



Drugs Policy (1147/2024)

## Abstract

This policy provides guidance in relation to drug related crime, including cannabis cultivation sites illicit drugs laboratories and drugs found in educational establishments.

## Policy

### 1. Introduction

1.1 This policy is required to establish corporate standards and provide sufficient guidance for dealing with drug related crime in a safe, effective, and efficient way. It adheres to current legislation and incorporates national best practice and Authorised Professional Practice (APP) for the investigation of drug related incidents.

### 2. Scope

2.1 This policy defines the process to be followed when dealing with:

- Drug investigation ownership
- Psychoactive substances
- Handling drugs
- Cannabis, including drug disposal options, and cannabis cultivation and production.
- Illicit drug laboratories
- Disposal and destruction of drugs
- Detainees suspected of swallowing or stuffing drugs
- Drugs found in educational establishments
- Drug related deaths
- Drink / needle spiking

### 3. Policy Statement

3.1 Sussex Police are committed to reducing the harmful impact drug misuse has on communities, via robust enforcement, supporting diversion opportunities and reducing drug related deaths.

## Procedure

## **1. Introduction**

1.1 Primary legislation dealing with the misuse of drugs is contained within the Misuse of Drugs Act 1971 and the Drugs Act 2005. Other legislation that affects investigations by the police of such offences includes:

- The Psychoactive Substances Act 2016 (PSA)
- The Police and Criminal Evidence Act 1984 (PACE)
- The Criminal Procedure and Investigations Act 1996 (CPIA) (Code of Practice) Order 2020
- The Police Act 1997
- The Data Protection Act 2018
- The Human Rights Act 1998 (HRA)
- The Regulation of Investigatory Power Act 2000 (RIPA)
- The Police Reform Act (Part 1, Sch.4) 2002 as amended
- The Misuse of Drugs Regulations 2001
- The Serious Crime Act 2007
- Proceeds of Crime Act 2002 (As amended)

These provide the basis of powers to be exercised by the police and other agencies in the investigation and management of drug offences and offenders.

## **2. Responsibilities**

2.1 There are 3 classifications of offenders relating to the misuse of drugs:

Level 1 – Low level locally based offenders and drug abusers. These will typically be at street level to District level but includes those involved in drug supply.

Level 2 – Force level dealers and distributors of drugs, usually involving large amounts of substances, working across Divisional lines and across the Force lines.

Level 3 – National and international offenders dealing with high levels of trafficking and major organised crime groups (OCGs).

2.2 Divisions will usually be responsible for the investigation of Level 1 criminality. The management of intelligence, operations and prosecutions will be overseen by the Division and may be supported by Force resources where appropriate. District or Divisional leaders will decide upon relevant tactics that may be deployed regarding any localised disrupt / destroy policies.

2.3 Level 2 criminality will typically be targeted by Force resources, such as Specialist Crime Command (SCC), who are best equipped to provide the level of response required to tackle this level of offending. Divisions are likely to provide resources to supplement Force owned investigations.

2.4 The Force Intelligence Bureau (FIB) manages risk and threats to and within the Sussex Force area and will disseminate information and intelligence identifying drug offence patterns that sit within both Levels 2 and 3 offender classifications. FIB will feed into the Level 2 tasking process which will identify the priority responses to these levels of criminality.

2.5 Local intel teams support Divisions analyse and target Level 1 drug criminality. This would be expected to be via Hub Intelligence Meetings, the Divisional Tactical Tasking Coordination Group (TTCG) and multi-agency Serious Organised Crime Partnerships / TTCGs.

2.6 SCC is able to provide resources to make proactive and reactive enquiries specifically aimed at the Level 2 area of offending. These resources include teams that make up the Serious Organised Crime Unit (SOCU), the Economic Crime Unit (ECU) and Major Crime Team (MCT). SCC will undertake Level 2 investigations and provide support to other enquiries that require surveillance capabilities and financial restraint and seizures under the terms of the Proceeds of Crime Act (POCA) 2002.

2.7 The ECU will provide expertise in identifying assets of persons who have benefited from drug trafficking and will furnish the courts with financial statements for consideration of Confiscation Orders. Where a person is charged with a drug trafficking offence which includes but is not limited to supply, production, importation of drugs, or aiding and abetting the commission of these offences as defined by Schedule 2 of POCA (2002); a financial information report must always be completed and forwarded to the ECU so that a financial investigation can be prepared. Full details in the Seizure, Security and Retention of Money Policy (Surrey and Sussex) (1014).

