



<u>Title</u>	Policing Cannabis Possession
<u>CCMT Sponsor</u>	ACC Local Policing
<u>Department/Area</u>	Local Policing
<u>Section/Sector</u>	Drugs Co-ordination

1.0 Rationale

- 1.1 The purpose of this policy is to guide officers' decisions when dealing with offences of possession of cannabis.
- 1.2 This policy replaces the Thames Valley Police Policy 'Re-classification of Cannabis'.

2.0 Intention

- 2.1 The purpose of the policy is to clarify the disposal options available to officers when dealing with offences of possession of cannabis by adult and young offenders, and to highlight the factors which are likely to influence that decision.
- 2.2 The policy does not apply to offences of possession with intent to supply cannabis or any other supply offence.
- 2.3 The policy takes into account (i) the reclassification of cannabis from a Class B to a Class C drug by Schedule 2 of the Misuse of Drugs Act 1971 and (ii) the Serious and Organised Crime and Police Act 2005 (SOCAP) which amended Section 24 of The Police and Criminal Evidence Act 1984 (PACE). Possession of Cannabis under Section 5(2) Misuse of Drugs Act 1971, is an indictable offence, therefore, in common with many other offences a power of arrest, is provided by PACE.

3.0 General Principles

- 3.1 The primary aim of this policy is to ensure that members of the public are dealt with in a way that is fair and proportionate with regards the seriousness, and circumstances, of the offence.
- 3.2 The policy applies when as a result of any police activity, eg. stop and search, vehicle check, premises search, arrest for other offences, post arrest search in the custody suite etc., any adult or young person is found to be in possession of cannabis.

3.3 Cannabis remains an illegal substance and Thames Valley Police consider the appropriate disposal of possession offences an important part of their preventive strategy in support of the Up-dated Drug Strategy 2002.

3.4 It is in the 'spirit' of the Up-dated Drugs Strategy, the Thames Valley Police Drugs Strategy, and this policy that the best interests of the individual are central to deciding the level of intervention required. The aim of any intervention should be to positively influence the motivation of individuals to refrain from illicit drug use, or to seek appropriate assistance to do so.

4.0 Challenges & Representations

Chief Superintendent Local Policing
Police Headquarters
Oxford Road
Kidlington, Oxford OX5 2NX

5.0 Guidance, Procedures & Tactics

GUIDANCE	
<i>Young People:</i>	
5.1	Young people/juveniles for the purpose of the Cannabis policy will be aged under 18 years of age. Furthermore, persons who appear to be under 18 years are to be treated as such in the absence of any evidence to the contrary.
5.2	There will be a presumption in favour of arrest for young people. This is to allow young people to be dealt with under the statutory framework for Youth Offenders within Section 65 the Crime and Disorder Act 1998.
5.3	The decision to use any disposal other than arrest with young people must be justified in all cases.
<i>Vulnerable People:</i>	
5.4	This term includes a person who may be mentally disordered or mentally handicapped or incapable of understanding the significance of questions or replies (e.g. due to high levels of intoxication).
5.5	There will be a presumption in favour of arrest of vulnerable persons. This is to ensure that subsequent action can be taken to ensure the personal welfare and interests of the individual. All case disposal options are subsequently available for consideration by the custody officer, and should be taken in accordance with the National Charging Scheme Manual of Guidance.

Adults:

- 5.6 Adults for the purpose of this policy are aged 18 years and over.
- 5.7 There will be a presumption in favour of a verbal warning for adults found in possession of cannabis deemed to be for personal use. However, individuals must be arrested if the amount of cannabis, its packaging, or other circumstances suggest the possibility of an intention to supply.
- 5.8 There will be other circumstances where it is appropriate to arrest for possession of cannabis. This is very much left to the discretion of officers who will be expected to take into account the prevailing circumstances. An officer may consider arrest in the following situations:-
- the individual has received formal warnings for cannabis possession on three separate occasions in the past (see 5.9),
 - a partnership agreement or local memorandum of understanding exists, which is designed to address wider policing concerns in certain contexts (e.g. music festivals). Any such written agreement can overrule this policy.
 - the offence is deemed to be 'beyond simple possession' (see 5.10 to 5.12),
- 5.9 The 'cannabis warning' is intended to deter individuals from further offending. By limiting the number of cannabis warnings that an individual can receive, the message will be clear that continued flouting of the law will not be tolerated. If three cannabis warnings have already been received, officers should make an arrest on the fourth offence. Other previous convictions should not preclude giving a cannabis warning, unless they are considered related to the current offence.
- 5.10 Police officers may arrest if public order or harmony is disrupted by the person's actions (e.g. the person is smoking cannabis in public view, such as in pubs/clubs, or if their behaviour is considered to be associated with a local policing, or anti-social behaviour, problem, or is attracting complaints from the public).
- 5.11 The suspect should also be arrested if the person is creating a danger to themselves or others, or is a person in a position of trust (e.g. smoking cannabis whilst driving, or using machinery, or is in possession of cannabis in the vicinity of premises frequented by young people, such as youth clubs, schools, play areas, or is in a position of responsibility for young people or for up-holding the law. Police officers, for instance, may be arrested for possession of cannabis).
- 5.12 Where a suspect is arrested and charged with criminal offences unrelated to drug supply but at the time of their arrest they are found to be in possession of Cannabis for personal use, providing there is no evidence that they were under the influence of drugs at the time the other

offence(s) were committed, a cannabis warning or simple caution may be appropriate.

