

ATODA Policy Position Statement

Custodial Health and Harm Reduction

Preamble

People who have contact with the custodial system in Australia have the right to expect and receive healthcare equivalent to that they would receive in community. This is particularly important in terms of access to alcohol, tobacco and other drugs (ATOD) treatment and harm reduction services and programs. People who use ATOD are a key population within the custodial system, where two in three prison entrants report smoking tobacco daily, two in five prison entrants are considered to be at high risk of alcohol-related harm, and three in four prison entrants report using illicit drugs in the previous 12 months.¹ There is a two-way relationship between ATOD use and involvement with the custodial system: ATOD use is one of the determinants of contact with the custodial system, and involvement in the custodial system is a determinant of harmful ATOD use.^{2,3} People who have contact with the custodial system and people who use drugs may have experienced similar life events, including unemployment, housing insecurity, and co-occurring health conditions.^{3,4} The *ACT Drug Strategy Action Plan* considers people who have been in contact with the custodial system a priority population in community ATOD services.⁵ However, ATODA's position is that people in custodial settings who use or have used ATOD should also be considered a priority population. The Mandela Rules state that people in custody should "enjoy the same standards of health care that are available in the community" and there should be healthcare services "in a way that ensures continuity of treatment and care...for [people with] drug dependence".⁶⁻⁹ Australia has committed to the provision of equivalent healthcare for people in custody by endorsing these rules, and therefore equitable health care for people who use or have used ATOD should be of high priority to the ACT Government. Not only does the equitable provision of ATOD services meet the human rights of people in custody, but it contributes to improving overall health and wellbeing, broader prospects, and reducing rates of recidivism.¹⁰ A comprehensive and effective custodial health system seeks to reduce harms to health and wellbeing at all stages – from prevention and diversion all the way through to those exiting custody and seeking reintegration in the community.

Key recommendations

1. Expand harm reduction measures in ACT custodial settings through the implementation of:
 - a. a needle and syringe program (NSP);
 - b. improved and de-stigmatised ATOD harm reduction and overdose education and training for detained people and staff;
 - c. expanded naloxone provision during and after time spent in custodial settings; and
 - d. peer support services, delivered by specialist, trained peer workers.
2. Ensure equity of access to specialist ATOD services and pharmacotherapy to all people detained in custody who use or have used ATOD.
3. Adequate, appropriate, person-centred and equitable care is provided at all stages of a person transitioning through custodial settings.
4. Implement and expand preventative and diversionary measures to reduce interactions with the custodial system by people who use or have used ATOD.

Explanatory notes

1. Expand ATOD harm reduction measures

Harm reduction approaches seek to reduce harms to the extent possible, in recognition that ATOD use occurs even in the most highly policed and surveilled environments. Detriments to health are one outcome of ATOD use that harm reduction approaches seek to address. Involvement in the custodial system should not place a person's health at elevated risk by denying them access to health-based and harm reduction approaches to ATOD.

ATODA recommends a dual health-based and harm reduction approach within ACT custodial settings and identifies four key areas that could substantially improve the health and wellbeing outcomes of those in contact with the custodial system.

Needle and Syringe Programs (NSPs)

NSPs are a key evidence-based harm reduction measure available in community to reduce harms related to injecting drug use and blood borne viruses (BBVs). The ACT would benefit from committing to implementation of a NSP in the Alexander Maconochie Centre (AMC), which would bring the correctional facility in line with ACT and national BBV strategic commitments. It has been found that about 40 percent of people who were injecting drugs in the community will continue do so in custody.² The management of complexities around the implementation of a NSP in a custodial setting should be appropriately balanced against, the social, financial and health costs of the harms of already occurring from higher-risk injecting drug use practices in the custodial setting.^{10, 11}

Although the ATOD sector and ACT Government previously agreed on the need for a NSP in the AMC, it was not implemented.¹²⁻¹⁴ The introduction of NSPs in custodial settings in international jurisdictions has not resulted in serious, unintended consequences, despite concerns.¹⁰ The ACT Government must identify a way to bring all stakeholders on board to define a discrete, safe, and workable model for a NSP and implement this evidence-based health measure, which is proven to reduce the harms of injecting drug use for people in custody.

