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## Home Office Respond to My E-mail

- [Guest Writer 1](#)

It's funny what a little restraint can do, I was all set to submit an angry article about the Home Office last night as they appeared to have overrun their 20 day timescale for responding to queries. Instead I decided to employ a bit of patience, and today I received a response!!

So, I sent them the following queries;

Good evening,

Firstly, please allow me to apologise for my anonymity. I am a UK citizen but feel unable to disclose my identity as a direct result of the UK's current position regarding Cannabis.

As you'll know, there was recently a story in the news claiming that the Home Office had confirmed that 'medical tourism' was legal and that UK residents could travel to Holland (or Belgium etc.), obtain a valid medical prescription and return with (up to) 3 months supply of Cannabis. This claim was later retracted as a 'mistake'.

I'd like clarification as to the Home Office's position on the following;

You'll note a European Commission Advocate has stated unequivocally that Article 75 of the Schengen Agreement is "binding" on the UK (See here - <http://www.vimeo.com/8217543> 11 minutes 25 seconds in). Does the Home Office recognise this, and what is the effect upon UK citizens?

I'd also be very interested to know the Home Office's position on the following: If the UK Government (as bound by the Schengen Agreement) allows a Dutchman to use medicinal cannabis in the UK, but not a UK citizen - is this not racial discrimination?

I recognise that the Home Office may feel unable to adequately answer the next question;

It's surely reasonable to argue that the issue of Medicinal cannabis is an entirely scientific and health related issue. Why is it then that the legality (or otherwise) of Medicinal herbal cannabis is dictated by the Home Office and not the Department of Health? The UK is the only state in the EU to be in a position where patient welfare is being managed by a department concerned with policing (whether or borders, locally etc.) One thing you can surely agree the Home Office does not specialise in is healthcare.

Could you explain this unusual position to me?

I've read numerous arguments stating that Medicinal cannabis is 'not in the public interest', all made by the Home Office. The problem is, there's no way to prove/disprove this. Everyone I've spoken to has been shocked to learn that it's not available for medical use in the UK and a significant proportion said that it was wrong. Obviously this is a small sample, but it begs the question: Who exactly have you been consulting? Even the head of ACMD publicly opposed the Home Office's policy.

Finally, though I doubt it'll make much difference, I'd like to provide you with some feedback about my view of the situation;

I injured myself in a Road Traffic Accident around 7 years ago. I've lived my life in constant pain ever since, and suffered greatly reduced mobility. The NHS have tried their hardest to help, beginning with attempts to 'fix' the injury which were eventually reduced to trying to control the pain.

I've spent years on prescription painkillers, changing whenever I develop a tolerance. Not one has succeeded in bring my pain to even bearable levels, but almost all clouded my mind and affected my mood. To make a bad situation worse, I got addicted to a particularly nasty opiate (one, incidentally, which the manufacturer claims is safe and non-addictive).

Up until recently I was unable to walk without a stick, the pain was just too great. I spent many months battling depression and suicidal thoughts. Then, in a fit of desperation, I tried cannabis.

Quite frankly, comparing my experience with Cannabis to Home Office statements on the matter makes me lose faith in the honesty of Government as a whole. Individual experiences will always differ, but your 'advice' is a complete contradiction to what I have experienced. Cannabis doesn't quite get rid of the pain completely, but it's at the most bearable level I can ever remember.

The stick is gone, I'm slowly learning how to walk again. Stairs still pose a dangerous proposition but it's something I can come to terms with. I'm far happier than I can remember being in years, and my mind is actually clear during the day. On the 'legal' medication, I spent the entire day with my mind clouded, a single dose of cannabis gives me 18 hours of pain relief. My mind's clouded for a maximum of 3 hours, and I'm very careful about when the dose is administered (I'd never drink-drive and I can't see that any medication is any different).

So, how is it that the Home Office's advice contradicts both my experience

and that of others?

I'd also be interested to know why it is considered 'just' that I should have to choose between being (almost) pain-free or being a law abiding citizen? All I want to do is live my life as best I can, without putting myself and my loved ones at risk.

Thank you for your time, and I hope to hear from you soon!

Almost definitely not the most literate e-mail the HO will have received, and I was genuinely concerned they'd ignore it due to my anonymity, but it would seem this fear was unfounded. The Home Office replied with;

Thank you for your enquiry dated 17 November 2010 concerning the UK's obligations under Article 75 of the Schengen Agreement, which took effect in 2005.

This provision allows for the free movement of travellers within the Schengen member states with their prescribed narcotic and psychotropic substances that are necessary for their medical treatment provided they have a certificate, "a Schengen certificate", issued or authenticated by a competent authority of their state of residence.

Pursuant to Article 75, the UK recognises that a patient who is resident in another member state can travel to the UK with their medication, provided that they are resident in a country where that drug is legally prescribed; it has been prescribed by their doctor; it is for necessary medical treatment for a maximum of 30 days and is for personal use only; they have the appropriate certification from their relevant health authority.

