



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE DRUGS OF DEPENDENCE (PERSONAL USE)
AMENDMENT BILL 2021

Mr Peter Cain MLA (Chair), Dr Marisa Paterson MLA (Deputy Chair),
Mr Johnathan Davis MLA

Submission Cover Sheet

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

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Minister for Families and Community Services
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Dear Chair Peter

Thank you for your letter regarding the ACT Legislative Assembly Select Committee Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021.

The Government continues to be committed to a harm minimisation approach to alcohol and other drug policy, and to providing evidence-based alcohol and other drug treatment services and programs for the people of Canberra.

Please find attached the Government's Submission to the Inquiry detailing an initial position on the broad range of issues being considered by the Select Committee. The Government welcomes this Inquiry and will respond to its recommendations in due course, noting that the Select Committee is due to report by the last sitting day in October 2021.

Should you have any queries, my Directorate's contact is Mr Alan Philp, Executive Group Manager, Preventive and Population Health Division. He can be contacted on [REDACTED] or via [REDACTED]

Yours sincerely

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- 8 JUN 2021

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Drugs of Dependence (Personal Use) Amendment Bill 2021

Government Submission to the Select Committee Inquiry

Introduction

The ACT Government is committed to investing in evidence-based and practice-informed harm minimisation responses to alcohol, tobacco and other drugs, and to leading the country in innovative policy approaches, as demonstrated by the decriminalisation of cultivation and possession of small amounts of cannabis for persons aged over 18, and the two pill testing trials conducted in the ACT. The ACT Drug Strategy Action Plan 2018-2021 (ACT Action Plan) outlines ACT Government priorities to address harms from alcohol, tobacco and other drugs.

The ACT Government invests more than \$22 million each year in specialist alcohol, tobacco and other drug treatment and support services in the Territory. Across 2019 and 2020, the ACT Government made significant progress on further minimising harm and delivering on the ACT Action Plan, including:

- The first clients were referred to treatment by the new ACT Drug and Alcohol Court;
- A new Canberra Health Services opioid treatment clinic opened in Belconnen on 1 December 2020, increasing access to treatment in the north of Canberra;
- Canberra Alliance for Harm Minimisation and Advocacy was contracted to provide increased levels of overdose response training and greater community access to take home doses of the opioid overdose reversal medication, naloxone;
- The ACT Festivals Pill Testing Policy was released; and
- The ACT Government awarded more than \$2 million in grant funding for new projects to reduce harms from alcohol use.

In 2020, the ACT Government provided an additional \$500,000 in funding to respond to COVID-19 and ensure services were able to adapt and continue to deliver services. The funding included:

- An additional year of funding for Karralika Programs to continue its outpatient withdrawal pilot program; and
- Support to the sector to adapt service delivery during COVID-19 and continue to deliver their vital services.

Other key ACT achievements include:

- Relatively high rates of access to treatment, compared to other Australian jurisdictions in non-pandemic circumstances;
- The lowest overall smoking rate, lowest proportion of lifetime risky drinking over the past year and lowest rate of recent illicit drug use of any Australian jurisdiction in 2019, according to the 2019 National Drug Strategy Household Survey;
- A highly collaborative and engaged Alcohol and Other Drugs (AOD) treatment sector, as demonstrated by the whole of sector response to COVID-19 to maintain access to treatment, coordinated by ACT Health Directorate;

- High overall client satisfaction with ACT AOD services (92.4 per cent), according to the 2018 ACT Service Users' Satisfaction and Outcomes Survey (SUSOS), conducted by the Alcohol Tobacco and Other Drug Association ACT; and
- The second highest rate among Australian states and territories for diversion from the criminal justice system for minor drug offences, according to a 2019 University of New South Wales report.

