

Drugs Policy

2015



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1 Summary & Key Points

The Green Party believes the criminalisation of drug consumption is a counter-productive policy that perpetuates business models of organised crime and fails to address the public health impact of drugs. We affirm there is a more compassionate policy based on international best practice that could be introduced within existing constraints under international law. In government, the Green Party would shift drugs policy from a criminal justice approach to a public health approach, introducing these following reforms:

- Remove criminal penalties for possessing less than a week's supply of a scheduled drug
- Review the status of all scheduled substances for medical potential, allowing for controlled cultivation as deemed appropriate for research purposes
- Pardon and release non-violent, minor, drug offenders
- Support Dual Diagnosis so that the health system may address issues behind drug abuse
- Expand Low Threshold Residential Stabilization Services for holistic treatment
- Expedite drug testing services, particularly at festivals, nightclubs etc.
- Allow medically-supervised Drug Consumption Rooms for the phased withdrawal of heroin and other substances as deemed appropriate by the Minister for Health
- Support drug law reform on an international level
- Reschedule cannabis and its derivatives from a Schedule I drug to a Schedule IV drug
- Decriminalise the possession of fewer than five grams of cannabis products
- Decriminalise the possession of fewer than four cannabis plants on private property
- Allow prescription of cannabis-based medicines through pharmacies
- Tolerate regulated cannabis "coffeeshops" selling cannabis from licensed suppliers

2 2. Policy

2.1. Introduction

The approach to managing the use of certain psychoactive substances has, in Ireland, and elsewhere been based around criminal justice approaches. These incorporate legislation aimed at the prohibition of the use, production or import of a list of substances. This list of substances has been added to over the years as new ones come to the attention of Government. In Ireland, the key legislation around this is the The Misuse of Drugs Act 1977, 1984 and 2015, and the Criminal Justice (Psychoactive Substances) Act 2010.

Since the introduction of these controls, strict prohibition of drug use and cultivation has not deterred demand. In fact, the EU's European Drugs Market Report 2016 declared Ireland the biggest user of psychoactive drugs in Europe (6). There has been a heavy economic cost for the failure of this policy, particularly through the diversion of law enforcement resources. The social cost is even greater, especially for the families and communities who have lost lives to gangland violence. Such gangland feuds are fuelled by a system that, in effect, hands criminal organisations control over the market for addictive drugs. However many drugs are seized, however many arrests are made, the illicit drug market continues to disrupt communities and claim lives, through its associated violence or through dangerous, unregulated substances. All the while, illegal cultivation of these substances has profound ecological implications in Ireland and in the developing world, where much of it is imported from.

The Green Party consider that the approaches used in the past have failed. The focus needs to be shifted from suppressing these substances to tackling the social and public health issues which lead people to use drugs. The Green Party sees drug abuse as a public health issue rather than a criminal justice issue. Removing the criminal label attached to the use of these substances will allow people to access health and social care services without fear. This should lead to a reduction in harm to those individuals, their neighbourhoods and ultimately to society as a whole. There should even be an overall reduction in problematic drug use, as has been recorded in those jurisdictions where liberalisation of drug laws has been implemented alongside public health-based measures (10).

The Green Party supports decriminalisation of listed substances, in addition to the provision of supervised facilities for the administration and distribution of certain substances, even if the supply chain for those substances is not yet regulated. In government, we would introduce the following changes to national drugs policy.

2.2. Individual Rights and Mental Health

2.2.1. Criminal Justice Reform

Substances can be removed from the schedules of controlled drugs under the Misuse of Drugs Act as regulation, testing and treatment options become available for the particular substance or group of substances. It would be appropriate that cannabis and heroin would be among the first group of substances given the numbers of users involved, and the impact on society of prohibition.

As an interim measure, elements of existing legislation shall be amended such that possession and use of drugs shall not be a criminal offence if the amount in their possession is less than an individual could consume in a week at statistically-average rates of consumption. This will have the effect of removing young and vulnerable people from the risk of being criminalised.

People who present themselves for treatment of addiction should face no prospect of a criminal record. People currently incarcerated on non-violent, minor drug offences should be pardoned and released.

In any actions which are currently illegal under other legislation, including violence, driving under the influence of a substance, or any other illegal actions, intoxication under substances cannot be used as a defence.

2.2.2. Shift emphasis towards health treatment

Anyone found with personal amounts of drugs should not be treated as a criminal. There should be no criminal record for someone dealing with addiction. Factors of environmental upbringing are statistically-reliable indicators of drug use later in life. Factors such as socio-economic deprivation, family instability and mental health issues feature in the lives of people who use drugs. There is a much broader range of factors at play than mere willpower.

