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Select Committee
ACT Legislative Assembly
GPO Box 1020,
Canberra ACT 2601

4 June 2021

Submission to Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021

Thank you for the opportunity to make a submission to the Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021.

360Edge is Australia's leading specialist alcohol and other drugs consultancy. We provide service, workforce and policy development through best-practice policy and practice responses right across the spectrum of alcohol and other drug use.

The following outlines:

- Alcohol and other drug use and related harms in the ACT
- Best practice policy approaches to reduce harm and societal impacts from drugs (TOR (a)-(d))
- Current issues with the ACT drug rehabilitation and service sector (TOR (e))
- Best-practice drug education and early intervention programs (TOR (f))
- Support for the *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT)

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Alcohol and other drugs in the ACT

The 2019 National Drug Strategy Household survey estimates the percentage of the population who have used alcohol and other drugs, and also asks about frequency and a range of indicators of harm. The survey noted that:[1]

- The proportion of daily smokers in the ACT has declined substantially since 2001 and is currently estimated to be 8.7% of the population, well below the national average and the lowest in the country
- Around 14% of people in the ACT exceed lifetime risk guidelines for alcohol consumption and around 35% exceeded single occasion risk guidelines at least, both below the national average
- Recent illicit use of drug use has continued to decline in the ACT, from 17.8% in 2001 to 15.3% in 2013 to 14.6% in 2019, also the lowest rate in Australia.

Drug wastewater analysis estimates the total volume of drugs consumed in a jurisdiction. It cannot differentiate a small number of people using a large amount of a drug from a large number of people using a small amount each.

According to wastewater analysis undertaking by the Australian Criminal Intelligence Commission (ACIC), consumption of most drugs is moderate to low compared to other state and territory capitals, except for methamphetamine and heroin.[2] However the total volume as measured by wastewater has been increasing for most drugs since wastewater monitoring began in 2016.

The volume and prevalence of illicit drug use is not a good indicator of harms to the community. The portion of the population who use methamphetamine in the ACT, for example, has decreased in line with the rest of Australia (national survey), but total volume of methamphetamine has increased (wastewater).

Methamphetamine use has been linked to a significant proportion of mental health issues, drug use disorders and injuries in the ACT and throughout Australia.[3]

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The number of contacts with emergency departments in the ACT by people who regularly use methamphetamine is high compared to the general population: 43% of participants who use methamphetamine in a 2017 survey had attended an ACT emergency department.[4] A situation of fewer people using methamphetamine but increasing harms.

The data demonstrate two key points:

1. A prohibition approach focused on supply reduction has done little to curb either the volume of drug consumed or the harms associated with drug use, and
2. More should be done specifically to address alcohol and other drug related harms in the ACT, rather than focusing solely on supply and demand reduction strategies

Best practice harm reduction strategies

Harm reduction works

Best practice policy approaches to reduce harm and societal impacts from drugs have a good evidence base..

360Edge supports the expansion of services that are specifically aimed at harm reduction services because harm reduction approaches are effective in reducing harms.

A harm reduction approach to drug use is largely a health and welfare-based approach. It's a pragmatic approach that enhances the health and human rights in society.

In the end, if drug use is considered a problem in the community, it is only because of the potential harms it causes. The reduction of use of drugs as a goal in itself is a moral approach that has no place in the Australian drug policy environment.

Harm reduction requires funding

There is currently a considerable imbalance in drug-related funding to the detriment of effective harm reduction services and this needs to be

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rectified in order to reduce harms. A modelling study in 2013 found that 66% of drug related funding goes to law enforcement and only 2% to harm reduction, with the remainder to prevention and treatment,[5] and little has changed since then.

Effective harm reduction approaches

Harm reduction is a pragmatic approach that neither condemns or condones drug use, accepting that elimination of alcohol, tobacco or other drug use in society is not feasible.

It focuses on reducing health and other harms as much as possible, understanding that the vast majority of people who use drugs will never experience long term problems, such as dependence.

Most people who use illicit drugs do so occasionally and for a short period in their lives. The National Drug Strategy Household Survey shows that peak use of illicit drugs in the ACT is between 18 and 24 years (37.3%) and 25-29 (26.2%) but by the time Territorians are in their 30s the rate has reduced significantly (12.5%), continuing to decline after that.