An ACT Legislative Assembly Resolution passed on 20 August 2020 called on the ACT Government after the 2020 ACT election to investigate the feasibility of a Simple Offence Notice for other drugs of dependence (than cannabis) to ascertain the legal, social and health impacts and to report back to the ACT Legislative Assembly by November 2021. On 11 February 2021, Mr Michael Pettersson MLA introduced a Private Members' Bill, the Drugs of Dependence (Personal Use) Amendment Bill 2021 (Bill) which seeks to extend the existing Simple Cannabis Offence Notice Scheme to introduce a Simple Drug Offence Notice Scheme that includes nine other substances in addition to cannabis. A Select Committee was formed to investigate this Bill, with Submissions due to the Select Committee Inquiry by 4 June 2021. The Select Committee is due to report back by the last sitting day of October 2021.

The Government is still considering some of the more complex and emerging aspects of these reforms.

The Terms of Reference for the Select Committee Inquiry were later expanded to include a broader range of alcohol and other drugs policy and treatment matters. The first section of this Inquiry Submission will focus on the response to the Bill. The second section on broader alcohol and other drugs treatment and harm reduction matters which were to originally be the subject of the Standing Committee Inquiry into alcohol, tobacco and other drug harm reduction and policy. The ACT Government notes the Terms of Reference for the Select Committee now focus specifically on drugs, rather than alcohol and tobacco.

Section 1: Drugs of Dependence (Personal Use) Amendment Bill 2021

The Policy Context

The ACT Government reaffirms its support towards a harm minimisation approach to drugs, as set out in the ACT Action Plan and in line with the *National Drug Strategy 2017-2026*.

Under international treaties and Australian Commonwealth law, growing, producing, possessing, and providing others with certain drugs is illegal. However, the treaties allow for each country to develop and implement drug laws ‘subject to the constitutional principles and basic concepts of its legal system’.

The United Nations has in recent years clarified that within the overall framework of certain drugs being illegal there is room for “balance” in law enforcement, social and health responses. The United Nations General Assembly Resolution (the UN Resolution) of 19 April 2016 (S30/1), *Our joint commitment to effectively addressing and countering the world drug problem*, affirmed a commitment by the United Nations (1.l) to:

Develop and Strengthen, as appropriate, the capacity of health, social and law enforcement and other criminal justice authorities to cooperate, within their mandates, on the

implementation of comprehensive, integrated and balanced responses to drug abuse and drug use disorders, at all levels of government.

In Section 4J of the UN Resolution, in relation to proportionate criminal justice responses, the UN Resolution calls on member nations to:

Encourage the development, adoption and implementation, with due regard for national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in (drug) cases of an appropriate nature, in accordance with the three international drug control conventions...

The UN Resolution also noted in the section on “Drugs and human rights, youth, women, vulnerable members of society and communities” that drug policies should be developed “as part of a comprehensive, integrated and balanced approach” that “fully respect(s) all human rights and fundamental freedoms and protect(s) the health, safety and well-being of individuals, families, vulnerable members of society, communities and society as a whole...”

The United Nations Commission on Narcotic Drugs plays a key role in supervising implementation of international drug control treaties. Australia issued a statement to the 64th Session of the Commission, held in Vienna between 12-16 April 2021, supporting a balanced and evidence-based approach to illicit drugs policy incorporating both law enforcement and an indication that the Commission should be willing to listen to expert scientific and medical advice to keep the scheduling of controlled substances up to date and in line with community expectations.

Over time, a number of countries have been moving away incrementally from automatically imposing criminal justice penalties for personal drug possession or use, to place a greater emphasis on health-based responses. This type of approach recognises that personal drug use may be driven by underlying problems in people’s lives, such as mental health problems, or by dependence on drugs (addiction). A criminal justice response may therefore not be the most helpful approach to personal drug use, and in fact may result in harms for individuals that potentially outweigh the drug-related harms in themselves. A note under section 308.1 of the Commonwealth Criminal Code indicates that Commonwealth law on simple drug offences “allows for drug users to be diverted from the criminal justice system to receive the same education, treatment and support that is available in relation to drug offences under state and territory laws.”

