



The Use of Prescription Cannabis at Work

Guidance for Employees and Employers



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Guidance for Employers and Employees for the Use of Prescription Cannabis at Work

Cannabis-Based Products for Medicinal use in humans (CBPMs) were legalised in the UK in November 2018. The specific legislation is the Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018.

There are now thought to be between 20,000 - 30,000 people prescribed medical cannabis, with over 20 clinics prescribing privately and these numbers are expected to increase by the end of 2023. There are also around 1,000 patients annually receiving NHS prescriptions (although fewer than 10 are receiving flower products).

This policy paper has been prepared following an increasing number of reports Seed Our Future have received from people prescribed medical cannabis who may have experienced discrimination from employers;

at both the interview stage and within the workplace.

It is likely that employers have a lack of knowledge of the existence of legal cannabis-based medications, concerns surrounding impairment, and any health and safety consequences, (especially for employees who drive vehicles, operate heavy machinery or have other health and safety and performance requirements for employees) and negative connotations (stigma) surrounding illicit cannabis.

It is important that employers treat all employees who are prescribed medications for their medical conditions or disabilities in accordance with the law. The benefits of prescribed medications to employees (reduction of symptoms, fewer days off sick and increased ability to carry out tasks) are often also benefits to their employers.

People who are prescribed medical cannabis have often found that conventional medicines are either ineffective in treating the conditions or disabilities, and/or they find the side effects inhibit their ability to carry out their normal tasks. On the other hand, Drug Science has found that medical cannabis has significantly improved the quality of life for many patients[1]. The side effects of properly prescribed cannabis are very few and indeed a recent interim result of a large observational study by Drug Science showed that 97% of those prescribed had no reported side effects at three months. It is usually both safe and efficacious[2].

Cannabis is prescribed for a wide range of conditions including pain, neurological, psychiatric, gastrointestinal, oncological, paediatric, palliative, dermatological and complex care. The most notable difference between the use of prescribed medical cannabis and more traditional pharmaceuticals is the method of administration. Often, a cannabis oil is taken orally as a background analgesic and anti-anxiety medicine; this may then be supplemented by a flower for vaporisation, whenever an immediate reduction of symptoms is required. Many people prescribed medical cannabis privately are prescribed solely cannabis flower or vape cartridge medicines to help manage their symptoms.

Employers often have issues with the vaping of cannabis flower in the workplace. Employers may associate vaping of cannabis flower with illicit cannabis; however it should not be treated as an illicit drug when the employee is using medically prescribed cannabis in accordance with the prescription directions.



Legal Considerations

Under the Equality Act 2010^[3.5], employers have a legal obligation to make reasonable adjustments for an employee who is disabled in certain circumstances .

The Equality Act 2010 defines when a person is disabled, although ultimately, only an Employment Tribunal can definitively determine whether a person is disabled within the meaning of the legislation. If there is a duty to make a reasonable adjustment, this may include the use of prescribed medicines at work.

Where an employee is disabled and put at a substantial disadvantage due to particular circumstances in comparison to a person who is not disabled, an employer must take such steps that are reasonable to avoid the disadvantage or to provide a relevant auxiliary aid.

An employer also has a duty to comply with its health and safety obligations and any other regulatory requirements. An employer must also act with trust and confidence towards an employee.

Can medical users vape their medicine indoors?

As with any medication, it is needed to alleviate or prevent the symptoms of a condition. Often in the case of vaping cannabis, the medical user will decide when it is needed, although they may have a typical daily frequency. A herbal vaporiser is used as a medical device*, designed to administer medication without combustion and so is absent from current legislation for smoking or vaping e-cigarettes indoors. The method of vaporisation is safe and will not usually affect others in the vicinity.

*There are a limited number of herbal vaporiser devices approved by the MHRA as a medical device (e.g. Storz & Bickel Volcano Medic and Storz & Bickel Mighty Medic). However, due to financial burdens and individual needs, some patients may use a herbal vaporiser, not approved as a medical device, although its use remains within the guidance set by their prescriber.