Of course, this is a reciprocal arrangement enabling UK residents to travel with their personal medication. The Department of Health is the UK's competent authority on this matter.

In respect of herbal cannabis we understand health authorities in The Netherlands and Belgium allow herbal cannabis products to be prescribed by doctors and dispensed to patients for a number of indications.

In the limited circumstances described above, a Dutch or Belgian resident will be allowed to travel to the UK with herbal cannabis products prescribed in these countries provided they hold an appropriate Schengen certificate.

However, a UK resident can not rely on the Schengen agreement to bring prescribed herbal cannabis into the UK. This activity would be in breach of UK law, amounting to the unlawful importation and possession of a controlled drug, and the UK resident would be liable to arrest and prosecution under the Misuse of Drugs Act 1971.

The Government is committed to maintaining UK drugs laws and is seeking assurance from European authorities that checks in this system, including the checks that member states make before issuing a Schengen certificate to an applicant, are as robust as possible.

We do not agree that we are discriminating on grounds of nationality.

Instead, an explicit distinction on grounds of residency is inherent in Article 75(1) of the Schengen Agreement, which applies to certain persons who produce a certificate "issued or authenticated by a competent authority of their State of residence".

In other words, the potential consequences which you seek to highlight do not arise from any decision of the UK Government as to how it gives effect to Article 75, but from the fact that Article 75, by its nature, confers rights on people by reference to their country of residence.

The Home Office has overall responsibility for controlled drugs and associated legislation and makes decisions taking full account of advice received from the Advisory Council on the Misuse of Drugs (ACMD) and other relevant factors. It is not one, but all members of the Council who provide this advice. In respect of legislative matters, it is then for Parliament to endorse or reject those decisions.

The Government has accepted the advice by ACMD that cannabis is a harmful drug which has a high potential for abuse. The ACMD's 2008 report on evidence and harms of cannabis is published at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

An interesting response, although it feels a little too much like they're giving veiled answers. This reply was sent today, a good few days after the Government announced that it was planning to [dispense with scientific advice completely](#). Strange, then, that they'd talk about how they take account of advice from ACMD.

Also clearly something of a play on words, when they say "take full account" you can't help think their policy is influenced by the opinion of ACMD. If that were truly the case, then Professor Nutt would not have needed to speak out, or be fired.

A very important point, to me at least, is that of discrimination. In their response, the HO assert that they do not discriminate on the basis of nationality. I contend that this is exactly what they are doing, they may believe that they have legal grounds for doing so, but it is discrimination none-the-less;

**Discrimination:** treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit

I'd say that basing a decision on whether someone can use Cannabis medicinally solely on their country of residence is discrimination. There may, or may not, be a valid legal basis for doing so, but discrimination it remains.

I decided that their response actually raised more questions than it answered, so I replied with the following:

Thank you for your reply, but it raises at least additional questions, firstly the issue of competent authorities.

You state that the Department of Health is the competent authority in respect of the Schengen Agreement. I don't disagree with this point, but I'd certainly be interested to know why the DoH isn't deemed competent enough to make a decision on the medicinal benefits of Cannabis? This decision is taken by the Home Office, an agency interested primarily in the policing and adaptation of existing laws.

I believe I asked this question in my original submission, and assume that the reference to ACMD is partially in response to this. However, the UK Government has announced plans to amend the Misuse of Drugs Act in order to remove the requirement to seek scientific advice before creating policy. Given that any pretence of a health based policy has been greatly undermined by this decision, would it not make sense to devolve the issue

of medicinal cannabis to the DoH? The governments current stance is extremely inconsistent, although the HO claims that Cannabis is of 'no medical benefit' they continue to promote Sativex, a drug consisting of cannabis and alcohol.

As the HO have shown, both with the recent announcement and past behaviour, that they have no intention of allowing scientific evidence to influence their moralistic views, do you truly consider that the HO is in a position to make objective decisions on the matter of medicinal cannabis? As an observer, I would say that the HO have invested heavily in their current stance and that any change, no matter how well justified, is almost impossible. This standoff is actively criminalising and harming those who need help most.

Given the entrenched position that the HO seems to hold, are there any steps that could be taken to legally acquire and use cannabis for medical reasons in the UK? I suspect the answer is "no", given the vast amount of evidence from around the world, why are the medicinal benefits of this drug being ignored?

As a final question; The Government recently announced a new policy of 'abstinence' as a treatment for drug addiction. Who did the Government consult when devising this policy? Do the Government understand just how ill-advised this policy appears to be?

If and when I receive a reply, I'll post an update. Somehow though, I'm not expecting anything new to be divulged!

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Tags: [Access to Medicine](#), [Cannabis](#), [Correspondence](#), [EMail](#), [Home Office](#), [Letter](#), [Prohibition](#), [United Kingdom](#)

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