

To: Lead Food Officers, SFELC

26 March 2019

FSS/ENF/19/002

Dear Colleague

Update on the status of CBD extracts following changes to the Novel Food Catalogue.

The entry in the EU Novel Food Catalogue was recently clarified for cannabidiol (CBD), a cannabinoid, to confirm that there is inadequate evidence that it was used as a food or food product before 15 May 1997. As CBD falls within the definition of a novel food (under Article 3(2)(iv) of Regulation (EU) 2015/2283), prior to placing on the market, such food products would need to be assessed as a novel food.

The novel food status of CBD has been discussed across Member States (MS) on several occasions in the last few years. In order to clarify the situation, on 15th January 2019 the EU Novel Foods Working Group discussed CBD extracts to establish if any MS had a History of Consumption (HoC). No MS had any relevant evidence so agreed CBD extracts were novel foods.

Subsequently the EU Novel Foods Catalogue was updated to confirm this opinion that CBD extracts are novel foods, and as such require authorisation before being placed on the market. Decisions on enforcement actions are down to each MS so this aspect was not discussed at the meeting.

Background

A number of products with names such as hemp oil, hemp seed oil, cannabidiol oil, CBD oil or CBD hemp oil have recently entered the market. These products are derived from the hemp plant (*Cannabis sativa*). They are typically marketed as food supplements (or dietary supplements) in liquid or capsule form or added to other food products.

Oil is obtained from the hemp plant by cold-pressing the seeds or other parts of the hemp plant. This oil naturally contains low levels of cannabidiol (CBD), a non-psychoactive compound. CBD can also be chemically extracted from hemp to produce products with a higher CBD content.

Whilst consumption of hemp and its derivatives (such as oil, seeds and flour) have a significant and verifiable history of consumption, the specific extracts (such as CBD) do not, with consumption only noted over recent years.

Certain varieties of the hemp plant (*Cannabis sativa*) are legally grown for a range of uses including for food and feed. The varieties of hemp permitted to be grown in Europe are those listed in the EU's 'Common Catalogue of Varieties of Agricultural Plant Species' and for which the tetrahydrocannabinol (THC) content does not exceed 0.2% (Regulation (EU) No 1307/2013).

The cannabis plant contains a range of cannabinoids – some of which are psychoactive (affect the mind) and some not. Tetrahydrocannabinol (THC) is a psychoactive constituent of the hemp plant. As THC can cause symptoms associated with psychosis, products that contain THC may be subject to control under the Misuse of Drugs Acts 1971. Useful guidance can be found [here](#).

It is not permitted to make a medicinal claim about food. Therefore claims such as 'treats seizures', 'cures cancer', 'lowers anxiety' or 'anti-inflammatory' must not be made on the label of a food, verbally or on associated marketing material such as websites, social media, leaflets, etc. Products that either contain a medicinal substance or make a medicinal claim are considered to be medicinal products. Medicinal products fall within the remit of the Medicines and Healthcare Products Regulatory Agency, their guidance can be found [here](#).

A health claim is any claim that states, suggests or implies that a relationship exists between a food category, a food or one of its constituents and health. No health claims relating to hemp or CBD are authorised for use under Regulation (EC) No 1924/2006.

Local Authority Action Required

Given the existing market of CBD food products and widespread interest from business, consumers, other Government Departments and FSS are currently reviewing the policy position on CBD containing products, alongside FSA. To help inform our thinking can we please request that LA's consider the following questions and return their response to enforcement@fss.scot by COP on Friday 5th April March 2019.

1. Are you aware of any CBD containing products being manufactured/prepared/distributed or sold in your LA? If yes, how many food businesses are involved in these activities?
2. What types of food businesses are selling these products?
3. What types of products have you seen on the market?
4. Are there any health claims being made for these products?
5. Have you taken any enforcement action with regards to these products?

Kind regards,

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