Does vaping cannabis infringe on the rights of other employees?

There may be people who dislike the smell of cannabis or believe that an illegal activity is occurring. It is important to understand that the vape device is a medical device (which does not cause combustion – less smell) which administers medical treatment prescribed for the person's condition.

A notable proportion of medical cannabis patients have a disability, while others may have mental health conditions. It is never unlawful to treat a disabled person more favourably than a non-disabled person. Therefore, employers may provide adjustments on more favourable terms to a disabled person compared to a non-disabled person.^[4] However, an employer will still have to consider other factors relevant to a situation to ensure that it is acting lawfully overall.

The definition of a person who has a disability under the Equality Act 2010^[3.1] is a person who has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

Legal Considerations

Possession and drug testing:

Persons who are legally prescribed medical cannabis can lawfully possess and carry their medication under section 5(1) of the Misuse of Drugs Act 1971^[5.4] (restriction of possession of controlled drugs) because of an exemption in regulations made under section 7 of that Act (authorisation of activities otherwise unlawful under foregoing provisions).

If your organisation carries out drug testing, people who use medical cannabis are likely to show positive results for cannabis/THC. Whether or not a positive drug result for cannabis would be grounds for disciplinary action will depend on a number of factors and the appropriate investigations would be required to conform the prescription and its use, the potential impact on the individual and the risks in the workplace. It is also worth noting that cannabis remains in the bloodstream for up to 28 days, far beyond any period of potential impairment.

Furthermore, the use of prescribed medicines in the workplace must comply with the Health and Safety at Work Act etc 1974^[5.1], which places a duty on employers to ensure, so far as reasonably practicable, that employees and anyone affected by the employer's undertaking, is not exposed to any risk to their health, safety or wellbeing. Employers must carry out and keep up-to-date comprehensive risk assessments to identify risk and then, so far as reasonably practicable, put in place effective control measures to eliminate or reduce risk.

The use by an employee of medical cannabis should be considered as part of an employer's risk assessments. Vapour is non-toxic and while it may be unlikely to affect the health, safety and welfare of other employees, this may be a relevant factor for employers to consider. However, medical cannabis can cause impairment in some people prescribed it and impairment is a key area where risk assessments should focus attention, especially when driving or operating heavy machinery or where there are other health and safety or regulatory requirements.

The general guidance from consultants and manufacturers of medical cannabis is 'do not drive or operate heavy machinery if impaired', as is the guidance for many other medications. People who are prescribed medical cannabis can drive and operate heavy machinery so long as they are not impaired and are following the directions from the person who prescribed the drug or the supplier, and with any accompanying instructions (so far as they are consistent with any such directions) given by the manufacturer or distributor of the drug as per Section 5A (3) of the Road Traffic Act 1988.^[6.2]

In summary, employees who are disabled under the Equality Act 2010 may have a legal right to reasonable adjustments to accommodate their disability in certain circumstances. A reasonable adjustment may include the self administration of prescribed medicines; employers must also comply with regulations, other legal requirements and ensure, so far as reasonably practicable, the health and safety of their employees. We recommend that employers discuss these potential issues with the employee.



Guidance for Employers

This is a difficult and complicated topic for both employers and employees. Employers should consider establishing a clear policy on the use of prescription medicines in the workplace or amending the Misuse of Drugs and Alcohol Policy. A specific policy could include the following:

Disclosure

Job applicants may consider (but are not required to) disclose their use of prescription medicine during the recruitment stage or in advance of starting their course of work. Under the Equality Act 2010^[3.6], employers must be careful not to breach the Equality Act in relation to an applicant's health during the recruitment process. However, an employer can ask about the health of the applicant in some circumstances, including where it is

necessary to establish that the applicant will be able to carry out a function that is intrinsic to the work concerned. Once an employee has started work, the employer can ask for information about the employee's medical condition if they need to make reasonable adjustments. The employer must keep this information confidential, and only share it with those who need to know.