Research has indicated that people who are diverted from criminal justice responses to personal drug possession offences do not tend to offend at a higher rate or to use more drugs.¹ In a review of depenalisation, diversion and decriminalisation approaches Stevens et al (2019) concluded that research on the strength of penalties on personal drug use is rather weak and inconsistent. However, overall they concluded that the causal mechanisms that are often thought to increase drug consumption when drug penalties are reduced do not consistently have the presumed effect eg. reduced stigma about using drugs, reduced deterrence and weakening a message about the negative impacts of drugs.

Drug harm reduction initiatives that were controversial in the past are now part of accepted practice in responding to drug use. For example, Australian jurisdictions changed their legislation to allow needle and syringe programs to be established which could legally provide sterile injecting equipment to people who inject drugs. At the time it was argued that this approach could send the

¹ McDonald and Hughes (2017). Drug Laws and Regulations. Ch.11 in Drug Use in Australian Society, 2nd edition. Eds: Ritter A, King T and Lee N. Oxford University Press: South Melbourne.

wrong message and increase drug use. However, needle and syringe programs are now agreed to be a success in preventing blood borne infections such as hepatitis C and in reducing financial costs to governments.²

The ACT Government strongly supports a harm minimisation approach to drugs of dependence, and harm reduction in the context of harm minimisation. The ACT plays a leading role in Australia in harm reduction initiatives such as festival pill testing and our Safer Festivals Policy, as well as our take-home provision of the opioid overdose reversal drug naloxone.

Harm minimisation has been the Australian national approach to drug policy since the 1980s, and is described in detail in the *National Drug Strategy 2017-2026*. The National Drug Strategy explicitly supports diversion from the criminal justice system to treatment services for minor illicit drug offences and programs targeting life transition points – the transition from childhood to young adulthood being a key period.

The ACT Action Plan reflects ACT government commitments directly aligned to the framework provided by the National Drug Strategy. The Action Plan was approved by the ACT Cabinet in December 2018. Action 33 of the ACT Action Plan commits the ACT Government to designing and delivering a range of interventions using a number of models to meet the diverse needs of people involved in, or at risk of being involved in, the criminal justice system, and to exploring ways to *increase diversion* and treatment and support options.

The ACT has an extensive track record in drug decriminalisation. The ACT was the first Australian jurisdiction to introduce a court-based alcohol and other drug assessment service in 1989. It was also the second jurisdiction to introduce a cannabis offence notice program, the Simple Cannabis Offence Notice, in 1992, after South Australia.

In addition, in 2001, the Illicit Drug Diversion Initiative, a police diversion program that results in people being found in possession of small amounts of illicit drugs being referred to assessment, education and treatment, was introduced in the ACT as part of a national initiative funded by the Australian Government. The Illicit Drug Diversion program has been operating successfully in the ACT and several other jurisdictions for 20 years.

Following a review of drug trafficking thresholds by the University of New South Wales in 2014, the ACT Government updated its laws to help ensure that drug traffickers and not drug consumers are charged with drug supply offences.³

Evidence of previous drug possession decriminalisation in the ACT does not show any clear long-term relationship to increased drug use. Drug use has declined overall. As mentioned above, the Illicit Drug Offence Notice program was introduced in 2001, and illicit drug use has declined since then. Self-reported illicit drug use in the past year remained steady between 2001 (17.8 per cent) and 2004 (17.6 per cent) but then fell to 13.4 per cent in 2007. Whereas in 2001 the ACT rate of illicit drug use (17.8 per cent) was higher than the national average (16.7 per cent), in 2019 the ACT rate of illicit drug use (14.6 per cent) was lower than the national average (16.4 per cent).

² McDonald and Hughes (2017). Drug Laws and Regulations. Ch.11 in Drug Use in Australian Society, 2nd edition. Eds: Ritter A, King T and Lee N. Oxford University Press: South Melbourne.

