



Putting patients before politics.

This document contains information regarding the use of Bongs & utensils and non-medically approved dry herb vaporisers for consuming legally prescribed dried Medicinal Cannabis flower. This is required because the NZ Police don't have any formalised procedures relating to the use of Prescription Medicinal Cannabis as of September 2023. MCANZ has worked with the New Zealand Ministry of Health Strategy Policy and Legislation team to provide some clarity on this matter.

With Medicinal Cannabis flower having been available since early March 2022. It is of concern that there are still no formalised procedures available to frontline NZ Police staff around prescription Medicinal Cannabis. And while other controlled drugs don't have their own documentation, they aren't as stigmatised as Cannabis is. And with a significant chunk of people still not knowing Cannabis can be legally prescribed by a doctor, this can lead to issues with the Police. As they might not understand where the boundary is. And as such have overstepped the line previously resulting in the seizure of both a utensil and patients medication. And this was widely publicised in the media.

A member of the Medicinal Cannabis community back in December 2022 filed an OIA to the NZ Police seeking information on both guidelines, police instructions, police manual chapters, policies. And also other information concerning the use of Medicinal Cannabis. [Guidelines for Medicinal Cannabis OIA](#).

This resulted in a response from David Kirby, the Detective Inspector of the National Criminal Investigation Group at New Zealand Police. In David's response he stated the following: "[There are no other documents, including training materials or courses, operational bulletins, or other material which cover procedure, policy, or law relating to medicinal cannabis](#)". And then pointed to Part 15 of the Drugs Chapter pertaining to Police Discretion with possession of controlled drugs, which is publicly available and can be viewed on the Police Website.

Then in relation to questions 4, 5 & 6 these were refused pursuant to section 18(e) OIA. As the documentation alleged to contain this information does not exist or cannot be found. This is rather concerning. And just further underpins the wider issue there is relating to this topic.

- 4. Whether any formalised procedure for the third point is in development or has been identified as required.
- 5. Details of how Police identify where gaps in procedure and Police Manual such as this exist.
- 6. Or if such procedure or documents as described in point three do exist, copies of along with an explanation as to why they were not initially included.

Subsequently community members of [MCANZ](#) have reached out to the office of the Deputy Director-General for Strategy Policy and Legislation, at the NZ Ministry of Health. To seek some clarity on the matter. As to whether a Legal Medical Cannabis patient who is using a bong or other utensil, and or non-medically approved dry herb vaporiser is doing so in the commission of an offence against the Misuse of Drugs Act 1975. This is because if they aren't there is no good reason for the NZ Police to seize patients utensils / devices. Please see the Ministry of Health's responses below:

From: SPL-Office of the DDG - Friday June 23rd 2023.

Thank you for your further email of 7 June 2023 with follow up questions. You have asked for the Ministry of Health's views on the use of non-medically approved dry herb vaporisers for taking medicinal cannabis.

A person who possesses a non-medically approved dry herb vaporiser for the purpose of taking their prescribed medicinal cannabis would not breach the Misuse of Drugs Act 1975 because they are not using it "for the purpose of the commission of an offence against this Act" [\(s13\(1\)\(a\)\)](#).

With regard to the law on how medicinal cannabis may be taken, while smoking medicinal cannabis is not permitted [\(regulation 20\(1\) of the Misuse of Drugs \(Medicinal Cannabis\) Regulations 2019\)](#), there is no law against a person inhaling their prescribed medicinal cannabis using an un-approved vaporiser. However, it is advisable that they use an approved vaporiser if the product has been prescribed for the purpose of inhalation. Medicinal cannabis products that are verified as meeting the minimum quality standard must state the route of administration on their labelling - see this link for a list of products: <https://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicinal-cannabis-agency/medicinal-cannabis-agency-information-health-professionals/medicinal-cannabis-products-meet-minimum-quality-standard>.

Consequently the Medicinal Cannabis Agency's guidance to health professionals is: "The administration of some medicinal cannabis products requires a vaporiser. Vaporisers can be purchased from the NZ supplier, or imported directly. The [Misuse of Drugs \(Prohibition of Utensils\) Notice 2020](#) sets out that a vaporiser can be imported and sold, only if it has been approved as a medical device by an overseas regulator. This ensures the vaporiser will provide a safe method for administering medicinal cannabis." [Medicinal Cannabis Agency - Information for health professionals | Ministry of Health NZ](#).

We appreciate the cost of these devices can be a concern.

We trust this answers your questions.

Ngā mihi

Stephen Glover

Sent from:
Office of the Deputy Director-General
Strategy Policy and Legislation | Te Pou Rautaki
Manatū Hauora, 133 Molesworth Street Thorndon, Wellington 6011



MINISTRY OF HEALTH

From: SPL-Office of the DDG - Wednesday June 7th 2023.

Thank you for your emails to the Medicinal Cannabis Agency asking about the laws surrounding third party accessories used with legal medicinal cannabis vaporisers. It has been referred to the Ministry of Health for reply. The Ministry is not able to give legal advice on specific situations. However we have looked into the questions you raise and can provide the following clarification as to what the law permits.