Harm reduction approaches often naturally result in reduction in use as a consequence of people coming into contact with information and support.

The most well-known case of widespread harm reduction policy is Portugal. More than 20 years ago they removed criminal penalties for a range of illicit drugs if the amount was less than the equivalent of a 10-day supply. The legal status of drugs remained, but they were considered an administrative offence rather than a criminal one. They replaced criminal sanctions with what is essentially diversion from the criminal justice system to health-oriented boards made up of an allied health professional, psychiatrist and lawyer who decided whether to impose a fine or other sanction or to refer to rehabilitation if required. At the same time they put more resources into treatment services.

Prior to these new laws Portugal had the highest rate of HIV among people who injected drugs, and among the highest rates of overdose deaths and problem drug use in Europe. Since the laws were enacted,

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[5] https://newsevents.med.unsw.edu.au/sites/default/files/newsevents/news/Drug%20Budgets%20Mono%2024%20FINAL.pdf

Portugal has seen increased rates of uptake of treatment,[6] reduction in the incidence of HIV among people who use drugs from 52% to 6%, reduction in drug related deaths by over 80%, a reduction in early uptake of drugs by teenagers, reduction in drug related deaths, and a reduction in criminal justice time and costs related to drug offences, with incarceration rates decreasing by over 40%.[7] Rates of drug use for all illicit drugs, except cannabis, fell below pre-decriminalisation levels.[8]

Examples of evidence-based harm reduction strategies from around the world include:

- Random alcohol breath-testing, which reduces road crashes and deaths.[9] Accidents decrease as random breath-test rates increase.[10]
- Restricting smoking in public places reduces non-smoker and smoker exposure to the harmful effects of second-hand smoke.
- Needle and syringe programs offer health benefits and cost savings and prevent thousands of HIV and hepatitis C infections and save millions of dollars every year. Every $1 spent on providing clean needles results in a $4 saving to the community.[11]
- Medically supervised injecting facilities decrease overdose deaths; reduce ambulance callouts, the spread of blood-borne viruses, public injecting and needle litter; and increase access to treatment.[12] [13] [14] [15] [16]

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- Removing criminal penalties for illicit drug use and possession, and introducing police diversion programs reduces the number of arrests without an apparent increase in use.[17]
- Nicotine replacement therapy such as nicotine patches, gum and e-cigarettes continue to deliver nicotine to people who are dependent but reduce smoking health risks such as asthma, cancer and heart disease.
- Opioid replacement therapies such as methadone and buprenorphine reduce overdose and criminal activity and improve physical and mental health and rates of employment.[18]
- Naloxone, a drug that reverses opioid overdose, reduces overdose deaths[20-22] and does not increase opioid use.[19]

Harm reduction strategies that improve health and reduce contact with the criminal justice system, including decriminalisation, do not increase the rate of drug use.

The ACT introduced cannabis decriminalisation nearly three decades ago with minimal impact on use of cannabis. In fact, according to the National Drug Strategy Household Survey, the ACT has the lowest rate of recent cannabis use in Australia (10.5%). South Australia, another state that has had long standing cannabis decriminalisation laws has the second lowest at 10.6%.

All states and territories should increase focus on science-based measures to reduce the harms from drug use.

Treatment in the ACT

Numerous studies have demonstrated clearly that treatment for alcohol and other drug issues is effective. For every dollar spent on drug treatment, the community save $7 in other costs.[20] A law enforcement approach to drugs does not result in a positive return on investment.

Treatment has been shown to reduce alcohol and other drug use; improve health; reduce criminal behaviour; improve psychological

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wellbeing; and increase community participation.[21] The primary treatment for alcohol and other drug related problems is psychosocial, with opioid and nicotine dependence effectively treated with pharmacotherapy and alcohol dependence supported to a lesser degree by some medicines.

A comprehensive alcohol and other drug service system includes a choice of accessible and timely services including low intensity and harm reduction services (such as needle and syringe programs, brief interventions), high intensity non-residential services (such as counselling, case management, therapeutic day rehabilitation and non-residential withdrawal) and high intensity residential services (such as residential withdrawal and residential rehabilitation). A range of specialist services is also required such as Aboriginal and Torres Strait Islander services and Youth services.

The alcohol and other drug sector in the ACT provides a variety of services, including counselling, assessment, support and case management, withdrawal management, information, education, and rehabilitation.