ATOD harm reduction and overdose training

Further actions to raise awareness of, and improve responses to, overdose and broader harm reduction principles would improve ATOD-related health outcomes in ACT custodial settings. Training and educational resources to support overdose response for ACT Corrective Services' (ACTCS) staff should be thorough, available to all staff on an ongoing basis and facilitated by trained harm reduction experts. Peer-based ATOD harm reduction education for people in custodial settings would further improve the health and safety of all people within, and those exiting, the custodial setting.

Naloxone provision

The availability of naloxone in all custodial settings to all people who need it is essential. To prevent overdose-related harms and deaths, all staff in custodial settings should be carrying or have easy access to naloxone, there should be an increase in availability of naloxone to all people exiting the custodial system, and scoping work should be undertaken to assess the feasibility of rolling out naloxone access to all people in custodial settings or to those at higher risk of experiencing or witnessing overdose.

Peer support services

Specialist ATOD peer support workers offer a model of care that is economical, sustainable and has a range of benefits over and above other more medicalised treatment models. ATOD service users who utilise peer services gain a better understanding of their options, in terms of treatment services, harm reduction approaches and therapeutic interventions, allowing them to plan, prioritise and sequence their health goals. Peer workers provide support with navigating the service system, help understanding what treatment will entail and careful management of expectations about what is possible. Specialist ATOD peers can provide important continuity between the custodial setting and the community, thereby aiding reintegration and potentially reducing recidivism.

Recommendation 1.1. The ACT Government implements an NSP in the Alexander Maconochie Centre through undertaking necessary stakeholder consultations, modelling, and costing of an NSP.

Recommendation 1.2. Improved and de-stigmatised ATOD harm reduction and overdose education and training is widely available for detained people and staff.

Recommendation 1.3. The provision of naloxone is expanded.

Recommendation 1.4. Peer support services continue to be provided by specialist ATOD peer workers and made permanent and frequently available for people in custody who use or have used ATOD.

2. Provide equitable access to ATOD treatment services and pharmacotherapy

Access to treatment services

Expansion of the availability of a broad range of specialist ATOD programs in custody would ensure people in youth and adult custodial settings have access to health services on an equitable basis with those in the community. Demand for illicit drugs can be reduced by offering high quality, evidence-based treatment and harm reduction services as these programs prioritise health and human rights, while reducing adverse drug-related incidences. Strengthened partnerships between ACT Corrective Services and ACT ATOD services would facilitate greater transparency and accountability in the provision of ATOD-related programs and health care for detained people in the territory.

ATODA notes gaps in current service provision, particularly in relation to women and those on remand. Although there is only a small number of women presently in the AMC, and an even lower number of women sentenced and therefore eligible for treatment services, there remains an issue of equity of access to specialist ATOD programs for women. In the context of the 2022 ACT Inspector of Custodial Services' *Healthy Prison Review*, which found that higher rates of women than men in custody reported using illicit drugs in the 12 months prior to custody, it is essential to address the lack of a robust and evidence-based specialist ATOD programs for women in custody. For people who are not sentenced or who are on remand in ACT custodial settings, there is a lack of access to ATOD programs as a whole, noting that remand can go on for years for some people in custodial settings. This is inappropriate and not consistent with the availability of ATOD treatment options in the community.

Access to pharmacotherapy

Equity of access to relevant pharmacotherapy for people who use or who have used ATOD is paramount to meeting health and human rights needs in custodial settings. To avoid illness or other health harms, access to nicotine replacement therapy (NRT) and opioid maintenance therapy (OMT) must be available at all stages of a person's interaction with the custodial system. Particularly due to the risks transitioning through custodial settings, the provision of these medications must be consistent with the availability in the community to remain compliant with peoples' human rights.