### **3. Psychoactive Substances**

3.1 Sussex Police will act robustly to tackle any trafficking, supply, and manufacturing of Psychoactive Substances offences under the PSA 2016 and will utilise the range of powers available to them including the use of Premises and Prohibition Orders and Notices. Where applicable civil powers will be assessed for use prior to the enactment of criminal powers so as to ensure all actions are proportionate.

3.2 With regards to searching under the PSA 2016 all searches must be made under both the Misuse of Drugs Act 1971, as the primary legislation, and under the PSA 2016 as secondary. This must be clearly established with the subject at the start of the search.

3.3 Searches under dual legislation will ensure that any seized items are legitimate evidence under the Acts. For full powers please refer to the Misuse of Drugs Act 1971, the PSA 2016 and the Police and Criminal Evidence Act 1984.

3.4 Any substances seized under the PSA 2016 or which come in to police custody at any time may be considered to be a health risk and under this policy and the PSA 2016 (Section 50) will fall under the non-return policy.

### **4. Handling Drugs**

4.1 Extreme care must be exercised to prevent contamination from all drugs litter. This includes the risk of blood borne diseases and infections from hypodermic syringes and needles used by persons involved in drug abuse.

4.2 Such items should only be seized as evidence or for forensic examination following careful consideration of the evidential benefit for the case being investigated.

4.3 In all cases when seizure of a syringe and/or needle is required it should be placed immediately in a weapons tube and labelled with appropriate warnings of sharps and as a biohazard. At no point should any action be taken to remove the needle or to interfere with the item from its found form.

4.4 The seized exhibit must only be opened by a forensic scientist for testing at the laboratory. At no point will a needle or syringe be examined or tested in house.

4.5 Drugs in all forms pose health risks and it is the officer / member of staff's responsibility to ensure that adequate Personal Protection Equipment (PPE) is worn at all times when in contact with drugs and any associated paraphernalia.

4.6 The Health and Safety Executive in conjunction with the Chemical, Biological, Radiological and Nuclear (CBRN) team or a Fire and Rescue Service National Inter-Agency Liaison Officer (FRS NILO) Team will ensure that the Force is alerted, and that suitable PPE is provided and available for use when handling or testing at risk substances.

4.7 Any exhibits linked to an unexplained death or a Non-Fatal Overdose, or which is suspected to contain Novel Synthetic Opioids (NSO) commonly referred to as Nitazenes must be double bagged and sent to the Forensic Service Provider. The bags must not be opened.

4.8 The handling of all substances and drug litter / paraphernalia is to be risk assessed and the necessary safeguards are to be put in place to minimise / neutralise any risk of contamination or injury.

## **5. Cannabis**

5.1 Supplying any amount of cannabis is a serious offence that can result in up to 14 years imprisonment.

5.2 When police find a person in possession of a small amount of cannabis, they must:

- Investigate the circumstances surrounding the alleged possession, including any lawful excuse.
- Eliminate any suspicion of a more serious offence, such as possession with intent to supply (the amount of cannabis in the possession of the offender is irrelevant if there is other evidence of intent to supply).
- Seize the cannabis and place it in a breathable or paper exhibit bag which should be sealed and signed in the presence of the suspect. The suspect will be invited to sign the bag.
- There must be compliance with PACE and PACE codes of practice (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 as per Home Office Circular 15/2012).

5.3 From 1st November 2018 Cannabis Based Prescription Medicines (CBPM) were made available on prescription to patients within the UK suffering from certain medical conditions.

Cannabis has NOT been legalised and remains a Class B controlled drug under the Misuse of Drugs Act 1971.

There may be time when individuals maybe in passion of cannabis unlawfully and claim that the cannabis is for medicinal purposes in order to avoid prosecution. Where such a person is in possession of cannabis bud, leaf or resin, and are in possession of a CANCARD use suitable discretion on how to progress. Medicinal cannabis is expensive, and some patients use 'privately sourced' cannabis to manage their condition (even though not legal). Refer to CANCARD Information Flowchart. The cannabis should be seized. It is paramount that no person who has lawfully been prescribed CBPM has it confiscated. Guidance is available to assist police officers at CANCARD Information Flowchart.

## **6. Disposal Options for Possession of Drugs of all Classes including Cannabis**

6.1 In circumstances where the possession of the controlled drug is clearly for personal use and not accompanied with any sign or suspicion of supply then the officer in charge (OIC) may deal with this by way of a community resolution, diversionary caution, or community caution with a drug diversion referral as the outcome. Full details in the Community Resolutions Policy (1091).

Where an OIC has suspicion of further offences or there are other aggravating factors an arrest, and/or a full investigation may be considered necessary.