The 2020-2021 Australian Capital Territory PHN Need Assessment made a number of observations highlighting barrier to treatment in the ACT, these include:

- Low uptake of opportunistic AOD screening/ assessment at potential services (e.g. domestic and family violence or mental health services) as a result of lack of staff knowledge and narrow focus in other sectors, a lack of simple screening and assessment tools and, most importantly, long waiting periods for services
- A lack of holistic care for clients with comorbid mental health and alcohol and other drug related issues
- Significant and detrimental wait times to access many AOD services, According to ATODA's Service Users' Satisfaction and Outcomes Survey in 2018, 40.7% service users wishing to enter residential AOD programs had to wait between 1 to 3 months[22]
- Lack of culturally-secure services for Aboriginal and Torres Strait Islander people, especially non-residential rehabilitation

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- Lack of alcohol and other drug specialists
- Lack of harm reduction strategies and early intervention supports from other sectors that deal with important co-morbidities and social determinants including housing and child protection (ancillary services)
- Lack of graded interventions that suit different levels of issues
- Lack of opioid maintenance treatment prescriber program
- For methamphetamine, a lack of access to rural women's treatment
- Need for increased community pharmacy dosing
- Need for extended opening hours

Many of the issues raised about are a result of chronic underfunding and under resourcing of the sector. The right amount of funding in the right place is critical for good outcomes from treatment. Studies have found that the amount of funding, the source of funding and the types of services funded all have substantial impacts on outcomes such as relapse rates.[23]

Forty-one per cent of full-time alcohol and other drug workers earn less than the average Australian income.[24] It's difficult to attract and retain qualified professionals to a sector that is so chronically underfunded, which makes it difficult to improve specialisation.

In relation to addressing co-occurring mental health and alcohol and other drug problems, our research suggests that calls to "integrate" the services or systems of the two sectors are both unworkable and without evidentiary support.[25]

We advocate for retaining sector specialisation in the ACT whilst improving internal capacities for addressing co-occurring problems within both the mental health and alcohol and other drug sectors, implementing formal mechanisms for formal mechanisms for cooperation, coordination and collaboration; and increasing funding to the sector (see Figure 1).

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Figure 1

Drug education

Drug education campaigns can be useful as part of primary prevention and harm reduction strategy in the ACT. The following outlines the evidence in relation to harm reduction, brief intervention, school-based and mass media education campaigns. Studies have estimated that for every $1 spent in prevention, the community save $18 in other costs.[26]

Harm reduction education

For people who are already using alcohol or other drugs, education programs are designed to provide factual information about the harms of use and help participants to use in less risky ways.

There is limited research that examines the impact of harm reduction information in isolation, but a broader harm reduction approach and school-based drug education that takes a harm reduction approach has been shown to reduce harms. However, a recent meta-analysis showed that providing only information about drug harms to young people is ineffective.[27]

Brief interventions

There is a small but convincing evidence base that shows that brief interventions for young people can lead to behaviour change for alcohol

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and other drugs.[28] [29] However the research suggests that the interventions do not generalise well so brief interventions need to be targeted to risks associated with specific drugs.

School based drug education

Drug education is aimed at preventing uptake of alcohol and illicit drugs, and can be effective. However, not all drug education has positive impact. Several systematic reviews have shown that very few drug education programs are effective, and some could result in higher drug use rather than the expected lower use if not conducted correctly. School based programs that adopt a harm reduction goal rather than a narrow focus on decreasing demand have been shown to prevent and reduce alcohol and other drug use.[30] [31]

For school-based drug education programs, the best interventions:[32]

- use interactive methods
- are delivered by trained facilitators
- are delivered through a series of structured sessions, often with refreshers
- normalise the non-use of alcohol and other drugs
- impact perceptions of risk associated with substance use
- provide opportunities to practise and learn personal and social skills.

Programs are more likely to be ineffective if they:

- use non-interactive methods like lecturing

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- are information-only, particularly if they are based on fear
- are based on unstructured chat sessions
- focus only on building self-esteem and emotional education
- address only ethical or moral decision-making or values
- use ex-drug users as testimonials
- use police officers to deliver the program.

