

Case study: Medicinal Cannabis

What was this project about?

'Medicinal cannabis' means cannabis used for medical purposes. This project concerned options for legalising medicinal cannabis to treat sick people in exceptional circumstances. It involved recommending changes to the *Drugs, Poisons and Controlled Substances Act 1991* (Vic) and associated Regulations.

The project was referred to the Commission by the Victorian Attorney-General in December 2014.

Why did the law need to change?

Cannabis is an illegal drug throughout Australia. However, some people suffering from serious health conditions have reported significant improvements from the use of medicinal cannabis. There have been widely reported cases of young children with severe paediatric epilepsy whose condition improved dramatically after treatment with cannabis.

Because cannabis is an illegal drug, people who needed it medically were forced to obtain it illegally. That exposed them to the risk of arrest and being charged with criminal offences. It also meant that they faced great difficulties in having a regular supply of a drug that was helping them.

The government announced that it intended to legalise medicinal cannabis for people 'in exceptional circumstances', and asked the Commission to report on options for how this could be done. The government did not ask the commission for advice on *whether* medicinal cannabis should be legalised, but on *options* for doing so. Also, the government did not ask the Commission to consider the general legalisation of cannabis.

Key dates

- | | |
|------------------|---|
| 19 December 2014 | The matter was referred to the Commission by the Attorney-General, the Hon. Martin Pakula MP. |
| March 2015 | The Commission published an issues paper, including questions seeking responses from the public, and a call for submissions. The issues paper included information about: <ul style="list-style-type: none">• The benefits and risks of using cannabis for medicinal purposes |

	<ul style="list-style-type: none"> • The experiences of other countries where cannabis is legal for medicinal purposes • Relevant Victorian and Commonwealth laws and the relationships between them.
20 April 2015	Submissions closed. The Commission received 99 submissions.
May-June 2015	The Commission held public consultations in Melbourne and across Victoria.
31 August 2015	The Commission delivered its report to the Attorney-General.
6 October 2015	The report was tabled in Parliament on 6 October 2015.
8 December 2015	Access to Medicinal Cannabis Bill 2015 introduced into Parliament.

Terms of reference

- 1 The Victorian Law Reform Commission is asked to review and report on options for changes to the *Drugs, Poisons and Controlled Substances Act 1981* and associated Regulations to allow people to be treated with medicinal cannabis in exceptional circumstances, and to make the recommendations for any consequential amendments which should be made to the:
 - *Therapeutic Goods (Victoria) Act 2010*
 - Any other relevant legislation.
- 2 In conducting the review, the Commission is asked to consider:
 - a) the operation of Victoria's *Drugs, Poisons and Controlled Substances Act 1981* and associated Regulations, and how this interacts with Commonwealth law, functions and any relevant international conventions
 - b) medicinal use of cannabis in other jurisdictions.
- 3 The Commission is asked to appoint expert panels to assist in its review, specifically to examine:
 - Prescribing practices for medicinal cannabis, including eligibility criteria for access to medicinal cannabis and the role of doctors in managing the use of medicinal cannabis by patients
 - The regulation of medicinal cannabis manufacture and distribution, including which forms of medicinal cannabis should be permitted for use.
- 4 The Commission should report no later than 31 August 2015.

The policy and research team and the division

The project was led by specialist Commissioner Dr Ian Freckelton QC. Four staff members of the Commission worked on the project and provided support to the Commissioners. Their role was to plan and co-ordinate the reference, conduct research, draft the consultation papers and final report, and conduct meetings and consultations.

A Division of the Commission was formed consisting of the Chair of the Commission, Philip Cummins AM, and all nine Commissioners. Their role was to decide the Commission's recommendations.

Issues paper: the issues that were identified

The key issues identified in the issues paper were:

- Who should be eligible to be treated with medicinal cannabis in exceptional circumstances
- Options for the regulation of cannabis, including cultivation, production and distribution and who should authorise treatment
- Collaboration between Victoria and the Commonwealth, as Commonwealth restrictions on narcotic drugs would also apply to any changes to Victorian law.

The commission asked the community for its views on these and other issues.

Submissions

The Commission received 99 submissions. These are available on the Commission's website, unless those who submitted requested confidentiality.

Consultations

The Commission held public consultations around Victoria with groups affected by the law. Among them were people suffering from serious medical conditions and their families, medical and health professionals, legal professionals, and many interested members of the public.

Final report

The report contained 42 recommendations for changes to the law to allow people to be treated with medicinal cannabis in exceptional circumstances.

The overall aim was to create a scheme that brought medicinal cannabis into the medical system, so that:

- Patients are treated under medical supervision
- Cannabis products are made under regulated conditions that ensure quality control
- Patients can buy cannabis products from the pharmacy, with authority from a specialist.

The Commission recommended that eligibility to receive medicinal cannabis in 'exceptional circumstances' should be based on 1) specific medical conditions, and 2) specific symptoms. These are:

- Severe muscle spasms or severe pain from multiple sclerosis
- Severe pain from cancer, HIV or AIDS
- Severe nausea, severe vomiting or severe wasting from cancer, HIV or AIDS (or from treatment for those conditions)
- Severe seizures from epileptic conditions, if other treatment options do not work or cause unacceptable side effects
- Severe chronic pain, where two specialist medical practitioners think that medicinal cannabis may work better than other medical options.

The Commission recommended that treatment with medicinal cannabis require authorisation by a specialist medical practitioner and supervision by general practitioners.

The Commission recommended that cultivation and production of medicinal cannabis be carried out by private entities under government licence. This would be similar to the existing process for the cultivation of alkaloid poppies and the processing of poppy straw.

Government response

On 6 October 2015 the report was tabled in Parliament. The government announced that it wholly accepted 40 recommendations, and accepted two in principle (related to the timing of the scheme). It announced its intention to legislate to make medicinal cannabis legal in exceptional circumstances, commencing in 2017.

More information

See www.lawreform.vic.gov.au for the report and other documents.

Case study prepared: January 2016