³ McDonald and Hughes (2017). Drug Laws and Regulations. Ch.11 in Drug Use in Australian Society, 2nd edition. Eds: Ritter A, King T and Lee N. Oxford University Press: South Melbourne.

More recently, the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019*, which came into effect on 31 January 2020, removed criminal penalties for the cultivation and possession of small amounts of cannabis by a person over the age of 18 years. The changes are intended to reduce drug harm in our community by shifting the ACT Government’s response to cannabis use from a justice to a health perspective.

There has been no increase in cannabis-related hospital presentations since these legislative changes. Between 1 February 2020 and 31 December 2020 there were 32 cannabinoid-related presentations⁴ to Canberra Emergency Departments (Calvary Hospital and Canberra Hospital), almost identical to the 31 cannabinoid-related presentations to Canberra Emergency Departments between 1 February 2019 and 31 December 2019. While wastewater testing showed a rise in ACT cannabis use during June and August 2020, the levels detected in October 2020 were the lowest since testing for cannabis began in August 2018.⁵ There has also been a reduction in cannabis-related interactions with police. ACT Policing figures show the number of Simple Cannabis Offence Notices issued in 2020 dropped by almost 90 per cent following the changes to cannabis legislation—down from 56 to five⁶.

The decriminalisation approaches that have been introduced within Australia over time have occurred within the broader context of the international prohibition approach to illicit drugs and within the context of heavy penalties remaining in place for dealing/trafficking in illicit drugs. The current Bill can be viewed as further emphasising the distinction between minor consumer drug possession offences and more serious drug offences involving profiting from producing and dealing in illicit drugs.

The recommendation for a Simple Drugs Offence Notice arose from the 2020 Inquiry on Youth Mental Health in the ACT by the Standing Committee (the Standing Committee) on Education, Employment and Youth Affairs. Recommendation 46 of the Inquiry report was that the ACT Government should consider further criminal justice diversion for young drug users by investigating the appropriateness of a simple drugs offence notice for some drugs. The Standing Committee acknowledged that substance use is a health issue, and that youth suffering from drug use disorders should be treated in the health system, diverted from the criminal justice system. There is also a policy argument that early involvement in the criminal justice system and potentially acquiring a criminal record can disproportionately worsen a young person’s career and life prospects for a simple possession offence.

In 2019, New South Wales legislated to allow police to provide to issue \$400 Criminal Infringement Notices instead of criminal charges for drug possession offences. These changes were made in the context of the deaths of six young people who died of drug overdoses during, or shortly after, music festivals in NSW. This led the NSW Coroners Court to recommend that the model of policing of music festivals be changed to not take punitive action against people in possession of drugs for personal use.

While referral to treatment is not a main output of a Simple Drugs Offence Notice system, the current Bill can be seen as an additional step in reorientating the response to illicit drug possession

⁴ ACT Health Directorate data.

⁵ National Wastewater Drug Testing Program (2021): Additional Longitudinal Figures, by State and Territory and Drug Type: Australian Capital Territory. https://www.acic.gov.au/sites/default/files/2021-02/australian_capital_territory - 12.pdf

⁶ ACT Policing data.

in the ACT away from the criminal justice system and penalties which may be regarded by the ACT public as overly harsh. From a policy perspective, the most important health impact arising from the Bill as currently proposed could be reduced stigma about personal drug use. Reduced stigma can be very important if people are fearful about seeking help, attending health services because they are worried about facing drug use charges, or because their drug use might be seen as socially unacceptable. Research has also indicated the people may be fearful about calling emergency services when an overdose occurs in case they get into trouble with the police. Reducing criminal penalties for drug use can also therefore help to decrease the harmful consequences of overdoses.

