

## Grainne X. Jones

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**From:** Andrew X Payne  
**Sent:** Thursday 11 March 2021 10:58  
**To:** Ciarán X Allen  
**Subject:** RE: CBD eCorr petition

Thanks Ciarán

**From:** Ciarán X Allen  
**Sent:** Thursday 11 March 2021 10:58  
**To:** Aisling X. Bunyan  
**Cc:** Sean P. Kilcoyne ; James P. Kelly ; Orla X. Mullen ; Andrew X Payne  
**Subject:** RE: CBD eCorr petition

Hi Aisling,

The CBD draft response is approved by the Minister.

Kind regards,

*Ciaran*

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**Ciarán Allen**  
*Executive Officer | Minister's Private Office*

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Department of Justice  
51 St Stephen's Green, Dublin 2, D02 HK52

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T +353 (0)1 602 8651 [REDACTED] Internal VOIP 60861  
W [www.justice.ie](http://www.justice.ie) [twitter.com/DeptJusticeIRL](https://twitter.com/DeptJusticeIRL)

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Please note I am currently working remotely

**From:** Aisling X. Bunyan <[AXBunyan@justice.ie](mailto:AXBunyan@justice.ie)>  
**Sent:** Tuesday 16 February 2021 16:04  
**To:** Min-approvals Mail In <[Min-approvals@justice.ie](mailto:Min-approvals@justice.ie)>  
**Cc:** Sean P. Kilcoyne <[SPKilcoyne@justice.ie](mailto:SPKilcoyne@justice.ie)>; James P. Kelly <[JPKelly@justice.ie](mailto:JPKelly@justice.ie)>; Ciarán X Allen <[CXAllen@justice.ie](mailto:CXAllen@justice.ie)>; Orla X. Mullen <[OXMullen@justice.ie](mailto:OXMullen@justice.ie)>  
**Subject:** FW: CBD eCorr petition

Colleagues,

As you may be aware, we have received approx. 40 emails from members of the public over the last week in relation to a raid of a CBD shop.

Please see link to one example case as follows:

<https://justice.cloud.gov.ie/apps/eCorrespondence/sites/MO/Lists/Cases/DJE-MO-01305-2021>.

The Trsp Criminal C&P team have drafted the attached template response for use in answering these emails. I would be grateful if you could seek the approval of the Minister's Advisers and the Minister when you can in relation to this template response.

Let me know if you have any queries.

Regards,

Aisling

## Grainne X. Jones

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**From:** Sean P. Kilcoyne  
**Sent:** Thursday 11 March 2021 12:07  
**To:** Grainne X. Jones  
**Subject:** FW: CBD eCorr petition

Hi Grainne,  
Just as an FYI, CBD response cleared by the Minister.  
Thanks,  
Sean,

**From:** Aisling X. Bunyan  
**Sent:** Thursday 11 March 2021 11:57  
**To:** Dylan X. Tynan  
**Cc:** Sean P. Kilcoyne  
**Subject:** FW: CBD eCorr petition

Hi Dylan,  
As mentioned, we got approval to issue a batch of cases relating to CBD.  
The template response is at link: <https://justice.cloud.gov.ie/apps/eCorrespondence/sites/MO/Lists/Cases/DJE-MO-01305-2021> and I've pulled out the table of relevant cases below. Would you mind issuing these whenever you can? There's no rush to do this immediately, if possible to get them done by the end of next week that would be ideal. If you could check the response is aligned with 1305-2021 above before issuing that would be fantastic. Any issues or queries let me or Sean know. If you're unsure about any of them don't rush to issue them, let us know and we can have a look.

Regards,  
Aisling

### Case Id

- [DJE-MO-01095-2021](#)
- [DJE-MO-01305-2021](#)
- [DJE-MO-01377-2021](#)
- [DJE-MO-01397-2021](#)
- [DJE-MO-01399-2021](#)
- [DJE-MO-01401-2021](#)
- [DJE-MO-01402-2021](#)
- [DJE-MO-01404-2021](#)
- [DJE-MO-01405-2021](#)
- [DJE-MO-01406-2021](#)
- [DJE-MO-01408-2021](#)
- [DJE-MO-01409-2021](#)
- [DJE-MO-01411-2021](#)
- [DJE-MO-01412-2021](#)
- [DJE-MO-01413-2021](#)
- [DJE-MO-01416-2021](#)
- [DJE-MO-01417-2021](#)
- [DJE-MO-01418-2021](#)
- [DJE-MO-01419-2021](#)
- [DJE-MO-01420-2021](#)
- [DJE-MO-01421-2021](#)
- [DJE-MO-01423-2021](#)
- [DJE-MO-01425-2021](#)