Risk Assessment

Employers have a legal duty under the Health and Safety at Work etc. Act 1974[5.2] to ensure, so far as is reasonably practicable, the health, safety, and welfare at work of both their employees and anyone affected by the employer's undertaking.

This includes assessing the risks associated with the use of prescription medicine in the workplace.

Employers must take appropriate measures to manage those risks, such as providing a safe working environment and appropriate managerial/supervisor training.

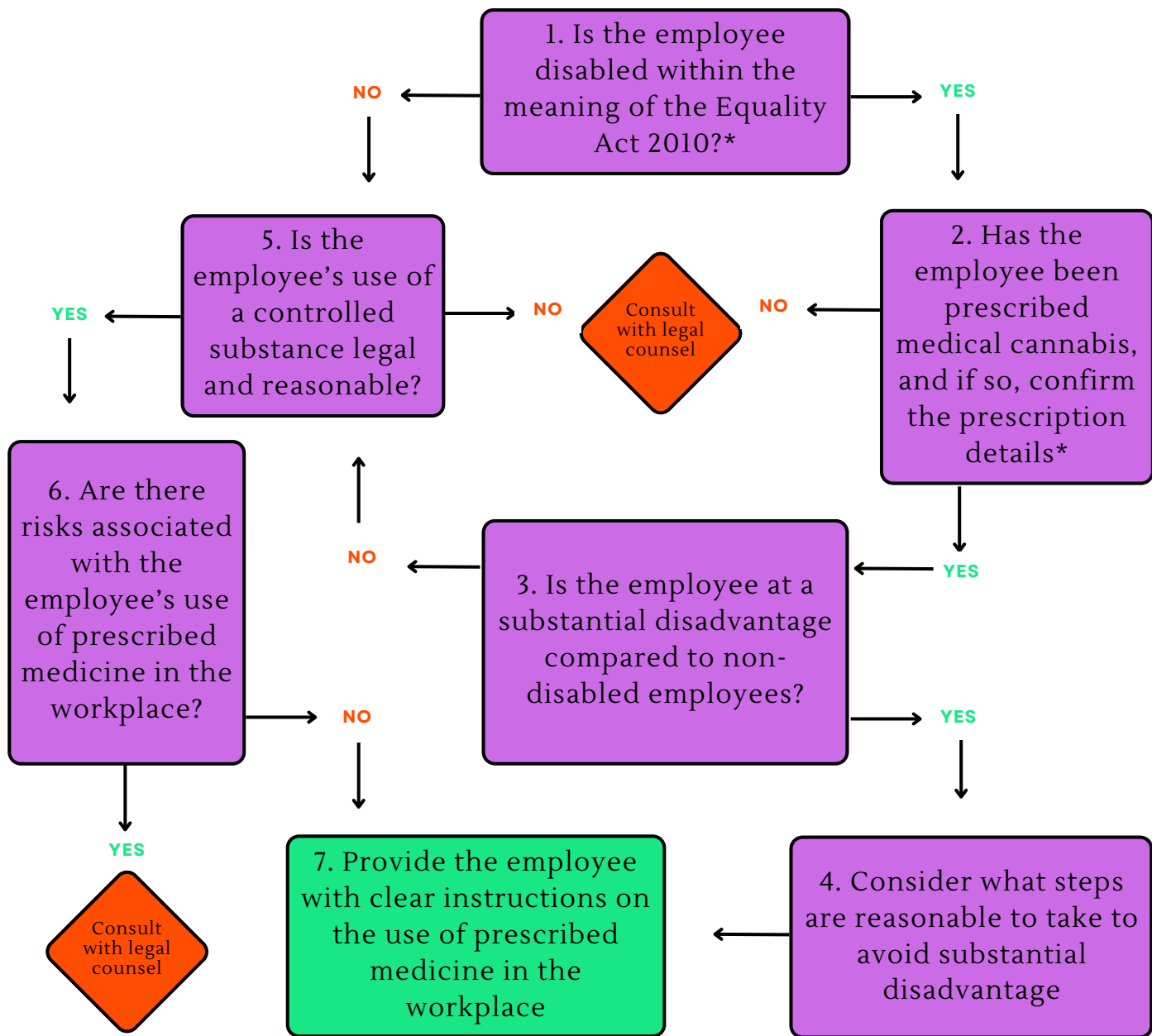
Employees also have a duty under the Health and Safety at Work etc Act 1974[5.6] to take reasonable care for the health and safety of themselves and other persons who may be affected by their acts or omissions at work.