The provision of nicotine replacement therapy (NRT) is an important aspect of the ATOD treatment landscape within the community, as should be the case in custodial settings. People who enter custodial settings smoke at a much higher rate than the general population.¹⁵ Following the announcement that the AMC would be smoke-free, nicotine replacement therapy patches and lozenges, as well as access to diversionary activities, were made available at no charge.¹⁶ Recent detainee surveys found that, despite being detained in a 'smoke-free' environment, a high proportion of respondents identify as 'current smokers'.¹⁷ Recognising diversity of health needs, a variety of NRT options must be available, along with improved training of NRT provision amongst ACTCS staff, as well as smoking cessation and nicotine harm reduction education for detained peoples.

Recommendation 2.1. Specialist ATOD programs are provided to people in custody at an equivalent standard and availability to those provided in community.

Recommendation 2.2. Pharmacotherapy, such as NRT and OMT, for people who use or have used ATOD in custody is provided at an equivalent standard and availability to community, and in line with individual health needs.

3. Provide appropriate healthcare for people who use ATOD and ATOD services at all stages of custody

Continuity of healthcare can be interrupted or cease when people are transitioning through different custodial settings. Whether a person is transitioning into, through, or out of custodial settings, their full health needs – including past or current ATOD use – must be properly addressed by person-centred and trauma-informed approaches.

Transitioning into custodial settings

It is important that people entering custodial settings have ATOD use addressed in ways that are responsive to their health needs and human rights. The 2022 *Healthy Prison Review* report found that some people entering the AMC may be going through ATOD withdrawal, making it difficult to understand and retain information.¹⁷ People entering custodial settings who are coping with ATOD withdrawal should have access to appropriate medical and psychosocial supports when being admitted and inducted, and have relevant information provided in an ongoing way as is necessary.

During time spent in custodial settings

While ATOD treatment and harm reduction should be provided by specialist ATOD service providers, all ACTCS staff should have some knowledge of ATOD-related health concerns. The 2022 *Health Prison Review* found that just 21 percent of staff in the AMC felt adequately trained in the management of ‘detainees with drug issues’, down from an already low 30 percent of staff in 2019.¹⁷ ACTCS should investigate how staff can be trained in health and harm reduction approaches to ATOD and gain knowledge of trauma-informed responses.

In ACT custodial settings, there is inadequate access to formal and informal networks of support for people using ATOD. There are systemic issues with communication between external ATOD service providers and detained people. It is vital that ATOD services can reliably get in contact with detained people to support improved health and wellbeing during periods of incarceration and to facilitate community reintegration. In consultation with ACT ATOD service providers, ATODA has identified a range of actions to enhance effective and appropriate communication, including:

- ensuring that ATOD services have access to meetings or communications with people in custody through audio-visual links (AVLs);
- ensuring that an AVL can go ahead as scheduled and with minimal technological issues; ensuring case workers can contact people in custody via email;
- booking a suitable area in a custodial setting that is conducive to ATOD counselling; allowing for communication between the custodial setting and service providers;
- ATOD counsellors being able to access custodial settings; and
- ensuring that people in custodial settings are adequately informed of their counselling sessions.

Transitioning out of custodial settings

It is imperative that ACT custodial settings work closely with ATOD service providers in the community to ensure comprehensive throughcare for people who use or have used alcohol or other drugs and who are transitioning out of custodial settings. Good throughcare begins well before release and includes case management, intensive support, sound referral pathways, and a comprehensive handover. This should include an opportunity for people in custody to have conversations about what they want to pursue, how this might be achieved, and to form connections with ATOD services for the first time, where they have not used them previously. The establishment of collaborative partnerships between ACT custodial settings and a range of ATOD service providers and programs promotes continuity of care and ensures that people exiting custody are aware of and familiar with the range of ATOD supports available in the community.

Peer-led ATOD services play an important role in providing comprehensive throughcare. Peer workers provide guidance in navigating complex systems across custodial and community settings and can support

people who use or have used alcohol or other drugs to access a wide range of services including ATOD services, healthcare, housing and employment.¹⁸ Ensuring peer-led services are part of the custodial ATOD service system improves outcomes for people as they move between custodial settings and the community.

Support for people who smoke or have previously smoked should continue to be available upon discharge from custodial settings. Twenty-nine percent of people who have been discharged from 'smoke-free' custody report that they are current smokers.¹⁵ Provision of nicotine replacement therapies (NRT), along with access to resources to reduce nicotine use and minimise harms, should be available to people transitioning out of custodial settings.