82

- [DJE-MO-01426-2021](#)
- [DJE-MO-01427-2021](#)
- [DJE-MO-01428-2021](#)
- [DJE-MO-01429-2021](#)
- [DJE-MO-01431-2021](#)
- [DJE-MO-01432-2021](#)
- [DJE-MO-01433-2021](#)
- [DJE-MO-01654-2021](#)
- [DJE-MO-04637-2020](#)

**From:** Ciarán X Allen <[CXAllen@justice.ie](mailto:CXAllen@justice.ie)>

**Sent:** Thursday 11 March 2021 10:58

**To:** Aisling X. Bunyan <[AXBunyan@justice.ie](mailto:AXBunyan@justice.ie)>

**Cc:** Sean P. Kilcoyne <[SPKilcoyne@justice.ie](mailto:SPKilcoyne@justice.ie)>; James P. Kelly <[JPKelly@justice.ie](mailto:JPKelly@justice.ie)>; Orla X. Mullen <[OXMullen@justice.ie](mailto:OXMullen@justice.ie)>; Andrew X Payne <[AXPayne@justice.ie](mailto:AXPayne@justice.ie)>

**Subject:** RE: CBD eCorr petition

Hi Aisling,

The CBD draft response is approved by the Minister.

Kind regards,

*Ciaran*

-----  
Ciarán Allen

Executive Officer | Minister's Private Office

-----  
Department of Justice

51 St Stephen's Green, Dublin 2, D02 HK52

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T +353 (0)1 602 8651 M [REDACTED] Internal VOIP 60861

W [www.justice.ie](http://www.justice.ie) [twitter.com/DeptJusticeIRL](https://twitter.com/DeptJusticeIRL)

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Let me know if you have any queries.

Regards,

Aisling

Tel: [REDACTED]  
DX No: [REDACTED]  
email: [REDACTED]  
web: [REDACTED]

Correspondent 40

Ms Helen McEntee  
The Minister for Justice  
Department of Justice  
51 St. Stephen's Green  
Dublin 2  
D02 HK52  
**By Registered post and email**

Our Ref: [REDACTED]

Your Ref:

19 January 2021

Re: [REDACTED]

Dear Minister,

I am writing on behalf of the [REDACTED] who grow hemp under license from the Health Products Regulatory Authority. I **attach** recent literature produced by the HPRA that shows that in 2019 there were 77 applications for 373 hectares planted.

By comparison France has circa 17,900 hectares planted, Italy has 4,000 hectares and the Netherlands has 3,833 hectares planted.

Hemp, having a demonstrable history of cultivation in Ireland for hundreds of years, is a crop that is suitable for many land types. In addition, there are innumerable uses for clothing, textiles, building products as well as food and medicinal applications. The entirety of the plant may be used in a wide variety of products and we **attach** literature which shows various industrial applications.

We are writing to you because - there is a particular legislative difficulty in Ireland for these growers as, although they operate and grow the plant under and in accordance with the license issued by the Department, the statutory position is that any part of hemp plant is classified in the Misuse of Drugs Act, 1977 as amended, as being equivalent to cannabis which means any part of any such plant, and namely, as identified in the act as "the mature stalk of the plant, the fibre produced from the stalk or the seed of any such plant".

As a consequence, although these farmers are growing a product that is licensed and regulated, the plant itself is criminally controlled. This inconsistency does not exist at European level and indeed the European parliament, as of 31 October 2020, voted in favour of authorizing THC levels for industrial hemp grown from 0.2% to 0.3%.

MANAGING PARTNER:  
PARTNERS:

ASSOCIATE:  
CONSULTANTS:

83

We are writing to your office, in the first instance:

1. To seek a meeting with you to discuss these matters;
2. To seek, through those discussions, to bring an amendment to the Misuse of Drug Act which authorises persons who have grown this agricultural product to exploit its uses in an industrial application. A suggestion for the revision of this would simply be that plants, grown under license from the Department, or derivatives therefrom, are specifically excluded from the Misuse of Drugs Act.

Of course, there may be a European dimension on promoting internally produced goods and artificially creating a closed internal market with such a definition because hemp is lawfully grown in other European member states and they equally may want to place their products on the market here in Ireland, but we only flag this as a point for your department to consider. We do not propose importing the plant or any of its derivatives at this time.

We, as a group, believe it is imperative that we do not fall behind with regard to the opportunities that industrial uses of hemp have been put to in other westernized countries and, in particular, it's increasing application as a medicinal product for the alleviation of arthritic and other pain relieving conditions.