On conclusion of an investigation which meets the Full Code Test the disposal options are by way of a community resolution, diversionary caution or community caution, or charge. Sergeants and supervisors must use the Adult Gravity Matrix to select the most appropriate outcome, taking into consideration the gravity score of the offence, all aggravating and mitigating factors and the offender's account and previous offending history. Refer to the Out of Court Resolution Policy (1118).

### **6.2 Offenders Ages 17 Years and Under**

The most appropriate resolution for young people aged 10 to 17 years is likely to be a community resolution with diversion. If possible, take the young person home, verifying their name and address and deal with them under the provisions of the Child Resolution Pathway.

It is accepted that, in some cases, a police officer may have cause to arrest that person if the necessity criteria in PACE Code G is met. An arrest would not preclude an Out of Court Resolution (OoCR) being offered to the young person if they were eligible at the disposal point of an investigation. When deciding on the most appropriate outcome the Child Resolution Pathway must be used. For further information on the Child Resolution Pathway How do i? Youth Justice - Child Resolution Pathway (CRP). A referral(s) to Multi Agency Safeguarding Hub (MASH) is also required.

### **6.3 Children under the age of 10 years**

Children under the age of 10 years found in possession of cannabis should immediately be considered to be 'at risk'. This will prompt the appropriate referrals to other agencies through the local Iris Team and MASH. Although each case has individual circumstances, a child under 10 found in possession of cannabis must always be considered to be at risk of 'significant harm' and the officer should assess whether the child needs to be taken into police protection.

#### 6.4 Arrest

From 1 January 2006, Section 24 of the PACE Act 1984, as amended by Section 110 of the Serious and Organised Crime and Police Act 2005 (SOCAP), provides a constable with the power of arrest for an offence. The exercising of this power requires the officer to apply the necessity criteria set out in PACE Code G and show that arrest is necessary.

A police officer finding a person aged 18 or over in possession of a substance that they can identify as cannabis and, who is satisfied that the drug is intended for that person's own use and that person admits the offence, should not normally need to arrest the person.

#### 6.5 When Might an Arrest Not Be Necessary

When applying the necessary criteria, the following factors may assist in the decision-making process negating the need for arrest:

- Police National Computer (PNC) check done at the scene.
- Not smoking cannabis within public view.
- Is not a person known locally to be a repeat offender for possession of cannabis.
- It is not an offence of possession under circumstances causing a locally identified policing problem.
- It is not an offence of possession in the vicinity of premises frequented by young persons (schools / youth clubs / play areas).
- Is not a vulnerable person found in possession of cannabis.

The application of the 'trigger powers' under PACE following arrest (for example, entry and search of premises after arrest) apply only to indictable offences. Possession of cannabis under Section 5(2) of the Misuse of Drugs Act 1971 is a summary only offence (i.e. triable in the magistrate's court and punishable by up to 6 months' imprisonment).

### **7. Offence Recording**

7.1 Drug possession is a notifiable offence; consequently, a comprehensive crime report must be completed:

- The nominal must be shown as the 'offender' on the crime report.
- Details of the seized drugs, including the weight, (officers should take into account the packaging) must be entered on to the property screens.
- The time, date, and place that any community resolution was administered must be included on the investigation free text screen.

## **8. Drugs Expert Witness (DEW)**

8.1 A DEW is a specially trained employee who has the requisite knowledge and relevant experience to provide expert reports in relation to drugs cases. DEWs can provide reports relating to drug trafficking offences and draw conclusions from the circumstances in which they are found to form an independent, unbiased expert opinion which can be used to assist a court.

The DEW is impartial and fully independent of the investigation team, and their duty is to the Court.

Therefore, they may decline to write or produce reports which is not fully supportive of the prosecution due to their impartiality and/or independence.

## **9. Seized Property**

9.1 All drugs when seized must be placed into the appropriately sized exhibit bag before being deposited in the drugs safe or property store in accordance with the property policy at the earliest opportunity.

## **10. Cannabis Cultivation and Production**

10.1 Cannabis cultivation should be regarded as commercial if there are 25 or more grown or growing cannabis plants at any stage of growth (germination) OR if there is evidence of a cannabis cultivation site.

10.2 Cannabis seized at a scene will be identified as per Home Office Circular 15/2012. Advice should be sought from a Divisional DEW. Any premises whether commercial or residential shall be considered a 'cannabis cultivation site' (CCS) if the premises or part therein, has been adapted to such an extent that normal usage would be inhibited and usually present within the premises, or part therein, are items solely concerned for the production of cannabis i.e.

- Hydroponics / inert growing system (soil).
- High intensity lighting.
- Ventilation / extraction fans.
- Filters.
- Any other associated equipment and/or
- Electricity meter bypassed.