The Ministry publication you refer to is from 2016 and is a discussion document. It is not intended to give advice to consumers of medicinal cannabis. Information for consumers of medicinal cannabis is found here: [Medicinal Cannabis Agency - Information for consumers | Ministry of Health NZ](#).

A person who possesses an accessory for the purpose of taking their prescribed medicinal cannabis would not breach the [Misuse of Drugs Act 1975](#) because they are not using it “for the purpose of the commission of an offence against this Act” [\(s13\(1\)\(a\)\)](#).

Under the [Misuse of Drugs \(Prohibition of Utensils\) Notice 2020](#), a vaporiser can only be imported and sold in New Zealand if it has been approved as a medical device by an overseas regulator. We note on the Mighty Medic’s website, there is a glass attachment available “designed to fit the Mighty Medic and Mighty Medic+ Vaporisers in place of the mouthpiece”. This appears to be legitimate. However, regarding third party accessories generally, we cannot give you a clear answer on the question of lawfulness because there could potentially be various legal arguments made in a court of law. We agree that there is no public interest in taking enforcement action in response to attachments that reduce harm.

With regard to the more general concerns in your follow up email, we are aware of concerns about the impacts of the [Notice](#). We intend assessing the [Notice](#) as part of our regulatory stewardship work programme next year. We will take into account the issue you have raised.

Thank you again for raising this matter with us.

Ngā mihi

Stephen Glover

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MINISTRY OF HEALTH

In summary a legal Medical Cannabis patient who either uses a Bong or similar device for the cooling of hot Cannabis vapour from either a medically or non-medically approved dry herb vaporiser. Isn't using either these devices in a way to commission an offence against Misuse of Drugs Act 1975 [\(s13\(1\)\(a\)\)](#). This is because they are in lawful possession of their dried Medicinal Cannabis flower that the patient has been legally prescribed by a doctor. Doctors may also issue letters to patients further supporting the use of third party accessories to aid in sufficient vapour cooling.

As without sufficient vapour cooling, Hot Cannabis vapour can lead to Paroxysmal coughing. Paroxysmal coughing involves frequent and violent coughing that can make it hard for a person to breathe. In some cases it can become so intense that a patient vomits. And in very severe cases patients lips or skin can turn blue from a lack of oxygen in the blood. It is apparent beyond all reasonable doubt that the use of Bongs or other devices whether bought from a store or home made are harm reduction devices first and foremost. And need to be treated as such.

It has been affirmed by the NZ Ministry of Health that they "agree that there is no public interest in taking enforcement action in response to attachments that reduce harm". Even outside the scope of people who are legally doing so. As such it's very clear that the NZ Police need to understand this. And in relation to people who smoke their Medicinal Cannabis flower instead of using a vaporiser, this also appears to be legal. However we have not managed to seek clarification on this matter yet.

While the NZ Ministry of Health stated smoking Medicinal Cannabis is not permitted as per [\(regulation 20\(1\) of the Misuse of Drugs \(Medicinal Cannabis\) Regulations 2019\)](#). This law states the following:

[20 Form and dosage form](#)

- (1) A medicinal cannabis product must not be in a form intended for smoking.
- (2) A dosage product—
 - (a) must be in a pharmaceutical dosage form for which there is a monograph in the European Pharmacopoeia; and
 - (b) must comply with the requirements of the monograph; but
 - (c) must not be in a sterile dosage form.

We have yet to receive clarification on what the definition of "intended" is. As while Medicinal Cannabis products must not be in a form intended for smoking, this doesn't state it's illegal. And given the complex set of circumstances surrounding why a patient may choose this route. We implore the NZ Police to follow the documentation set forth in [Part 15, Police discretion with possession/use of controlled drugs and/or possession of utensils offences](#).

Excerpt from this document from page 10 of 21:

Overarching discretion approach: In line with the [Solicitor-General's Prosecution Guidelines](#), prosecution should not be brought **unless** it is required in the public interest. When considering whether a prosecution is required in line with the public interest test, also consider whether a health-centred or therapeutic approach would be more beneficial to the public interest.

Constabulary discretion principles: The following constabulary discretion principles should be considered: The guidance for constabulary discretion emphasises that consideration should be given to whether a therapeutic approach would be more beneficial to the public interest before a decision is taken to prosecute for the possession or use of controlled drugs ([as defined under section 7 in the Misuse of Drugs Act 1975](#)).

The above information is shared from the community organisers of [MCANZ.org.nz](https://www.mcanz.org.nz). Who have reached out to the NZ Ministry of Health, for clarifications on the issues surrounding the use of legally prescribed Medicinal Cannabis from a Doctor. This is different to patients who require Palliation. Information for Palliative patients can be found here: [NZ Police Part 14 Medicinal Cannabis](#).

This document can be viewed on our website by going to: <https://www.mcanz.org.nz/links> and clicking on Cannabis Accessories & law. Or alternatively please scan this QR code below to go to the above link then click on Cannabis Accessories & law.