- 5.13 If the officer cannot verify the suspect's criminal history at the time, (e.g. PNC and local checks could not be conducted), but the circumstances do not warrant arresting the suspect, the officer should ask the suspect if they have received any formal warning for possession of cannabis in the past. If the suspect claims not to, the officer may issue a cannabis warning. However, the suspect **must** be informed that if previous offences are found to be recorded against them the decision to resolve the matter by way of formal warning will be reviewed and consideration will be given to taking further action against them.

PROCEDURES FOR PROVIDING VERBAL WARNINGS

Before making a verbal warning, the officer must be satisfied that:

- 5.14 The suspect is aged 18 years or over.
5.15 The offence involved is a simple possession offence only (no evidence of intent to supply).
5.16 The officer is satisfied regarding the true identity of the suspect.
5.17 PNC, LIO and Cedar checks have been completed, subject to 5.13 above, and have provided no evidence to justify a different course of action
5.18 There are no other aggravating factors to justify a different course of action (see 5.9 to 5.13)
5.19 The suspect is co-operative and admits unlawful possession of cannabis.
5.20 The suspect agrees to the verbal warning.
5.21 In the event that one or more of the criteria above (5.14 to 5.20) are not satisfied, officers should consider using the power of arrest.

Process for making a verbal warning:

At the time of the offence:

- 5.22 The officer will formally interview the suspect under caution, making a record of the interview in their pocket note book.
5.23 The officer will bag and seal the cannabis that they have seized in a drugs bag in the presence of the suspect.
5.24 The officer will then give the suspect a formal warning. The pocket note book will then be signed by the suspect to acknowledge receipt of the warning.
5.25 The officer must inform the suspect that this will be recorded as a notifiable offence and they will be shown as the alleged offender.

Subsequent actions:

- 5.26 The officer will book the cannabis into the drugs property book and complete a drugs crime report (CID 13). A short report including day, date, time, place, person, stop checked and admission of possession with reference to the pocket book entry of a cannabis warning will be

- completed.
- 5.27 If the officer is not experienced in handling cannabis or has any doubt as to the nature of the substance they should call for the assistance of an officer who has the relevant experience, and a record made of the confirmation.
- 5.28 A DNP pro forma will be completed using Code 6 (not in the public interest to prosecute).
- 5.29 All paperwork will be submitted, including a photocopy of the pocket book entry and the record of the drug identification, to the C.I.M.U via the officer's supervisor. A fully completed DPSI will be sent to the LIO.
- 5.30 The Scrutineer will check the paperwork and ensure that the offence is recorded on CEDAR and submitted to HQ for detection.

6.0 Communication

6.1 Links to Police National Legal Database Other

ACPO Guidance on the re-classification of cannabis. (see ACPO Cannabis Enforcement Guidance FAQs. Home Office Tackling Drugs FAQs.

6.2 Communications Strategy

Internal communication process for officers –
Email, Presentation, Thames View, Streetcraft Training, Training School for probation officers.

External communication –
Media, FRANK leaflet campaign, Presentations.

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

Criminal Justice Act 2003 – section 3
Misuse of Drugs Act 1971

(ii) Human Rights Articles Engaged

It is acknowledged that this policy has the potential to engage the following Articles:-

- Article 5 Right to Liberty and Security. Article 5 (3) (c) provides that this right can be interfered with: “the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having

committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing having done so”.

- Article 6 Right to a Fair Trial. It applies in this entirety when a person is detained/arrested/charged.
- Article 8 Right to Respect for Private & Family Life. A public authority may interfere with the exercise of this right in accordance with the law and as is necessary in a democratic society in the interests of:-
 - national security
 - public safety or the economic well-being of the country
 - the prevention of disorder or crime
 - the protection of health or morals
 - the protection of rights and freedom of others

(iii) Prohibition of Discrimination

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the Convention. The enjoyment of the Right and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard to natural justice and human rights.

7.2 Diversity Impact Assessment

A diversity impact assessment is currently being carried out on this policy.

7.3 Data Protection

Personal data gathered in compliance with this policy will be processed in accordance with the Data Protection Act 1998. It is acknowledged that ‘sensitive personal data’ (criminal records and their proceedings) will be processed.

7.4 Freedom of Information Act

This policy is available to the public and may be published under the Freedom of Information Act 2000 Thames Valley Police Publication Scheme.

7.5 Protective Markings

This document is not protectively marked.

7.6 Health & Safety at Work

No additional risk to the patrol officers risk assessment.

8.0 Monitoring and Review

This policy will be subject to on-going review for the first 12 months, then it will be reviewed annually.

8.1 Links to Best Value/PPAF/Priorities/Performance Indicators

This policy contributes to the following Strategic Objective:
4. To improve performance – get better at what we do

8.2 Review Process

A full review will be carried out annually by the policy author and will examine:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit
- Representations made by individuals and relevant organisations
- Relevant diversity data