From recent estimates the global hemp market is expected to grow to;

- From USD 3,528.72 Million (USD) in 2019 to 18,812.81 Million (USD) by 2025

driven in particular by CBD Hemp Oil, Hemp Fiber, Hemp Seed and Hemp Seed Oil. These products all exist in an area of criminal law in Ireland that is badly outdated and we would greatly appreciate any assistance you could provide in seeking to update it.

We would appreciate a reply at your earliest convenience. I **enclose** letters of support from Industry and local TDs.

Yours thankfully,

A large black rectangular redaction box covering the signature and name of the sender.

Ms Helen McEntee  
The Minister for Justice  
Department of Justice  
51 St. Stephen's Green  
Dublin 2  
D02 HK52  
**By Registered post and email**

Our Ref: [REDACTED]

Your Ref:  
19 January 2021

Re: [REDACTED]

Dear Minister,

I have reviewed the draft of the letter to be sent to you on behalf of the [REDACTED]

[REDACTED] I support an amendment to the misuse of drugs act so as to amend the unintended consequence of having licensed products being classed as controlled substances.

Is Mise

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Correspondent 41

## Memo

From :



To: helen.mcentee@oireachtas.ie, info@justice.ie,

cc:

Date : 26/03/2021

Subject: Illegal CBD raids

Dear Minister Helen McEntee,

I am writing to inform you that Little Collins CBD dispensary in Kilkenny was raided yet again on Thursday February 4th 2021.

This came just hours after the owner went on KCLR FM to talk about his thriving business, CBD, hemp and cannabis.

These continued raids are a direct violation of the ruling made by the European Court of Justice on November 19th 2020:

"A Member State may not prohibit the marketing of cannabidiol (CBD) lawfully produced in another Member State when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds"

This case ruled that CBD products should not be contained within illegal narcotic legislation of member states, in our case, CBD products should not be contained in the Misuse of Drugs Act 1977. I would like to highlight a few statements of the ruling that may be of interest to you in your role as Minister for Justice.

The Court noted at Para 75, upon the Court's interpretation of international law and the objective and spirit of the Single Convention, the court stated that "it would be contrary to the purpose and general spirit of the Single Convention to include it (CBD) under the definition of 'drugs' within the meaning of that convention as a cannabis extract." This establishes that cannabidiol (CBD) is not a drug.

The Court at para 80-82 considered the Free Movement of Goods principle, which is a fundamental principle of the EU and the cornerstone of the single market contained in Article 34 TFEU. The Court noted that restrictions of goods from other member states may be a Measure Equivalent to a Quantitative Restriction (MEQR). These measures are ones that are capable of hindering, directly or indirectly, actually or potentially, inter-union trade, as noted in the case of Austria v Germany, C-591/17.

Again at Para 82 of the judgment, the court noted that any "prohibition on marketing CBD lawfully produced in another Member State – when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds – constitutes a measure having equivalent effect to quantitative restrictions within the meaning of Article 34 TFEU."

84

As I'm sure you are aware, these MEQR's can be justified on grounds of public health which are subject to a narrow interpretation by the Court. On this issue, the Court stated at Para 34 that CBD has no "recognized psychoactive effects", and it had "little to no effect on the central nervous system". The Court determined that "the public health objective appears to be already taken into consideration in Regulation No 1308/2013 in so far as that regulation limits the scope to varieties providing safeguards to be determined in respect of the content of intoxicating substances and adopts, first, a restriction regarding seeds, and second, a level of 0.2% in respect of THC content of hemp" .

To summarise:

"Articles 34 and 36 TFEU must be interpreted as precluding national legislation which prohibits the marketing of cannabidiol (CBD) lawfully produced in another Member State when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds, unless that legislation is appropriate for securing the attainment of the objective of protecting public health and does not go beyond what is necessary for that purpose. Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 and Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 must be interpreted as not applying to such legislation."

I'm sure as Minister for Justice you are well aware that EU law does enjoy supremacy over our own Laws and Constitution. The current restriction of CBD products in Ireland is in direct conflict with the above EU ruling. The recent raiding of Little Collins shop in Kilkenny is therefore unjustified, in direct conflict with EU law, and frankly unconstitutional.

I would urge you to remove CBD products from the Misuse of Drugs Act Schedule, as the inclusion of CBD products is having a detrimental effect not only on people's livelihoods but also has the effect of suppressing substantial business opportunities and business growth in Ireland.

I would appreciate your attention on this urgent matter, and acknowledgement of this correspondence.