There is evidence to support both universal school-based programs (delivered to all students regardless of risk), [33] as well as more specialist programs to target young people at greater risk.[34] The latter seems to have greater impact, but needs to be implemented carefully to avoid stigmatising at-risk young people.

Many drug education programs currently used in schools lack a good evidence base, and some have been shown to increase interest in drugs.[35]Those that are effective tend to have a higher financial and time commitment and without specific direction or funding, they are less likely to be implemented.

Public education and mass media campaigns

Public education campaigns tend to have small effect sizes but because they reach a large audience, they can have a broad impact.[36][37][38] However, exposure is often passive and, because the strategy relies on reaching a large number of people, if only a small proportion of the population engages in a particular health behaviour it is unlikely to make a big public health impact.

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There is not a lot of evidence supporting public education campaigns as a preventative measure for illicit drug use. In fact, there is indication that some campaigns in the USA, particularly those based on fear messages and scare tactics (such as the Montana Meth Project), have actually increased interest in using illicit drugs.[39] They tend to work best when they are supported by other strategies and targeted towards behaviours that are higher prevalence in the population.[40] Therefore they are unlikely to have much impact on the use of illicit drugs by festival goers.

Support for the bill

360Edge supports the *Drugs of Dependence (Personal Use) Amendment Bill 2021* (ACT) and its goals to decriminalise the possession and use of illicit drugs in the ACT.

There are no demonstrated benefits from criminalisation of illicit drugs. A significant harm is having a criminal record for possessing small amounts of drugs for personal use. The evidence is that most people use occasionally and are unlikely to experience significant long term problems like dependence, but a criminal charge can negatively impact a person's future, including career and travel.

A large proportion of the work of the justice system (police, courts and prisons) is spent on drug-related offences. Yet, as Mick Palmer, former AFP Commissioner, has noted "drug law enforcement has had little impact on the Australian drug market".[41] Drug use patterns change little in response to law enforcement efforts.

The most effective drugs law enforcement strategy is diversion to education or treatment, which acts as a de facto decriminalisation strategy. Decriminalisation reduces harms further by taking the response to illicit drugs out of the criminal justice system and placing it in the health system where people can receive harm reduction information and help if required,

Under decriminalisation illicit drugs remain illegal, but people do not receive a criminal record. Drug trends data from NT, SA and ACT shows no impact of decriminalisation on the prevalence of cannabis use in the community,

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suggesting it is a low-risk strategy with potentially significant benefits to the community.

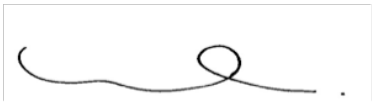
Decriminalisation reduces the involvement of the justice system and allows existing resources to be better used in support clients into treatment services.

Evaluation of drug decriminalisation in countries such as Portugal has found that removing criminal penalties increased the number of clients accessing alcohol and drug treatment and did not result in increased substance use.[42]

However, in the current proposed legislation definitions of 'personal use' do not align with the evidence-based definitions that are already in place in the ACT, and this should be reviewed. The current definitions of 'personal use' should still apply when criminal penalties are removed.

360Edge is grateful for the opportunity to comment on these issues and is available for further consultation in the development of the plan if required.

Yours sincerely,



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Nicole is an international leader in alcohol and other drug responses, with 30 years' experience in policy and practice implementation.

She is Adjunct Professor at the National Drug Research Institute Curtin University, board member of Hello Sunday Morning and of The Loop Australia, and a member of the Australian National Council on Alcohol and other Drugs (ANACAD) - Australia's key expert advisory council to the Australian Government on drugs.

She has provided advice to Australian, State and Territory governments as well as International governments across South East Asia, New Zealand and the Pacific Islands. She has worked on alcohol and other drug policy with major international organisations such as the World Health Organization and the United Nations Office on Drugs and Crime.

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Master of Laws (Juris Doctor), Monash, Bachelor of Forensic Science, Deakin

Jarryd is a specialist in criminal justice reform. Utilising his unique background in legal practice, science communications and criminology research Jarryd has consulted to not-for-profits, government bodies and industry groups on AOD initiatives and law reform.

Jarryd has worked as a therapeutic jurisprudence researcher and as an advisor on the intersection of scientific knowledge and the criminal justice system.

As a criminal defence lawyer Jarryd frequently performed duties within Magistrates Courts throughout Victoria including referrals and appearances within the ARC List and CISP.

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