In order to truly stamp out drug addiction, we must look at what motivates someone to use drugs.

More comprehensive treatment of mental health issues is necessary to truly address problematic drug use. Currently, diagnoses for addiction and mental health issues are too often treated separately. Our health system should accommodate Dual Diagnosis, so that addiction issues can be treated in tandem with mental health issues. Too often, the addiction issue will be considered in isolation and as being the foremost factor in a patient's problems. Paradoxically, this is often done through a supervised course of prescribed medication, only to see the patient relapse into substance use disorder. Dual Diagnosis would allow people to receive treatment for deeper underlying issues so that drug use is no longer an attractive option.

In cases where addiction can be established as a foremost issue, community-based detox should be available through GPs. Current stigma around drug use may prevent people from accessing medical guidance from their local doctor. Removing criminal penalties for personal drug use will remove pressure from a medical conversation with one's doctor.

2.2.3. Low Threshold Residential Stabilization Service

A leading factor behind drug addiction in Ireland is urban homelessness. Housing policy in this country must shift towards providing shelter for vulnerable people and giving them a chance to stabilise their lives. Low Threshold Residential Stabilization Services (LTRSS) should be available with low barriers for entry. These would provide residential treatment for a holistic assessment of needs as advocated by the Ana Liffey project (5).

2.3. Drugs Supply and Harm Reduction

2.3.1. Quality Testing

A secure government website should be established so that people can anonymously send information about drugs they have bought, what quality they are, whether they are having side-effects and so forth. Non-judgemental communication between researchers and drug users should be facilitated so that the scale of the public health impact of drugs can be more accurately monitored.

2.3.2. Drug-Testing Facilities

A central office should be established for the mailing of drugs. Samples of drugs can be tested for purity and safety with results being returned to the consumer. This way, drug users can make more informed decisions about the drugs they're consuming. These facilities could be provided on a cost-effective basis in locations like nightclubs or festivals where drug use is more prevalent. Universities could also take on much of the work in drug analysis. Many universities are equipped with laboratories that have the necessary equipment to test the safety of drugs. They could even be used to approve products for cannabis coffeeshops (see section 2.4.3.).

2.3.3. Supervised Drug Consumption Room Facilities

There should be rooms for the medically-supervised consumption of heroin. Doctors could work with heroin users on phasing out their use of the drug in a discrete place to access heroin without creating a public nuisance. This could be administered through injection, smoking or other means. In the case of other dangerously addictive substances (e.g. crack, methamphetamines, methadone, benzodiazepines etc.), the Minister for Health should have discretion to provide Drug Consumption Room facilities for the treatment of such addictions. This can be done in tandem with an expanded community-based detox system of the kind advocated by the Ana Liffey Project. This should prove more effective in reducing substance use disorders.

2.3.4. Support licensed cultivation and research on broader range of substances

The Green Party advocates developing a domestic cultivation sector for hemp and cannabis. Cultivators should be mostly small-scale with regulations preventing a monopolisation or aggressive commercialisation taking place. There would be huge scientific advantage in allowing cannabis cultivation for licenced research purposes. Hemp has great potential as sustainable raw material and the economic development of a regulated hemp industry in Ireland shall be expedited by the Green Party in government.

Ireland has many resources in pharmaceutical research and could become a centre of knowledge for understanding cannabis and other substances. There have been anecdotal reports of medical and therapeutic use of substances like ayahuasca, kratom and psilocybin. However, there is insufficient data on the context in which substances such as these would have medical efficacy. Decriminalising drugs would allow for restricted cultivation for research purposes on a case-by-case basis.

Medical claims about a substance's impact should be investigated so that regulations around medical practice can be up-to-date with the latest evidence. A review should be conducted of currently listed substances for medical potential. There may be instances when the controlled cultivation of a listed substance could serve a legitimate scientific research purpose. The government should allow for such research to be conducted, and when possible, fund and expedite it.

2.3.5. Reducing environmental and social impact of the drug supply chain in developing economies

Driving the drug trade underground has led to the exploitation of economically-marginalised peoples around the world. Many people throughout Asia, Africa and Latin America, are coerced into working for drug cartels or live in fear of their influence. In many recent high-profile cases, they are even trafficked to Ireland, only to find themselves working in a growhouse for criminalised drugs.

With no regulations for the production of drugs, black market providers resort to inefficient practices with stolen resources. The drain this places on Ireland's energy, water and other resources is not being monitored and therefore not held to the standards of Ireland's environmental commitments. Overseas, the picture is even grimmer, with land turned over to drug cultivation to support foreign export. In these black-market situations, people needing work find themselves without rights or protection and with little pay if any.

