Informed cannabis users are better able to judge the trade-offs between their consumption and its potentially negative effects on health and wellbeing. Such information should be clearly communicated to consumers via public health awareness campaigns and at the point-of-sale, and should also include details of likely short-term effects for inexperienced users in order to avoid unnecessary stress or expenditure of NHS resources.

BEST FIT POLICY:

1. Taxation of cannabis products should be based on product value and could fall into three broad categories. These are high THC:CBD ratio products, one-to-one THD:CBD ratio products, and high CBD:THC ratio products. Regulated cannabis industries have tended to naturally gravitate towards these three broad product categories.⁹⁶ Tolerance limits for calculating which taxation category a particular product would attract should be instituted as they have been for weight in the Canadian market.⁹⁷ This system strikes a balance between ease of implementation and incentivising potentially less harmful consumption, although regulators prioritising simplicity at the initial stages of legalisation could calculate tax levels solely based on price (since it is an effective proxy for potency). Levels of taxation should initially be calculated in such a way as to maintain average legal market price of high THC:CBD products at equal or below that of the average illegal market price.⁹⁸

2. Maximum restrictions on THC content of edible products should be set at realistic levels. Canada's proposed regulations for their edibles market set such maximums at unreasonably low levels that are wildly out of step with typi-

⁹⁵ Winstock, Adam, Monica Barrett, Jason Ferris, and Larissa Maier. "Global Drugs Survey 2017: Overviews And Highlights". Presentation, p33: https://www.globaldrugssurvey.com/wp-content/themes/globaldrugssurvey/results/GDS2017_key-findings-report_final.pdf

⁹⁶ Jikomes, Nick, and Michael Zoorob. "The Cannabinoid Content Of Legal Cannabis In Washington State Varies Systematically Across Testing Facilities And Popular Consumer Products". *Scientific Reports* 8, no. 1 (2018): <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5852027/> (Figure 1) which uses over 175,000 samples from Washington State testing labs.

⁹⁷ Government of Canada. *Tolerance Limits For The Net Weight And Volume Declared On Cannabis Product Labelling*, 2018: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/regulations-support-cannabis-act/tolerance-limits.html>

⁹⁸ Currently around £10 per gram. Snowdon, Christopher. "Joint Venture: Estimating the Size and Potential of the UK Cannabis Market". London: Institute for Economic Affairs, June 2018. p24: https://iea.org.uk/themencode-pdf-viewer-sc/?file=/wp-content/uploads/2018/06/DP90_Legalising-cannabis_web-1.pdf&settings=111111011&lang=en-GB#page=5&zoom=75&pagemode=

cal use patterns.⁹⁹ They have since been criticised by industry and experts for jeopardizing the promise of shifting edibles consumption away from the black market.¹⁰⁰ While sensible restrictions are required to minimise the risks of accidental ingestion or extremely high doses, the edibles market must be allowed to compete with alternatives.¹⁰¹

3. **The latest information on the health effects of cannabis should be provided to consumers at point-of-sale and through a wider public information campaign by Public Health England.** Point-of-sale information could be modelled on Health Canada’s one-page factsheet and required as part of all legal cannabis sales (whether inside packaging or provided separately with every purchase).¹⁰²
4. **As part of a wider rethink on drugs education in schools, young people and parents should be provided with high quality information on cannabis.** This recommendation follows Volteface’s 2018 report *The Children’s Inquiry*, which found that “good quality education on cannabis for young people in the UK is lacking” and “putting young people at a greater risk of harm.”¹⁰³ Policy-makers should follow recommendations outlined by Mentor, the UK’s leading drug and alcohol prevention charity, made in the wake of the Volteface report’s release.¹⁰⁴

RISKS:

1. **Revenue maximisation should not be the taxation priority. Many jurisdictions in which cannabis has been legalised are correctly leaving potential tax revenue on the table in order to ensure legal cannabis can successfully outcompete the black market on price.** Although consumers are willing to pay a premium in order to avoid the potential cost of breaking the law, a sensible taxation regime must err on the side of caution if it is to accomplish the aim of taking control of cannabis away from criminals. The risk of users substituting towards the illegal market—especially in the short to medium run—is higher than alcohol and tobacco since the black market is currently entrenched and ubiquitous (elasticity of substitution is higher).
2. **Governments should avoid cultivation taxes (directly taxing the weight of cultivated cannabis).** This is because, in the words of the Tax Foundation’s Amir El-Sibaie, they have “unintended consequences such as discouraging

⁹⁹ These are due to come into force by October 17th 2019. Government of Canada. *PROPOSED REGULATIONS FOR ADDITIONAL CANNABIS PRODUCTS*. Ottawa: HM Government in Right of Canada, 2018: <https://www.canada.ca/content/dam/hc-sc/documents/services/drugs-medication/cannabis/resources/proposed-regulations-edible-cannabis-extracts-topical-eng.pdf?fbclid=IwAR3ZUWPLMrzVmiVtStj-KxnkD42WYlX3SDtCAFYsquN-E6oyVfDiK1c5yPM>

¹⁰⁰ Krishnan, Manisha. “Here’S What’S Wrong With Canada’S Plan To Regulate Edibles”. *Vice*, 2019: https://www.vice.com/en_ca/article/zmd77j/heres-whats-wrong-with-canadas-plan-to-regulate-edibles

¹⁰¹ Exact limits should be determined by relevant public health authorities in consultation with recreational users and medical patients.

¹⁰² Canada, Health. “Consumer Information – Cannabis - Canada.Ca”. *Canada.Ca*, 2018: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/laws-regulations/regulations-support-cannabis-act/consumer-information.html>

¹⁰³ McCulloch et al, “*The Children’s Inquiry*”, London: Volteface, September 2018: <http://volteface.me/app/uploads/2018/09/The-Childrens-Inquiry-Full-Report-2.pdf>

¹⁰⁴ “Mentor UK Backs Report Calling For Urgent Evidence-Based Drugs Education - Mentor UK”. *Mentor UK*, 2018: <https://mentoruk.org.uk/blog/2018/09/19/mentor-backs-report-calling-urgent-evidence-based-drugs-education/>

the production of less potent, cheaper marijuana.¹⁰⁵ For example, a pound of relatively cheap marijuana would have the same tax burden as a pound of high-quality, expensive marijuana because cultivation taxes depend on the product's weight and not its value...[they] effectively price out firms which may have been able to specialize in the production of less potent marijuana". This phenomenon is sometimes referred to as the Alchian-Allen effect.¹⁰⁶

3. Gross receipts taxes should be avoided in favour of excise taxes at retail.

Researchers from the University of Oregon found that gross receipts taxes on cannabis (collected at every step of the supply chain) "discouraged otherwise efficient trades between cultivators and processors, thus creating deadweight loss."¹⁰⁷ Hobbiling the efficiency of the legal cannabis market is likely to push up prices and cede ground to the illegal market.

CONSUMING CANNABIS

CANNABIS LEGALISATION GOALS:

- **Continue to rigorously enforce drug driving laws and ensure cannabis users are fully aware of the associated penalties.**

It is vital that police forces maintain current penalties for driving under the influence of drugs regardless of legalisation.¹⁰⁸ Although, some research has found that driving while impaired by cannabis use is actually a less harmful substitute for drunk driving, it is still a risky behaviour.¹⁰⁹ Legalisation without an accompanying awareness campaign on the continued illegality of drug driving risks public safety on UK roads.