Adjustments

Employers may have a duty under the Equality Act 2010[3.5] to make reasonable adjustments for employees who have a disability, including, potentially, those who are prescribed medical cannabis.

Reasonable adjustments may include adjusting work hours, providing a private area for medication, or modifying the employee's duties. Employers are required to take such steps as are reasonable to have to take in the relevant circumstances.

Guidance for Employers to Verify Prescription Medicine and to Making Reasonable Adjustments



This Flow Chart is for information purposes only and nothing contained in it should be construed as legal or medical advice. We expressly disclaim any warranty or responsibility for damages arising out this information and encourage you to consult with legal counsel regarding your specific needs. *Legal and medical advice may be required before proceeding.

01

Determine if the employee is likely to be disabled within the meaning of the Equality Act 2010 (Consult with legal counsel).

- a. If 'yes', proceed to Step 2.
- b. If 'no', proceed to Step 5.

02

Has the employee been prescribed medical cannabis (and if so, confirm, the prescription directions)?

- a. If 'yes', proceed to Step 3.
- b. If 'no', consult with legal counsel before taking any further action

03

Consider if the employee is at a substantial disadvantage compared to non-disabled employees.

- a. If 'yes', proceed to Step 4.
- b. If 'no', proceed to Step 5.

04

Consider reasonable adjustments that may need to be made to ensure the employee is not at a substantial disadvantage.

- a. Consult with the employee to determine the most effective adjustments to accommodate their needs.
- b. Adjustments may include a flexible working arrangement, modifications to the employee's job duties or the workplace, or allowing the employee to use prescribed medicine during work hours.

If adjustments agreed, implement promptly. Proceed to step 7.

05

Determine if the use of prescribed medical cannabis by the employee is legal and reasonable. Medical cannabis is legal in the UK under certain circumstances, such as when prescribed by a specialist doctor for the treatment of a medical condition.

- a. If the employee's use of medical cannabis is legal and reasonable, proceed to Step 6.
- b. If the use of medical cannabis is illegal or unreasonable, consult with legal counsel before taking any further action.

06

Assess risks associated with employee's use of prescribed cannabis in workplace.

- a. If the use of prescribed medical cannabis does not pose a risk to the safety of the employee or others and does not pose any other risk for the employer, proceed to Step 7.
- b. If there is any risk, consult with legal counsel before taking any further action.

07

Provide the employee with clear instructions on the use of the prescribed medical cannabis in the workplace.

- This may include information on where and when the employee can use the prescribed medical cannabis, how to store and handle it safely, and any other relevant policies or procedures.
- Ensure that the instructions are consistent with UK law and the employer is complying with all of its obligations, whether legal, regulatory or otherwise.



Guidance for Employees

People using prescription medicines in the workplace should:

Disclosure

People can, but are not required, to disclose their use of prescription medicine to a potential employer in advance of starting work. Under the Equality Act 2010^[3.5], employers may have a duty to make reasonable adjustments for employees with a disability in certain circumstances, which may include accommodating the use of prescribed medicines for medical purposes.

An employer cannot compel an employee to supply a copy of the employee's prescription for medical cannabis.

Follow Employer Policy

Employees should follow the employer's policy on the use of prescription medicine in the workplace, including any requirements for disclosing use of prescription medicines, risk assessment, adjustments, and training.

Employers may have specific policies in place for the use of prescribed medication, including cannabis, which must be adhered to by employees.