If Ireland is serious about its commitments to overseas development, we should be standing against the drug laws that have intensified the desperation of impoverished countries. Undercutting organised crime on an international level is needed to begin properly assessing the full environmental impact of drug production. Ireland should therefore be supporting measures at an international level to end the War on Drugs and promote health-based approaches to harm reduction. There should also be support for countries making sovereign determinations to regulate drug supply. The recent examples of Colombia and Jamaica show us countries prepared to allow certain workers to grow cannabis in order to support community development on a local level and scientific research at a global level. Supporting initiatives that wrest control away from criminal organisations should prove more effective than throwing money at enforcement measures and hoping the criminals will go away.

2.4. Cannabis Reform

Cannabis is a special case to consider given its medical properties (2) and its prevalence as the most consumed illicit drug in Ireland and globally (6). The EU's European Drug Report 2016 records a lifetime usage rate for Irish adults at 25.3% with use among Irish adults over a 12 month period at 10.3% (6). The report also found that cannabis products accounted for 78% of drug seizures by European law enforcement, comprising over 744,000 operations. In spite of the strain placed on law enforcement and the criminal justice system in enforcing cannabis prohibition, cannabis use remains widespread and its production and sale are controlled by criminal organizations. Their operation outside the law leaves them unbound to any regulatory framework, meaning there is no quality control for cannabis products. This presents a potential public health risk in metals, pesticides or other harmful chemicals present in their preparation of cannabis.

The ongoing prohibition of cannabis not only tolerates this risk, it also makes it difficult to conduct research into the health impact of cannabis itself. While there is a growing body of evidence for its medicinal benefits, there are also concerns over its potential impact on mental health, particularly on those with a genetic predisposition towards psychosis (2). There has however been no correlation between rates of schizophrenia diagnosis and increased cannabis consumption. Clarity on such matters would be aided by broader samples of research, which is difficult owing to its illegality in most countries.

Its criminalisation under international law would complicate efforts to legalise its sale and use. However, many countries have been exploring how to reach a middle-ground that would end the harsh penalization of cannabis users and minimise its adverse social impact while honouring international obligations (10). Where EU member states have depenalised the possession of cannabis consistent with amounts for personal use, there can be tolerance of consumption and cultivation for personal use under Article 2 of European Council Framework Decision 2004/757/JHA. Regulating this consumption and cultivation would be a more effective means of disrupting the criminal supply chain, minimising health risks and monitoring the impact of cannabis on society (4).

The Green Party in government shall therefore implement the following policies to establish a regulatory framework for Ireland's cannabis market.

2.4.1. Cannabis Law Reform

The Green Party supports reclassifying cannabis as a Schedule IV drug (under The Misuse of Drugs Act 1977, 1984 and 2015, and the Criminal Justice (Psychoactive Substances) Act 2010). We would remove the criminal offence from sections 4 and 5 of the Misuse of Drugs Act for any person over the age of 18 for having fewer than five grams of cannabis, cannabis resins or cannabis-infused products in their personal possession.

It shall remain an offence to cultivate and/or sell cannabis outside of the framework outlined below. It shall also remain an offence to provide minors with cannabis or for minors to possess or consume cannabis. Driving under the influence of cannabis shall remain an offence. The metabolic properties of cannabis vary from person to person. Therefore, basing such laws around a strict physical determinant of impairment, such as blood-THC content, has proved problematic in other jurisdictions. Influence under cannabis would be determined by an on-the-spot impairment test.

Consumption of cannabis products by adults aged 18 and over shall be tolerated on private property with the expressed consent of the owner and on coffeeshop premises (see section 2.4.3.).

2.4.2. Cannabis for Medical Patients

The Green Party recognises that cannabis-based medicines may be effective for the treatment of severe medical conditions (2). We support expanding the Compassionate Access Scheme to patients who have the written recommendation of a medical professional to access cannabis-based medicines. In the long-term, Ireland should move towards a system of providing medical cannabis to patients along the lines of Germany's model (1) (3). Under this model, patients' use would be prescribed and monitored, pharmacies would act as dispensaries and health insurance companies would cover the cost. It would be in the interests of public health to then facilitate medical research into cannabis that the Health Products Regulatory Authority (HPRA) or another appropriate body could monitor and to

which medical professionals could provide anonymised data. The HPRA would be an appropriate regulator for cannabis-based medicines.

2.4.3. Cannabis Coffeeshops

In the Netherlands, cannabis is not formally legalised but the police are instructed to tolerate its sale and consumption when following certain guidelines. Cannabis “coffeeshops” are venues for cannabis consumption which follow such guidelines as set by local and national government. This has had the impact of separating the drug market between users of cannabis and users of more dangerous drugs. The Dutch are now exploring pilot programmes for the tolerated cultivation of cannabis such that criminal suppliers can be removed from the cannabis market and health standards introduced. This is to remedy the contradiction in their policy where the supply of cannabis was tolerated under law but not its cultivation.