In addition to throughcare that supports access to ATOD services, referral into mental health services, primary health services, housing services, legal services, and employment support should also be considered, on a case-by-case basis. Successful outcomes for life after custody are highly influenced by access to these support services.^{2, 10}

Recommendation 3.1. Consideration is given to the health and human rights of people who use ATOD and are in contact with the judicial and custodial systems, as a population of concern under the ACT Government's Drug Strategy Action Plan.

Recommendation 3.2. The conditions that allow for successful health outcomes, within and outside of custodial settings, are enabled by appropriate staff training and facilitated communication between people in custody and people and services in the community.

Recommendation 3.3. Improved in-reach, referrals, and through-care occurs to allow services to provide appropriate and person-centred health and other relevant support to people who use or have used ATOD at all points of contact with the custodial system in the ACT, including on exiting custodial settings.

4. Expand preventative and diversionary measures

Raising the age of criminal responsibility

ACT legislation to raise the minimum age of criminal responsibility to 14, has set the standard for other jurisdictions around Australia. Its implementation from 1 July 2025, recognises the specific needs and rights of children, and takes into account developmental and neurological factors.¹⁹ There are a range of risk factors for young people that overlap with ATOD use and offending. These factors include experiences of physical and emotional abuse, being left alone by guardians, not living with parents, family members using substances, and early exit from education.²⁰

The ACT Therapeutic Support Panel for Children and Young People is important in managing offending by young people.²¹ This diversionary measure ensures that young people are kept out of custody and that rehabilitative opportunities are granted to the extent possible. This is particularly relevant and necessary for young people who use ATOD, who should be given the opportunity to reduce their likelihood of experiencing ATOD-related health and wellbeing harms, in the present and the future. ATOD expertise should be specifically included on the panel as a form of highly relevant therapeutic expertise, at least equivalent to other forms of expertise on the panel.

Recidivism

The ACT should implement a greater number of measures and social supports to people exiting custodial settings and place a greater focus on diversionary and rehabilitative measures, such that it can re-think how it will achieve its goal of reducing recidivism by 25 percent, which was set to be achieved by 2025. A comprehensive approach to social determinants of involvement in the custodial system includes targeted and evidence-based responses to reducing the harms of ATOD use, addressing poor mental health, giving particular attention to the socioeconomic concerns of Aboriginal and Torres Strait Islander peoples, and addressing homelessness.²

Drug decriminalisation and diversion

The *Drugs of Dependence (Personal Use) Amendment Act 2022* in the ACT decriminalised possession of small quantities of some illicit drugs, to enable diversion away from the judicial system in favour of a health intervention. Following the independent evaluation of this legislation, to be released in 2026, improvements should continue to be made to ensure the legislation is fit for purpose in addressing population health needs and reducing unnecessary and potentially harmful contact with the judicial and custodial systems.

Recommendation 4.1. The ACT Therapeutic Support Panel maintains a strong collegiate relationship with the ACT ATOD sector to address the needs of young people as they are diverted, the capacity of the ACT ATOD sector is supported to address these needs, and that consideration be given to AOD as an eligible qualification, experience or expertise on the Panel.

Recommendation 4.2. The ACT Government expands its scope of interventions to address the social determinants of justice to reduce recidivism in Canberra and the surrounding region.

Recommendation 4.3. The ACT Government uses the independent evaluation of the drug decriminalisation legislation to strengthen diversion pathways and bolster appropriate health responses to ATOD use.

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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Acknowledgment

ATODA proudly acknowledges the Ngunnawal people as the Traditional Custodians of the land we work on and recognises all other peoples or families with connections to the ACT and region.

ATODA acknowledges, respects and celebrates the continuing cultures and the contributions of Aboriginal and Torres Strait Islander peoples to the life of the ACT and region. We respect and value the contributions of Aboriginal and Torres Strait Islander peoples to the alcohol, tobacco and other drug sector.

Artwork: Unspoken History, Map of Pain by Sharon (2020). To learn more, go to: <https://www.atoda.org.au/featured-artwork/>

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