Be Responsible

People prescribed any medicine, including medical cannabis, should always use the prescription medicine responsibly and in accordance with the relevant directions and avoid any impairment that could put themselves or others at risk. For example, driving while impaired is an offence under the Road Traffic Act 1988^[6.1].

Employers also have a duty to ensure, so far as is reasonably practicable, the health and safety of all employees and any non-employees affected by the employer's undertaking.



Case Studies

The case studies provided in this position paper are fictional and intended for illustrative purposes only.

They should not be construed as legal or medical advice and have been created to showcase potential scenarios and highlight some of the legal and practical considerations surrounding the use of prescription medicine in the workplace.

Any resemblance to real individuals, organisations, or events is purely coincidental.

Manufacturing: accommodating an employee with a prescription

Background

The company is a large manufacturing company in the UK. They have an employee, Sarah, who has been prescribed medical cannabis to manage her chronic pain condition.

Sarah's condition is a physical or mental impairment and the impairment has a substantial and long term effect on her ability to carry out normal day to day activities. She has been prescribed medical cannabis for use during working hours.

Challenge

The company needs to ensure compliance with UK employment and other laws while considering Sarah's medical condition and providing a safe working environment for all employees.

Actions Taken

1. Reasonable Adjustments:

Sarah is likely to be disabled within the meaning of the Equality Act 2010 and the company engages in a dialogue with Sarah to understand her specific needs and limitations. The company may need to refer Sarah to occupational health or take medical advice. The company is able to make reasonable adjustments, such as modifying her work schedule to allow for medication breaks and assigning her tasks that are less physically demanding.

2. Risk Assessment:

The company conducts a comprehensive risk assessment to identify any potential hazards or risks associated with the use of medical cannabis in the workplace. The company implements appropriate safety measures, such as ensuring proper ventilation in designated medication areas and providing clear guidelines on responsible usage.

3. Policy Development:

The company develops a clear policy on the use of prescribed medication in the workplace, which includes guidelines on disclosure, confidentiality, and responsible use. It provides training to all employees and managers to ensure understanding and compliance with the policy.

Outcome

The company successfully accommodates Sarah's medical condition while ensuring compliance with UK employment and other laws. Sarah is able to manage her pain effectively, leading to improved productivity and job satisfaction.

The clear policy and training provided by the company creates a supportive and inclusive work environment for employees who are disabled under the Equality Act 2010.



Financial services: addressing stigma and discrimination

Background

The company is a financial services firm in the UK. It has recently hired a new employee, Alex, who has been prescribed medical cannabis to manage their anxiety disorder. However, some employees express concerns and exhibit behaviour that is potentially discriminatory towards Alex due to the stigma associated with medical cannabis.

Challenge

The company needs to consider whether Alex is disabled under the Equality Act 2010. It is likely that the company will want to address the stigma and potentially discriminatory behaviour of other employees surrounding Alex's prescribed medication and create a supportive environment for them.

Actions Taken

1. Investigation:

Investigate Alex's medical condition and consider whether they have a disability under the Equality Act 2010.

2. Education and Awareness:

The company conducts training sessions and awareness campaigns to educate employees about medical cannabis, its legal status, and the varying rights of employees who are prescribed medicines. The company aims to prevent potential discrimination of employees who have been prescribed medicines and dispel the myths and address the stigma associated with medical cannabis.

3. Clear Communication:

The company sends out a clear communication to all employees emphasising their commitment to diversity, inclusion, and non-discrimination.

It reinforces the importance of treating all employees with respect and dignity, regardless of their prescribed medication.

4. Support Networks:

The company establishes support networks or employee resource groups to provide a safe space for employees to discuss and share experiences related to medical conditions and prescribed medication. This helps foster empathy, understanding, and support among employees.

Outcome

The company successfully accommodates Sarah's medical condition while ensuring compliance with UK employment and other laws. Sarah is able to manage her pain effectively, leading to improved productivity and job satisfaction.

The clear policy and training provided by the company creates a supportive and inclusive work environment for employees who are disabled under the Equality Act 2010.