All plants should be removed from the CCS and seized. All other equipment should be quantified / recorded. All other items / equipment unless required as a forensic exhibit, shall be left in situ for the landlord / property owner to dispose of. This is not the responsibility of Sussex Police. Refer to Cannabis Cultivation Standard Operating Procedure – section 9. Scene Dismantlement and Retention of Exhibits.

N.B Consideration must be given to any persons found within a cannabis cultivation site to establish whether they are an offender of drug offences or a victim of human

trafficking. Refer to the Modern Slavery (Operation Eagle) Policy (914) for further information in relation to this topic.

## **11. Illicit Drug Laboratories**

11.1 The dangers of illicit and other synthetic drug production pose serious risks to public health and safety in a wide variety of ways.

11.2 Manufacturing processes are often crude, uncontrolled, and extremely dangerous. Many of the pre-cursor chemicals (either alone or in combination) are reactive, explosive, flammable, corrosive, and/or toxic.

On a personal level the drug is highly addictive and can cause psychological and physiological harm

Consideration when planning visits must be given around the risks of illicit laboratories and cannabis cultivation sites being fitted with weapons and 'booby traps' which pose additional dangers to attending units.

In all cases prior to attending advice should be sought from a CBRN Tactical Advisor in conjunction with the DEW trained in illicit drug laboratories.

### **11.3 White Powder Incidents / Unidentified Substances of Potential Suspicion**

If unknown chemicals and substances of potential suspicion are located, the CBRN policy must take priority with an immediate referral to the Force Incident Manager (FIM) for a full risk assessment and liaison with a CBRN Tactical Advisor. If there is thought to be a genuine threat, a CBRN commander will take ownership of the incident to establish the identity of the white powder / unidentified substance. Refer to the Chemical, Biological, Radiological & Nuclear (CBRN) Force Training, Resourcing and Operational Deployment Policy (Surrey and Sussex) (568).

## **12. Disposal and Destruction of Drugs**

12.1 Where an unknown substance believed to be unlawfully held comes into police possession various pieces of legislation apply.

- In the instance of a school and possession by a professional, reference must be made to the school's policy and assistance provided where required to dispose of the item.
- Where it is personal possession under the Misuse of Drugs Act 1971 appropriate guidelines must be followed as per the Act.
- Where the item is a substance seized under the PSA 2016, which differs slightly from the Misuse of Drugs Act 1971, guidelines must be followed as per the Act.
- When considering safety this policy takes into consideration advice from Public Health England that the use of any substance can be considerably harmful to the health of the individual and those around them. Specifically, the PSA 2016 has been enacted following an in-depth review by the Advisory Council on the Misuse of Drugs and all health advice points to substances undermining personal and public health. Therefore, this policy reflects this advice and will operate in line with Section 50 of the PSA 2016 with a non-



return policy where all psychoactive substances in police possession are sent for destruction.

12.2 In the case of drugs evidence for trial:

- Decide what property is needed as evidence and, in consultation with the Crown Prosecution Service (CPS) and a forensic expert dispose of unused material (to be discussed in the Plea and Directions Hearing (PTPH) prior to any trial dates).
- Prior to the destruction of exhibits, the defence must be told in writing of the intention to dispose of the property and offered the opportunity within a specified time period to examine it or have it examined by their own experts.
- At the completion of the trial treat all property under CPIA.
- Disposal of drugs evidence will depend on the investigative strategy and criminal disposal of the case. Upon conclusion / finalisation the property team must be informed that the item can be disposed of.

12.3 If no persons are arrested, there may be no criminal proceedings and if there is no known owner police may dispose of the property using a court order (Police Property Act 1897).

### **13. Detainees who are suspected of having swallowed drugs or stuffed drugs**

13.1 As soon as there is a suspicion that packages have been ingested the detainee should be taken to the nearest Accident & Emergency department (A&E), preferably by ambulance. If the detainee has been brought to a custody suite, a custody record must be opened but an ambulance must be called immediately and there should be no delayed transfer to hospital.

If the detainee is taken directly to hospital from the scene of the arrest (i.e. prior to being taken to custody) by whatever means and receives any medical intervention (other than X-rays, observations etc.) then a Force Incident and Assault Management System (FIAMS) incident / injury report MUST be submitted for the detainee as soon as practicable as this is a statutory requirement under the Reporting of Injuries, Disease and Dangerous Occurrences Regulations 2013 (RIDDOR).