Sincerely,



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Is le haghaidh an duine nó an eintitis ar a bhfuil sí dírithe, agus le haghaidh an duine nó an eintitis sin amháin, a bheartaítear an fhaisnéis a tarchuireadh agus féadfaidh sé go bhfuil ábhar faoi rún agus/nó



faoi phribhléid inti. Toirmisctear aon athbhreithniú, atarchur nó leathadh a dhéanamh ar an bhfaisnéis seo, aon úsáid eile a bhaint aisti nó aon ghníomh a dhéanamh ar a hiontaoibh, ag daoine nó ag eintitis seachas an faighteoir beartaithe. Má fuair tú é seo trí dhearmad, téigh i dteagmháil leis an seoltóir, le do thoil, agus scríos an t-ábhar as aon ríomhaire. Is é beartas na Roinne Dlí agus Cirt agus Comhionannais, na nOifigí agus na nGníomhaireachtaí a úsáideann seirbhísí TF na Roinne seoladh ábhair cholúil a dhícheadú.

Más rud é go measann tú gur ábhar colúil atá san ábhar atá sa teachtaireacht seo is ceart duit dul i dteagmháil leis an seoltóir láithreach agus le [mailminder@justice.ie](mailto:mailminder@justice.ie) chomh maith.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer. It is the policy of the Department of Justice and Equality and the Agencies and Offices using its IT services to disallow the sending of offensive material. Should you consider that the material contained in this message is offensive you should contact the sender immediately and also [mailminder@justice.ie](mailto:mailminder@justice.ie).

\*\*\*\*\*

**From:** Ministers Office <info@justice.ie>

**Sent:** 31 March 2021 12:13

**To:** [REDACTED]

**Subject:** DJE-MO-02613-2021

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Minister's Reference: DJE-MO-02613-2021

Dear [REDACTED]

Thank you for contacting the Minister for Justice, Ms. Helen McEntee TD. The Minister has requested that I respond to you on her behalf.

I hope you will appreciate that the licensing of controlled drugs is a matter for the Minister for Health under the Misuse of Drugs Acts 1977 to 2016 and regulations made thereunder. The matter of changing the law as it currently stands, and introducing new legislation and drug policy related to cannabis, lies with the Minister for Health, Stephen Donnelly, and the Minister of State with responsibility for Public Health, Wellbeing and the National Drugs Strategy, Frank Feighan.

You should therefore make contact with the Department of Health in relation to this matter. The Department can be contacted by email at [info@health.gov.ie](mailto:info@health.gov.ie) or by post at Block 1, Miesian Plaza, 50 – 58 Lower Baggot Street, D02 XW14.

The role of An Garda Síochána is to implement the law as it stands.

Under Irish law, criminal investigations can only be carried out by An Garda Síochána, who then submit a report to the Director of Public Prosecutions (DPP). The DPP, who operates independently of the Minister and the Department of Justice, then decides whether or not someone should be prosecuted and for what crime. The Minister is unable to intervene in this independent process.

If the owners of Little Collins CBD Dispensary are not satisfied with how their concerns were dealt with by An Garda Síochána, it is open to them to contact the Garda Síochána Ombudsman Office (GSOC). GSOC is the independent body charged with receiving complaints from the public concerning members of An Garda Síochána.

Contact can be made with GSOC at their offices at: 150 Upper Abbey Street, Dublin 1 and by telephone on Lo-Call Tel: 1890 600 800. Further information is also available on GSOC's "Get in Touch" page, accessible via the following link: <https://www.gardaombudsman.ie/site-pages/get-in-touch/>.

I hope this information will be of assistance to you.

Yours sincerely,

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Patrick McCabe  
Private Secretary to the

Minister for Justice

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An Roinn Dlí agus Cirt

Department of Justice

51 Faiche Stiabhna, Baile Átha Cliath 2, D02 HK52

51 St Stephen's Green, Dublin 2, D02 HK52

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Correspondent 42

## Memo

From : Alison Finnegan <Alison.Finnegan@oireachtas.ie>

To: "Minister of Justice (Phone Listing)" <info@justice.ie>,  
cc:

Date : 14/04/2021

Subject: FW: CBD business raid complaint

From: [REDACTED]  
Sent: 14 April 2021 15:00  
To: Helen McEntee <Helen.McEntee@oireachtas.ie>  
Subject: CBD business raid complaint

Dear Minister Helen McEntee,

I am writing to inform you that Little Collins CBD dispensary in Kilkenny was raided yet again on Thursday February 4th 2021.

This came just hours after the owner went on KCLR FM to talk about his thriving business, CBD, hemp and cannabis.