[The ACT Government approach to illicit drug use and criminal justice](#)

A large proportion of crime in Australia has been shown to be either directly attributable to or associated with substance use. There is a complex interaction between substance use, other social determinants of health and wellbeing and criminal behaviour. For example, unstable accommodation, lower education levels and unemployment have been noted among people accessing alcohol and drug treatment in the ACT.

In 2020, the ACT Government launched the ACT's Reducing Recidivism Plan (the Recidivism Plan), setting out the first three years of work towards a goal of reducing recidivism in the ACT by twenty-five percent by 2025. Achieving a 25 per cent reduction in the recidivism rate by 2025 would mean 146 fewer detainees returning to custody within two years.

The Recidivism Plan focuses on seven pillars to reduce recidivism through addressing the factors that lead to repeat offending, including drug and alcohol dependence. The Recidivism Plan is accompanied by an investment of more than \$132 million to develop and implement evidence-based programs focused on rehabilitation and reintegration, addressing the root causes of recidivism.

Under the Recidivism Plan, the ACT Government is implementing several initiatives for those in touch with, or at risk of contact with, the criminal justice system and who are experiencing complex and severe substance use disorders. This includes:

- expanding early intervention and diversion programs for people experiencing alcohol and drug dependence;
- implementation of the Alexander Maconochie Centre (AMC) offender treatment and rehabilitation plan, with a particular focus on detainees dependent on alcohol and/or drugs;
- enhancing reintegration programs and support services offered at the AMC, including those delivered in partnership with non-government and government organisations with a focus on alcohol, tobacco and drug rehabilitation; and
- co-designing with the Aboriginal and Torres Strait Islander community a culturally appropriate residential service supporting drug and alcohol rehabilitation for Aboriginal and Torres Strait Islander people in the ACT and surrounding region, to complement existing services.

The Recidivism Plan expands on the ACT Government's justice reinvestment initiative, 'Building Communities Not Prisons' (BCNP). Since 2018, the ACT Government has committed to BCNP by engaging in a broad justice reinvestment approach. A key pillar of the BCNP initiative includes supporting people who are in contact with the justice system with substance use disorders.

Disease and death caused by drug use in the ACT

The use of illicit drugs and pharmaceutical drugs for non-medical reasons are among Australia's key causes of otherwise preventable disease, injury and death (known in epidemiology as the 'Burden of Disease'). The proportion of the preventable Burden of Disease caused by use of illicit drugs in the ACT has been estimated as 2.2 per cent in the ACT compared to the Australian average of 2.3 per cent. However, the legal drugs alcohol and tobacco are larger contributors both in the ACT and nationally: tobacco – 5.4 per cent in the ACT (compared to Australia 9 per cent) and alcohol – 4.2 per cent (compared to Australia 5 per cent).

For comparison, combined dietary risks accounted for 5.1 per cent of preventable disease burden, and high body mass index 4.5 per cent, demonstrating that alcohol, tobacco and drug use are key factors for ensuring that people live healthy lives.⁷

Trends in drug use in the ACT

Some scientific studies look at multiple criteria for drug related harms to rank drugs between the most and least harmful. A recent study⁸ rated alcohol as the most harmful drug in Australia, followed by crystal methylamphetamine ('ice'), heroin, and fentanyl (potent opioids with high overdose risk). Drugs in the middle range of harms included cocaine and methadone (when used non-medically) and in the lower range were cannabis, LSD and psilocybin (hallucinogenic mushrooms), and ecstasy.

