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**Inquiry into the challenges and opportunities for law enforcement
in addressing Australia's illicit drug problem**

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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 and its Terms of Reference. Given ATODA's remit and the current policy and legislative settings in the ACT, this submission makes recommendations in relation to item five from the Inquiry Terms of Reference:

- *Item 5) the strengths and weaknesses of decriminalisation, including its impact on illicit drug markets and the experiences of other jurisdictions.*

ATODA is a founding member of the Australian Alcohol and Other Drugs Council (AADC), the national peak body representing the alcohol and other drugs sector. ATODA contributed to the development of the AADC's submission to this Inquiry. Given the comprehensiveness of AADC's submission, this submission does not repeat the content of AADC's submission. ATODA endorses AADC's submission and its associated recommendations, and urges the Committee to seriously consider AADC's contribution to this Inquiry.

Illicit drug policy in the ACT

The ACT Government has demonstrated its commitment to responding to illicit drug use as a health issue rather than a criminal issue. This is illustrated by the ACT's nation-leading decriminalisation of cannabis, Australia's first fixed drug checking site pilot, and the forthcoming decriminalisation of personal possession of small amounts of a wide range of illicit drugs. In December 2022 the ACT Government published the ACT Drug Strategy Action Plan 2022 – 2026 (the DSAP).¹ This is the ACT's second action plan under the National Drug Strategy 2017 – 2026, and was developed in consultation with the specialist alcohol, tobacco and other drug (ATOD) sector and other stakeholders. The DSAP articulates a range of actions intended to reduce harms and stigma associated with illicit drug use. To be most effective decriminalisation should be accompanied by strategic action of this nature to ensure that the ATOD treatment sector is appropriately engaged and resourced to support government initiatives, as the amount of interaction potentially shifts from police to health practitioners. Due to the ATOD sector's trusted relationships with highly marginalised population groups with low trust in government, the ATOD sector is an able partner for government in engaging with these groups, as was demonstrated by the ATOD sector's involvement in multi-agency, multi-disciplinary models of care to support the Canberra community during the COVID-19 pandemic.²

The ACT Government has also increased funding to the ATOD sector.³ It is critical that any legislative reform is progressed in tandem with significant investment in the ATOD sector, demonstrating genuine commitment to a health-based response. Investment in the treatment sector is a sound investment on the part of government, with recent analysis from the Australian Institute of Criminology finding that on average demand reduction programs, including specialist ATOD treatment services, provide a return on investment of \$5.40 (AUD) for every dollar spent.⁴ Other studies have found similarly favourable cost-effective ratios across ATOD treatment services and harm reduction programs.⁵⁻⁷

Decriminalisation in the ACT

ATODA's position on the decriminalisation model considered in the ACT is set out in detail in ATODA's submission to the Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021,⁸ and is not repeated here.

On 20 October 2022 the ACT Legislative Assembly passed the Drugs of Dependence (Personal Possession) Amendment Bill 2022.⁹ From late October 2023, the possession of small amounts of certain illicit drugs will be decriminalised, meaning people may be issued a caution, a \$100 fine or referred to a drug diversion program rather than a criminal sentence.⁹ This legislation puts the ACT at the forefront of evidence-based legislative approaches to reducing harm from drugs, not just in Australia but around the world.

Of particular concern for the ATOD treatment sector is the impact of stigma on people who use drugs.¹⁰ Decriminalisation can assist in reframing illicit drug use as a health issue rather than a criminal issue and thus reduce stigma.¹¹ This is important given the known harms of stigma in relation to individuals seeking treatment, in those instances where treatment is warranted.¹¹ Stigma and discrimination are experienced by people who use drugs in healthcare settings, including the provision of substandard care.^{12, 13} 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.¹³ This can increase total healthcare costs.

The ACT Government is currently working through the implementation arrangements for this legislative change, in consultation with ACT Policing, ATODA as the peak body for ATOD treatment services in the ACT, and the peer-based organisation for people with lived experience of drug use in the ACT. The ATOD sector will continue to work closely with the ACT Government and the ACT community to ensure that this legislation achieves its intended goal of reducing drug-related harms, reducing stigma and supporting people who use drugs through the health system rather than the criminal justice system.

The legislative reform includes a mandated review. Ongoing monitoring and evaluation will be critical to ensure harms in the ACT community are reduced to the greatest possible extent, to develop an Australian evidence base, and to inform other jurisdictions' legislative reform. It is important that health and social outcomes are considered in any evaluation activity, rather than a narrow focus on drug consumption patterns.¹⁴

The ACT has partially legalised the personal use of cannabis, with the passing of the Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019 (ACT) which permits the personal cultivation and possession of cannabis in small quantities by persons over the age of eighteen. Larger-scale cultivation and any form of supply or sale of cannabis remain illegal. Simple cannabis offences dropped by 90% in the year after this legislative change was implemented, and the number of drug tests detecting cannabis has remained steady.¹⁵ The argument that such legislative change would result in increased use has not been borne out by the evidence to date.

Recommendations

ATODA recommends that the Australian Government:

- Implement all of the Australian Alcohol and Drug Council's (AADC) recommendations, as articulated in AADC's submission to this Inquiry;

- Invest appropriately in the alcohol and other drug treatment sector in tandem with progressing legislative reform in relation to illicit drugs; and
- Through a national governance mechanism (a recommendation of the AADC), establish agreement across all jurisdictions to comprehensive and consistent evaluation of decriminalisation to ensure the intended aim of reduced harm is achieved.

ATODA appreciates the opportunity to provide this submission to the Committee, and is available to provide any additional detail that may be required.

About ATODA

ATODA is the peak body for the alcohol, tobacco and other drug (ATOD) sector in the ACT. Its purpose is to lead and influence positive outcomes in policy, practice and research by providing 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'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, respect for human rights, social justice and reconciliation between Aboriginal and Torres Strait Islander people and other Australians.

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.

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