In Ireland, a regulated cannabis market from seed-to-sale would make coffeeshops an opportunity to steer users away from criminal suppliers and minimise the harmful impacts of cannabis consumption (4) (8). This would also generate tax revenue from the consumption of cannabis which seems to persist with or without costly criminalisation policies.

The Green Party supports the toleration of cannabis coffeeshops in Ireland once they adhere to the following guidelines. It may be worth allowing only a limited number of coffeeshops on a pilot scheme basis at first. This would allow for a more contained and closer look at their initial impact, to inform policy going forward. The staff of a coffeeshop must have a clean criminal record. The premises of a coffeeshop must have ventilation adhering to the Public Health (Tobacco) Acts 2002-2015. Coffeeshop premises cannot operate within 300 metres of a primary school, secondary school, or day care centre.

Customers over the age of 18 with valid I.D. may acquire cannabis over a counter from a coffeeshop. Any I.D. that would be accepted by a bar would be acceptable; any distinction on nationality would perpetuate a black market for tourists and foreign nationals. Transactions shall include an excise duty determined by the government. Revenue raised from this excise duty could be ring-fenced for funding addiction services and for monitoring the policy impact of cannabis coffeeshops. The rate of excise duty may also be tiered based on THC content, to discourage the use of higher-THC strains. However, additional taxes on cannabis must not become so high that the criminal market is able to compete by lowering

prices.

No coffeeshop will allow an individual customer to procure more than five grams per day. Coffeeshops must maintain financial records and anonymised data on consumption rates. This will help the monitoring of valuable public health data on cannabis consumption as requested by relevant authorities. Coffeeshops acquire cannabis from a licensed offsite cultivator (see section 2.4.4.). Cannabis intended for consumption in these coffeeshops must satisfy sample tests in a lab established or appointed by the government. This is to ensure that the content level of psychoactive THC and other cannabinoid chemicals is compliant with limits set by the government and that certain pesticides, metals, and other health hazards were not present in the cultivation process. As a controlled substance the HPRA would be deemed the appropriate regulator of cannabis products, unless the government was able to legislate for another regulating body to be appointed or established. When operating premises, cannabis coffeeshops must be subject to ongoing, unannounced inspections and observe the following restrictions or face closure:

- no entry for anyone under the age of 18
- no other illicit substances onsite
- no alcohol or nicotine products sold or consumed on-site
- no cannabis product provided without regulatory approval
- no cannabis-infused “edible” products

2.4.4. Regulating Cultivation

Government licences will be required to commercially cultivate cannabis plants. Retention of these licences is contingent on satisfying ongoing, unannounced inspections for standards in health & safety, cultivation, product quality, labour rights and cultivating within limits specified below.

Unlicensed personal cultivation shall be restricted to four plants per private residence. Four or fewer plants and their resulting flower shall be tolerated when cultivated out of public sight and secured from access by minors. This can be tolerated on top of the five grams possession limit as long as cannabis from personal cultivation is not sold. Regulation of personal cultivation may be revised when there has been more time to measure the impact of commercial cultivation. At first, the number of permissible plants for personal cultivation

should be restricted in order to minimise diversion to the black market. It shall be an offence to cultivate five or more cannabis plants without a cultivation licence.

Cultivation licences will require a clean criminal record and specified premises cultivating specified quantities ordered by one or more of the following:

- a specified cannabis coffeeshop
- a specified research project from an accredited institution
- a specified licensed supplier of medical cannabis products e.g. a pharmacy

2.4.5. Transporting Cannabis¹³

Exporting cannabis products shall be a criminal offence unless one can acquire end-to-end approval from the Irish government and the government of the territory to which the product is being exported. Transporting cannabis products above the personal possession limit of five grams shall be an offence. It will not be an offence if the driver of the vehicle can produce a validated order certificate from a cannabis coffeeshop, research institution or medical supplier.

2.4.6. Harm Reduction Safeguards

Advertising or promotion of cannabis coffeeshops shall be restricted to adult-oriented publications and websites. Any cannabis flower, oil or tincture provided by licensed coffeeshops must come in plain packaging stating the following information about the product:

- the name and classification of the cannabis strain
- THC content and CBD content (and other cannabinoids as directed by regulators)
- name and address of the manufacturer of the product
- a list of pesticides, herbicides, fungicides, solvents or other chemicals present in its production-date of production-use-by date
- health warnings against driving or operating machinery under the influence of cannabis
- health warnings against the use of cannabis while pregnant or under the age of 18

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