These continued raids are a direct violation of the ruling made by the European Court of Justice on November 19th 2020:

"A Member State may not prohibit the marketing of cannabidiol (CBD) lawfully produced in another Member State when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds"

This case ruled that CBD products should not be contained within illegal narcotic legislation of member states, in our case, CBD products should not be contained in the Misuse of Drugs Act 1977. I would like to highlight a few statements of the ruling that may be of interest to you in your role as Minister for Justice.

The Court noted at Para 75, upon the Court's interpretation of international law and the objective and spirit of the Single Convention, the court stated that "it would be contrary to the purpose and general spirit of the Single Convention to include it (CBD) under the definition of 'drugs' within the meaning of that convention as a cannabis extract." This establishes that cannabidiol (CBD) is not a drug.

The Court at para 80-82 considered the Free Movement of Goods principle, which is a fundamental principle of the EU and the cornerstone of the single market contained in Article 34 TFEU. The Court noted that restrictions of goods from other member states may be a Measure Equivalent to a Quantitative Restriction (MEQR). These measures are ones that are capable of hindering, directly or indirectly, actually or potentially, inter-union trade, as noted in the case of Austria v Germany, C-591/17.

Again at Para 82 of the judgment, the court noted that any "prohibition on marketing CBD lawfully produced in another Member State – when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds – constitutes a measure having equivalent effect to quantitative restrictions within the meaning of Article 34 TFEU."

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As I'm sure you are aware, these MEQR's can be justified on grounds of public health which are subject to a narrow interpretation by the Court. On this issue, the Court stated at Para 34 that CBD has no "recognized psychoactive effects", and it had "little to no effect on the central nervous system". The Court determined that "the public health objective appears to be already taken into consideration in Regulation No 1308/2013 in so far as that regulation limits the scope to varieties providing safeguards to be determined in respect of the content of intoxicating substances and adopts, first, a restriction regarding seeds, and second, a level of 0.2% in respect of THC content of hemp".

To summarise:

"Articles 34 and 36 TFEU must be interpreted as precluding national legislation which prohibits the marketing of cannabidiol (CBD) lawfully produced in another Member State when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds, unless that legislation is appropriate for securing the attainment of the objective of protecting public health and does not go beyond what is necessary for that purpose. Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 and Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 must be interpreted as not applying to such legislation."

I'm sure as Minister for Justice you are well aware that EU law does enjoy supremacy over our own Laws and Constitution. The current restriction of CBD products in Ireland is in direct conflict with the above EU ruling. The recent raiding of Little Collins shop in Kilkenny is therefore unjustified, in direct conflict with EU law, and frankly unconstitutional.

I would urge you to remove CBD products from the Misuse of Drugs Act Schedule, as the inclusion of CBD products is having a detrimental effect not only on people's livelihoods but also has the effect of suppressing substantial business opportunities and business growth in Ireland.

I would appreciate your attention on this urgent matter, and acknowledgement of this correspondence.

Sincerely

Beartas ríomhphoist an Oireachtais agus séanadh.

[oireachtas.ie/ga/email-policy/](https://oireachtas.ie/ga/email-policy/)

Oireachtas email policy and disclaimer. [oireachtas.ie/en/email-policy/](https://oireachtas.ie/en/email-policy/)

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do thoil, agus scrios an t-ábhar as aon ríomhaire. Is é beartas na Roinne Dlí agus Cirt agus Comhionannais, na nOifigí agus na nGníomhaireachtaí a úsáideann seirbhísí TF na Roinne seoladh ábhair cholúil a dhícheadú.

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**From:** Ministers Office <info@justice.ie>

**Sent:** 16 April 2021 15:19

**To:** [REDACTED]

**Subject:** DJE-MO-03082-2021

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Minister's Reference: DJE-MO-03082-2021

Dear [REDACTED]

Thank you for contacting the Minister for Justice, Ms. Helen McEntee TD. The Minister has requested that I respond to you on her behalf.

I hope you will appreciate that the licensing of controlled drugs is a matter for the Minister for Health under the Misuse of Drugs Acts 1977 to 2016 and regulations made thereunder. The matter of changing the law as it currently stands, and introducing new legislation and drug policy related to cannabis, lies with the Minister for Health, Stephen Donnelly, and the Minister of State with responsibility for Public Health, Wellbeing and the National Drugs Strategy, Frank Feighan.

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I hope this information will be of assistance to you.

Yours sincerely,

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Patrick McCabe  
Private Secretary to the  
Minister for Justice

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An Roinn Dlí agus Cirt  
Department of Justice  
51 Faiche Stiabhna, Baile Átha Cliath 2, D02 HK52  
51 St Stephen's Green, Dublin 2, D02 HK52  
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