- **Minimise community disruption from public cannabis use where necessary while ensuring responsible consumers aren't prevented from using the product legally.**

Polling in the US suggests that the vast majority of the population are not concerned with individuals smoking cannabis in their own homes.¹¹⁰ Public concerns around street consumption stem from perceptions around antisocial behaviour as well as simpler factors such as the smell of cannabis and child safeguarding. Regulated online sales would make it more convenient to consume at home, but current cannabis culture in the UK also features outdoor use and policymakers should re-

¹⁰⁵ El-Sibaie, Amir. "Gross Receipts Taxes In The Marijuana Industry - Tax Foundation". *Tax Foundation*, 2018: <https://taxfoundation.org/gross-receipts-taxes-marijuana/>

¹⁰⁶ Dumitriu, Sam. "Prohibition created skunk. It's basic economics". Blog. *Adam Smith Institute*, 2016: <https://www.adamsmith.org/blog/skunk>

¹⁰⁷ Pryor, Daniel. "How should we tax legal cannabis?". Blog. *Adam Smith Institute*, 2017: <https://www.adamsmith.org/blog/how-should-we-tax-legal-cannabis> for more information

¹⁰⁸ "Drugs And Driving: The Law". *GOV.UK*. Accessed 10 June 2019: <https://www.gov.uk/drug-driving-law>

¹⁰⁹ Anderson, M. and Rees, D. (2011). *Medical Marijuana Laws, Traffic Fatalities, and Alcohol Consumption*. IZA Discussion Paper Series. Bonn: IZA.: <http://ftp.iza.org/dp6112.pdf>

¹¹⁰ Motel, S. (2015). 6 facts about marijuana. [Blog] *FactTank*: <https://www.pewresearch.org/fact-tank/2015/04/14/6-facts-about-marijuana/>

act accordingly. Striking a balance between addressing concerns around public use and ensuring individuals have a place to smoke cannabis legally.

BEST FIT POLICY

- 1. Accompany legalisation with a public awareness campaign on drug driving.** This could be funded by cannabis taxation revenues or an alternative source. It should communicate the risks of drug driving and the accompanying legal penalties, making it clear to cannabis users that drug driving will be fully prosecuted and offering practical tips for staying safe in a similar manner to drink driving campaigns.
- 2. Government and local authorities should prohibit smoking cannabis in certain public places.** Some degree of prohibition on areas of legal cannabis consumption is sensible. This could mirror existing bans on tobacco and e-cigarette use, albeit with the addition of places where children commonly gather (e.g. schools, playgrounds) and vehicles.¹¹¹ Local authorities could be granted discretion to adapt their approach to individual circumstances, such as on-the-spot fines for smoking in certain areas or at certain times (similar to alcohol bylaws). Whatever approach is taken, it is vital to communicate the policy to the public in order to minimise the possibility of cannabis users accidentally breaking the law.

RISKS

- 1. Government and local authorities should not aim to overly restrict areas of legal cannabis consumption.** While some variation in approach at the local level is useful for accommodating the needs of different communities, too much variance is likely to result in widespread ignorance of the law. Councils could also make provision for public consumption licenses at events such as festivals.

CONCLUSION

When the Adam Smith Institute and Volteface published *The Tide Effect* in 2016, international momentum behind recreational cannabis legalisation was in its early stages. Three years later, more countries and states around the world have opted to take back control of the illicit cannabis market, there is more evidence of legalisation's successes emerging, and a groundswell of public support for the UK to follow suit.

The most vociferous voices in favour of doubling down on the failures of prohibition are becoming increasingly marginalised as fears about potential negative impacts of legalisation are extinguished by real world experience. Politicians, public health bodies, Police and Crime Commissioners, and many others in civil society are finally beginning to recognise that the time has come to change our approach.

¹¹¹ See the approach taken by British Columbia: <https://www2.gov.bc.ca/gov/content/safety/public-safety/cannabis>

Legalisation promises to protect young people, improve public health, crack down on violence in our streets, promote social justice, boost tax revenues, and let responsible adults choose whether to use a regulated consumer product.

If Government wants to achieve all of that — it's time to give the green light to legal, regulated cannabis.