

## **Possession of drugs with intent to supply**

This file contains two directions;

- 1, Possession with intent to supply where possession and intent are denied; and
- 2, Possession with intent to supply where possession is accepted but intent denied, simple possession as an alternative

## **Possession with intent to supply (possession and intent denied)**

Possession of \*\*\* with intent to supply.

Normally the prosecution have to prove four things –

- the drug was a Class A drug;
- it was in the defendant's possession;
- the defendant knew it was in his possession ; and
- he intended to supply the drug to another person or other people.

D\*\* accepts the prosecution evidence that the drugs were Class A drugs, but he denies that they were in his possession or that he intended to supply the drugs to another person or other people.

### Possession.

Possession means having something and having custody of it or control over it.

This aspect is satisfied if someone has something in a bag or in a flat over which he has control.

### Knowledge

The third part of the definition is knowledge. To be found guilty a defendant must have known that the drugs were there.

### Intention to supply

The word supply has a wide meaning. It can include providing, delivering, giving, distributing, dealing in or selling drugs. Supplying may be to friends or strangers. It includes both large scale commercial trafficking, dealers who drive expensive cars, and relatively small scale street dealing where the main purpose is to provide sufficient income to finance the dealer's own habit or dependence.

How do you find out whether the intention is established? The answer is you can infer it from all the surrounding circumstances.

Sometimes dealers have items associated with drug dealing - scales for weighing drugs, lists of customers and phone numbers, or other substances to cut the drugs. Others do not.

The presence or absence of these things are all matters which you can take into account, but no single thing is conclusive. You must have regard to all the evidence.

You may wish to consider matters such as the quantity of drugs. The prosecution case is that the large quantities of drugs and the presence of cutting agents all point to an intent to supply.

Money found in the defendant's possession may be relevant – it may give rise to an inference – but it is only relevant if you reject any innocent explanation given by the defendant – if it is possible that D\*\* was in possession of the money found for other reasons than dealing drugs, you should ignore it. However, if you are sure that it is indicative of past and continuing dealing, it is relevant to the question of whether or not he had an intention to supply.

So, the key questions for you to answer, having regard to all the evidence and the directions which I give you, is

Were the drugs in the defendant's possession?  
Did he intend to supply them to another person (or persons)?

If you are sure that the answer to both questions is “yes”, he is guilty. If the answer to either question may be “no”, he is not guilty.

**Possession with intent to supply (2) – possession accepted, intent denied, simple possession as an alternative**

Normally the prosecution have to prove four things –

1. The drug was a Class \* drug;
2. It was in the defendant's possession;
3. He knew it was in his possession; and
4. He intended to supply the drug to another person or other people.

The first three things are admitted in this case. D\*\* admits that he was in possession of Class \* drugs.

So, all you have to consider is whether he intended to supply some of the cannabis to another person or other people.

If you are sure that he had an intention to supply you must find him guilty of possession with intent to supply.

If you are not sure, you must find him not guilty of possession with intent to supply but guilty of simple possession which he admits.

**“Supply”**

The word supply has a wide meaning. It is not limited to “dealing”, or selling drugs for a profit. It may or may not involve payment for the drugs. Supplying may be to friends or strangers. It includes distributing and passing on drugs to another person in the drug supply chain. It also includes large scale commercial trafficking, dealers who drive expensive cars, their “employees” who carry out deliveries of drugs to customers or who run errands and carry drugs from one dealer to another, and relatively small scale street dealing where the main purpose is to provide sufficient income to finance the dealer's own drug use. It also includes looking after drugs for another person, to whom they will be returned in due course.

The prosecution do not have to prove that the defendant intended to supply all of the cannabis to another person or other people. They only have to prove that he intended to supply some of it. If he intended to smoke some of the cannabis himself, but to supply some of it to another person, he is guilty of possession with intent to supply.

How do you decide whether the intention to supply is established? You can infer it from all the surrounding circumstances.

Sometimes dealers have items associated with drug dealing - scales for weighing drugs, lists of customers and phone numbers, knives, self-seal bags or cling film for packaging. Others do not. D\*\* had \*\*electronic weighing scales – our Exhibit \*. His explanation for the scales is that he had them “to manage his dosage” of cannabis.

The presence or absence of these things is something which you can take into account, but no single thing is conclusive. You must have regard to all the evidence.

You should consider the quantity of drugs found. The prosecution case is that \*\*\* grams is a significant quantity, which could have been divided into \*\* individual deals. The defendant’s case is that he bought in bulk because it was cheaper and that it was his intention to smoke all the cannabis himself.

The money – approximately £\*\*\*\* - found in his possession may be relevant. The prosecution say that it is evidence of drug dealing – a float or profit from sales. That quantity of money may give rise to an inference, but it is only relevant if you reject any innocent explanation given by the defendant. D\*\* said that the £\*\*\*\* was generated from his employment at \*\*\*. If it is possible that D\*\* was in possession of the money found for reasons other than dealing drugs, you should ignore it. However, if you are sure that it is indicative of past and continuing dealing, it is relevant to the question of whether or not he had an intention to supply.

So, the key question for you to answer in relation to Count \*, having regard to all the evidence and the directions which I give you, is

Did D\*\* intend to supply some of the cannabis found in his possession to another person or other persons?

If you are sure that the answer is “yes”, he is guilty of Count \*. If the answer may be “no”, he is not guilty of possession with intent to supply, but guilty of simple possession which he admits.