Overall, self-reported Illicit drug use in the ACT is lower than in other Australian jurisdictions.⁹

In 2019, 12.8 per cent of ACT residents reported recent use (in the last 12 months) of any illicit drug (excluding misuse of pharmaceuticals). Cannabis (10.5 per cent) was the most widely used illicit drug in the ACT, followed by cocaine (3.5 per cent).¹⁰

Methamphetamine ('ice' in its crystalline form) and amphetamine (speed) use appears to have fallen to very low population levels in Canberra. The 2019 household survey records meth/amphetamine use as 0.3 per cent in the ACT in 2019, compared with 1.1 per cent in 2016, and 4.5 per cent in 2001.¹¹ Wastewater analyses also consistently indicate lower than average methamphetamine use in the ACT compared to other jurisdictions, but higher levels of cocaine use, although surveys indicate that individuals tend to use cocaine intermittently or relatively infrequently.¹²

Despite the fall in population drug use rates, in the ACT in 2018–19 22.6 per cent of (non-pharmacotherapy-based) treatment episodes in the ACT were to help with problems related to

⁷ Australian Institute of Health and Welfare (2016), Australian Burden of Disease Study: Impact and causes of illness and death in Australia 2011. Canberra: AIHW.

⁸ Bonomo Y, Norman A, Biondo S et al. (2019). The Australian drug harms ranking study. *Journal of Psychopharmacology*, 33(7), 759–768.

⁹ Australian Institute of Health and Welfare (2020). National Drug Strategy Household Survey 2019.

¹⁰ AIHW (2020). National Drug Strategy Household Survey 2019

¹¹ Australian Institute of Health and Welfare (2020), National Drug Strategy Household Survey 2019. Drugs Statistics series no. 32. PHE 270. Canberra: AIHW. All data in paragraph.

¹² See for example, Australian Criminal Intelligence Commission (2021). Report 12 of the National Wastewater Drug Monitoring Program.

meth/amphetamine use, indicating that a relatively small group of users experience relatively severe problems related to use.¹³

The non-medical use of painkillers and opioids by people in the ACT in 2019 (1.5 per cent) was lower than the national average (2.7 per cent). There appears to be a trend towards a (non-significant) decline in reported non-medical use of opioid painkillers in the ACT (down from 2.9 per cent in 2016 to 1.5 per cent in 2019). This parallels a statistically significant national decline, down from 3.6 per cent in 2016 to 2.7 per cent in 2019.¹⁴

Although ACT secondary students' reported illicit drug use remained relatively stable between 2014 and 2017, there have been significant decreases over time.¹⁵ This is most obvious in the 'used at least one illicit substance in their lifetime' category, which dropped from 37.5 per cent in 1996 to 17.4 per cent in 2017. During the same period, the proportion of students who reported they had 'used an illicit drug at least once in the past year' decreased from 32.5 per cent to 15.7 per cent, respectively, 'past month' from 17.9 per cent to 5.1 per cent, respectively, and 'past week' from 11.7 per cent to 2.5 per cent, respectively.¹⁶

Because of the COVID-19 pandemic, drug use patterns in 2020 may not necessarily be typical of long-term trends. For example, wastewater testing indicates cannabis use rose during the main ACT lockdown period but then returned to pre-COVID-19 levels later in the year.¹⁷ Long-term trends in drug use resulting from the pandemic are currently unclear. However, surveys of drug users have consistently found that methamphetamine has been in short supply across the pandemic period.¹⁸ The ACT Government will continue to monitor the evidence to consider any longer-term impacts of the COVID-19 pandemic on drug use, including in relation to mental health impacts of the pandemic.

In 2019, there were 18 unintentional drug-induced deaths (fatal overdoses from illicit, prescription and over the counter drugs) in the ACT¹⁹ compared to an ACT road toll of 6 deaths in 2019 (total road fatalities whether related and unrelated to drug or alcohol use).²⁰ The ACT had an age-adjusted drug overdose death rate of 4.14 per 100,000 people, which at face value was lower than national overdose death rate of 5.05 per 100,000 people, although the difference was not statistically

¹³ Australian Institute of Health and Welfare (2020), National Drug Strategy Household Survey 2019. Drugs Statistics series no. 32. PHE 270. Canberra: AIHW. All data in paragraph. All data in paragraph.

¹⁴ Australian Institute of Health and Welfare (2020), National Drug Strategy Household Survey 2019. Drugs Statistics series no. 32. PHE 270. Canberra: AIHW. All data in paragraph. All data in paragraph.

