



Parliamentary Joint Committee on Human Rights  
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## **Submission to the Inquiry into Australia's Human Rights Framework**

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30 June 2023

## Introduction

The Alcohol, Tobacco and Other Drug Association ACT (ATODA) represents the alcohol, tobacco and other drug (ATOD) sector in the ACT. Members include specialist alcohol and other drug treatment organisations; distinguished drug experts with deep knowledge of the criminal justice system and population health; the group representing families and friends who have lost loved ones to drugs; and the peer-based organisation for people with lived experience of drug use in the ACT.

ATODA welcomes this Inquiry into Australia's Human Rights Framework, particularly in light of the discrimination faced by people who use drugs and/or are seeking access to ATOD treatment and harm reduction services. This brief submission focusses on opportunities for protected attributes under any future human rights framework to extend to people who use or have used drugs.

### Protected attributes and people who use or have used drugs

ATODA recommends that consideration be given to whether protected attributes under a new human rights framework provide sufficient protection for particularly marginalised population groups such as people who use or have used drugs.

People who use drugs or who may interact with ATOD treatment and harm reduction services experience persistent stigma and discrimination, which negatively impacts access to health care and other services, employment opportunities, and relationships within the community.<sup>1</sup> ATOD use often exists alongside experiences of broader socio-economic disadvantage and marginalisation. A 2018 survey found that of the 600-700 people accessing specialist ATOD services each day in the ACT, nearly one-third were homeless or at risk of homelessness; 70% were unemployed or not working; and half had year 10 or less as their highest level of education.<sup>2</sup> People who use drugs are a highly stigmatised group, and there is no evidence that stigma has discouraged the use of alcohol and other drugs.<sup>1</sup>

The discrimination experienced by people who use drugs results in real harm to people and communities. Discrimination occurs in a range of settings including the justice system and at work or in seeking work, which limits opportunities for people who use drugs to participate in their community.<sup>1</sup> It is of particular concern that this discrimination is often experienced in healthcare settings, including the provision of substandard care.<sup>1,3</sup> This has resulted in people who use drugs avoiding seeking medical care when required or withholding important information about their health status for fear of being discriminated against.<sup>3</sup>

Given this, ATODA recommends any future human rights framework includes use of ATOD as a protected attribute to ensure sufficient protection for particularly marginalised population groups such as people who use drugs.

Under current law, disability is a typical protected attribute and there is some legal precedent that drug addiction would be considered a disability. The Federal Court found in 2000 that dependence on certain substances is a disability under the Disability Discrimination Act 1992 (Cth) following a complaint to the then Australian Human Rights and Equal Opportunity Commission.<sup>4</sup> However, this is not well understood, and people who are discriminated against on the basis of an actual or perceived addiction may not be aware they can pursue a complaint in relation to discrimination on the basis of disability. Secondly people who use drugs recreationally, lawfully and/or are receiving certain prescribed medications associated with drug use also experience discrimination, even when they do not experience dependence. Relying on protections for disability in discrimination law is problematic,<sup>5</sup>. Disability as a protected attribute does not sufficiently provide protection for people who are discriminated against on the basis of current or previous drug use. People who use drugs do

not necessarily identify as having a disability, and may use alcohol and/or drugs recreationally or lawfully, not meet the diagnostic thresholds for dependence, and still experience discrimination as a result of their drug use.

ATODA has provided this advice to the ACT Government's discrimination law reform project over 2022 and early 2023, to inform efforts to increase human rights protections for people who use drugs in the ACT.

### **Broader human rights concerns for people who use drugs or access ATOD treatment and harm reduction services**

ATODA also notes that there are many other human rights concerns to consider in relation to people who use drugs or access ATOD treatment and harm reduction services. These issues include:

- equitable access to health and other services
- experience of stigma and discrimination
- criminalisation of drug use
- potential exposure to the risk of death penalty in our region.

The Committee should consider the range of literature on these important issues.<sup>6-9</sup>

ATODA notes the importance of working with the ATOD sector and people with lived experience of drug use to ensure that any new human rights framework is fit for purpose and co-designed with the impacted population group. ATODA recommends engagement with relevant representative bodies, including the Australian Alcohol and other Drug Council (AADC) and the Australian Injecting and illicit Drug Users League (AIVL) to co-design appropriate human rights protections.

### **Recommendations**

ATODA recommends that the Parliamentary Joint Committee on Human Rights:

- 1. Considers the use or perceived use of drugs being identified as a protected attribute under any new human rights framework.**
- 2. Affirm the importance of the Australian Government co-designing with representative bodies for the ATOD sector and people who use drugs any future human rights framework to ensure it meets the needs of people who use drugs or access ATOD treatment and harm reduction services.**

ATODA appreciates the opportunity to make this submission, and is happy to provide any additional detail or clarification that may be required.

## About ATODA

The Alcohol Tobacco and Other Drug Association ACT (ATODA) is the peak body for the alcohol, tobacco and other drug sector in the Australian Capital Territory (ACT). ATODA's vision is a healthy, well and safe ACT community with the lowest possible levels of alcohol, tobacco and other drug related harms. Underpinning ATODA's work is a commitment to health equity, the social and cultural determinants of health, and the values of collaboration, participation, diversity, human rights, social justice and reconciliation between Aboriginal and Torres Strait Islander people and other Australians.

ATODA's purpose is to lead and influence positive outcomes in policy, practice and research, as the peak body for the alcohol, tobacco and other drug sector in the ACT. These outcomes flow from initiatives in prevention, early intervention, harm reduction, treatment, peer services, and continuing care.

ATODA provides collaborative leadership for intersectoral action on the social determinants of harmful drug use, and on societal responses to drug use and to people who use drugs. ATODA works to provide alcohol, tobacco and other drug related expertise in the areas of policy; sector workforce development and capacity building; research, data and evaluation; health services planning; coordination and partnerships; training and education; communication; information and resources.

Note: While the term AOD (alcohol and other drug) is commonly used to refer to the alcohol, tobacco and other drug sector, ATODA's preference is to use the term ATOD. This acknowledges the role that specialist service providers in this sector play in providing tobacco cessation support, and because tobacco use is the leading preventable cause of the burden of disease in Australia, contributing far more than alcohol or all illicit drugs combined.

## References

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