Tech startup: a collaborative approach to employee support

Background

The company is a technology startup in the UK. It has an employee, David, who has recently obtained a medical cannabis prescription to manage his epilepsy. David's condition is likely to be a disability under the Equality Act 2010 and requires him to have immediate access to his medication in case of a seizure.

Challenge

The company has duties to David's safety within the workplace, and that of others potentially affected by David's condition, and to comply with its employment and other legal obligations.

Actions Taken

1. Collaborative Approach:

The company works closely with David, his healthcare provider, and occupational health professionals to develop an individualised support plan. It considers its legal obligations, David's specific needs, including access to his medication, any potential side effects, and safety measures to be taken in case of a seizure.

2. Training and Awareness:

The company provides comprehensive training to all employees on epilepsy and its management. The company also educates employees on the importance of creating a supportive and inclusive environment for colleagues with medical conditions.

3. Emergency Response Plan:

The company develops an emergency response plan in consultation with David and relevant stakeholders. They identify designated individuals who are trained in administering first aid and are aware of the appropriate actions to take in the event of a seizure.

Outcome

The company successfully supports David in managing his epilepsy within the workplace.

The collaborative approach ensures that David's needs are met. The training and awareness initiatives foster a culture of empathy and support, benefiting not only David but also creating a more inclusive and caring workplace for all employees.





Conclusion

The legal considerations surrounding the use of prescription medicine in the workplace are governed by several laws and regulations in the UK. Firstly, the Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018^[7], which legalised medical cannabis in the UK.

The Equality Act 2010^{[3.1][3.2][3.3][3.4]} prohibits discrimination against people who are disabled under that Act, which may well include individuals who are prescribed medicines for medical purposes. Under this Act, employers may be required to make reasonable adjustments for a person who is disabled.

Additionally, the Health and Safety at Work etc Act 1974^{[5.1][5.2][5.3][5.5]} places a legal obligation on employers to ensure, so far as

reasonably practicable, that their employees and anyone affected by what the employer does, is not exposed to risk to their safety, health or wellbeing.

This includes identifying potential risks associated with the use of prescription medicine and taking appropriate measures to manage those risks.

Furthermore, the Misuse of Drugs Act 1971[8.1] regulates the possession and use of controlled drugs, including cannabis, in the UK. Patients who are prescribed medicines by a specialist doctor registered with the General Medical Council are legally allowed to possess and use the drug for medical purposes.

Therefore, it is crucial for employers to consider establishing a clear policy on the use of prescription medicine in the workplace, which includes requirements for disclosure, risk assessment, the potential for adjustments in certain circumstances, and some form of training.

By doing so, employers can ensure that they comply with relevant laws and regulations and provide a safe and supportive workplace for all employees.

People who have been prescribed medical cannabis, on the other hand, could (but are not required to) disclose their use of prescription medicine to their potential employer in advance of starting work, but once employed should follow their employer's policy on the use of prescription medicine in the workplace, and use their medicine responsibly and in accordance with the relevant directions and avoid any impairment that could put themselves or others at risk.

The case studies presented illustrate a proactive and inclusive approach and employers can often find a successful solution to accommodate employees with medical conditions. Through education, awareness, and fostering a supportive work environment, the stigma and potential discrimination faced by employees prescribed medical cannabis can be addressed.

We encourage employers to seek further education and training on this topic.

CIC's membership includes professionals with expertise in various fields who can provide guidance, training, and support to improve workplace environments for both employees and employers.

By adhering to the legal framework, promoting inclusivity, and providing appropriate support, employers can ensure compliance with the law, protect the rights of employees, and cultivate a safe and supportive workplace for all.

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About the CIC

The Cannabis Industry Council (CIC) is a leading membership organisation representing the entire UK cannabis industry. Membership is open to organisations and business which either work within or operate from the United Kingdom, the Channel Islands, and the Isle of Man.

Together, our mission is to lead the industry to success and enable it to speak with one voice – for, and by, the sector.

[Learn more](#)



A collective voice for the medical cannabis, CBD, and hemp sector across the UK.

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