13.2 When drug swallows are returned to custody from hospital the following should be considered:

- Before accepting a detainee's return to custody, the escorting officers should request that the hospital doctor in charge of the detainee or the A&E manager provide clear written advice to inform the detainee's care plan.
- The detainee must be seen on return to custody by medical staff.
- It must be remembered that the detainee may still have drug packages in their body and hospital tests and observations will not always detect them.
- As such the detainee will continue to be at risk of deterioration, which may be slow or sudden.

- To prevent harm to the detainee and loss of evidence all detainees must be subject to 'close proximity' observations and be accessible at all times.
- Consideration must be given to using a cell with a 'drug loo' / 'loo trap' facility if there is evidence to suggest that there may still be drugs concealed within the person's body.

Please refer to Internal Drug Concealment within Effective Practice and Guidance for information relating to detainees who have or are suspected to have swallowed drugs.

13.3 Consideration must be given to notifying Professional Standards Department (PSD) in any event of suspected stuffing or swallowing of drugs, as this could result in a Death or Serious Injury (DSI) Incident.

## **14 Dealing with Suspected Illegal Drugs Seized on Secondary School or Higher Education Premises**

14.1 There is a specific protocol to be followed when suspected illegal drugs are found on secondary school or higher education premises or when confiscated from a pupil. Refer to the Educational Establishments Policy (894).

## **15. Drug Related Deaths**

15.1 A drug related death is defined as:

"Any death where there is evidence of a fatal overdose of a controlled drug. Such evidence may come from witnesses, medical professionals, where the deceased is a known misuser of drugs or where there is evidence of drug taking / paraphernalia in close proximity with the body".

15.2 The decision as to whether a sudden death is a drug related death (DRD) may be taken by any person at the scene. This may include health professionals, police, or coroner's officers.

15.3 All suspected drug related deaths will be investigated and recorded on NICHE under the Crime Related Incident classification 000/05 "Recording of Unsubstantiated Death".

15.4 Any substance suspected to be controlled drugs or unidentified found at the scene of a suspected drug related death should be seized as evidence for the Coroner and recorded on the property system under the deceased name. Refer to the Managing Unexpected Deaths Policy (Surrey and Sussex) (474).

## **16. Drink / Needle Spiking**

16.1 Drink spiking occurs when drugs or alcohol are administered into a drink(s) without the knowledge or consent of the person targeted to facilitate a criminal offence(s).

16.2 Needle spiking occurs when drugs are administered into the body by way of a needle without the knowledge or consent of a person targeted to facilitate a criminal offence(s).

For the full guidance on dealing with spiking related incidents and criminal offences please refer to the Spiking Policy (1238).

## **17. Drug Testing – Evidential Drug Identification Testing (EDIT)**

17.1 All drugs seized for possession only offences, including those where cannabis is no longer required for evidential purposes, must be Evidential Drug Identification Test (EDIT) tested or screen tested in Force where appropriate (HOC 015/2012: The testing of substances suspected to be drugs controlled under the Misuse of Drugs Act 1971)

17.2 All possession cases where substances can be tested using Home Office Approved drug testing kits / drug testing devices must be tested by an accredited EDIT tester and a full record, including description and weight must be recorded. These records are to be duly maintained in order that the CrimSec data required by the Home Office (HO) under the HO Counting Rules is full and complete. The tester will complete an Examination Record which will be attached to the offence on NICHE in every instance. An MG11 will only be provided in cases where a formal charge is made (HOC 013/2014: Home Office approved kits for testing controlled substances).

17.3 Simple supply cases where the amount of drugs seized is deemed personal and the offender fully admits guilt may be tested by Force Trained EDIT Tester can be tested using Home Approved test kit / devices.

17.4 Drugs seized as part of trafficking and supply cases should be analysed by the Forensic Service Provider following submission of an MG21 to the Forensic Submissions Hub.

17.5 Testing substances for Remand in Custody (RIC) / Threshold Testing relating to offences for trafficking and supply offences can be carried out by a suitably trained officer / staff member using Home Office Approved drug testing kits / drug testing devices. If the case team are unsure contact your Divisional DEW single point of contact (SPOC) for advice.

17.6 In line with paragraph 13 of Home Office Circular 15/2012 the testing of substances suspected to be drugs controlled under the Misuse of Drugs Act 1971 can be tested using alternative devices to identify substances, but case officers should obtain a fast-track laboratory analysis as soon as practicable for court purposes.

17.7 All testing accreditations may be subject to competence checks. All trained personnel will be required to maintain their competence through test completion within a notified time period. Failure to maintain competence at the trained level will result in accreditation removal.

17.8 This is in line with the EDIT Good Practice Guidance document and Home Office EDIT Guidance.

**Team:** Specialist Crime Command