¹⁵ Australian Secondary Students' Alcohol and Drug Survey 2017. Sourced from <https://health.act.gov.au/about-our-health-system/data-and-publications/healthstats/statistics-and-indicators/assad-used-least>

¹⁶ The Australian Secondary Students Alcohol and Drug Survey is usually conducted every 3 years, but the 2020 survey was delayed due to COVID-19 and has not yet been conducted.

¹⁷ Australian Criminal Intelligence Commission (2021). Report 12 of the National Wastewater Drug Monitoring Program.

¹⁸ For example, Uporova J and Peacock A (2020). Impact of COVID-19 and associated restrictions on people who inject drugs in the Australian Capital Territory: Findings from the Illicit Drug Reporting System 2020. See also Alcohol, tobacco & other drugs in Australia, COVID-19 - Australian Institute of Health and Welfare (aihw.gov.au)

¹⁹ Chrzanowska, A., Man, N., Sutherland, R., Degenhardt, L. & Peacock, A. (2021). [Trends in drug-induced deaths in Australia, 1997-2019](#). Drug Trends Bulletin Series. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.

²⁰ ACT Policing: ACT road toll: 2000-2021 (by calendar year) <https://www.policenews.act.gov.au/crime-statistics-and-data/road-toll>

significant.²¹ The 2019 rate of ACT fatal overdoses was lower than the comparable 2018 rate of 4.7 deaths per 100,000 people. Nationally, the highest rate of deaths was among 45-55 year-olds followed by 35-44 year-olds, and two in three deaths occurred among males.

The age-standardised rate of accidental opioid induced deaths in the ACT in 2019 (accidental opioid overdose deaths) was 2.48 deaths per 100,000 people compared to a national rate of 3.55 deaths per 100,000 people, although the difference was not statistically significant. The rate of accidental opioid overdose deaths in the ACT in 2019 (2.48 per 100,000 people) was also lower than the comparable 2018 rate of 3.78 deaths per 100,000 people.²² Across Australia in 2018, prescription opioids were identified in 71 per cent of opioid-induced deaths.²³

Public opinion on drug use and personal drug possession offences

The National Drug Strategy Household Survey 2019 found that around two-thirds of people surveyed in 2019 in the ACT support harm reduction measures for injecting drug use, such as needle and syringe programs (72 per cent), opioid maintenance treatment (68 per cent), access to take-home opioid overdose reversal drug naloxone (63 per cent) and regulated injecting rooms (65 per cent).²⁴

Between 10 and 15 March 2021 the ACT Government included questions about drug use and approaches to drug possession offences in the regular YourSay Community Panel Survey. The findings are weighted to represent the ACT population. Key issues identified by the survey were:

- concerns around substance use emerge predominantly in relation to meth/amphetamine ('ice') and excessive use of alcohol, with more than six in ten Canberrans nominating these as concerns for the ACT community;
- despite this, approval of alcohol for personal use is widespread, while there is majority acceptance of personal use of marijuana/cannabis;
- for other drugs, a majority of Canberrans disapprove of their personal use;
- around two in ten Canberrans indicate there should be no action or a caution for personal possession of hallucinogens, ecstasy or cocaine;
- the most common preferred action for personal possession is treatment and/or education – this is particularly pronounced in relation to heroin, meth/amphetamine and methadone/buprenorphine; and

²¹ Chrzanowska, A., Man, N., Sutherland, R., Degenhardt, L. & Peacock, A. (2021). [Trends in drug-induced deaths in Australia, 1997-2019](#). Drug Trends Bulletin Series. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.

²² Chrzanowska, A., Man, N., Sutherland, R., Degenhardt, L. & Peacock, A. (2021). [Trends in drug-induced deaths in Australia, 1997-2019](#). Drug Trends Bulletin Series. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney.

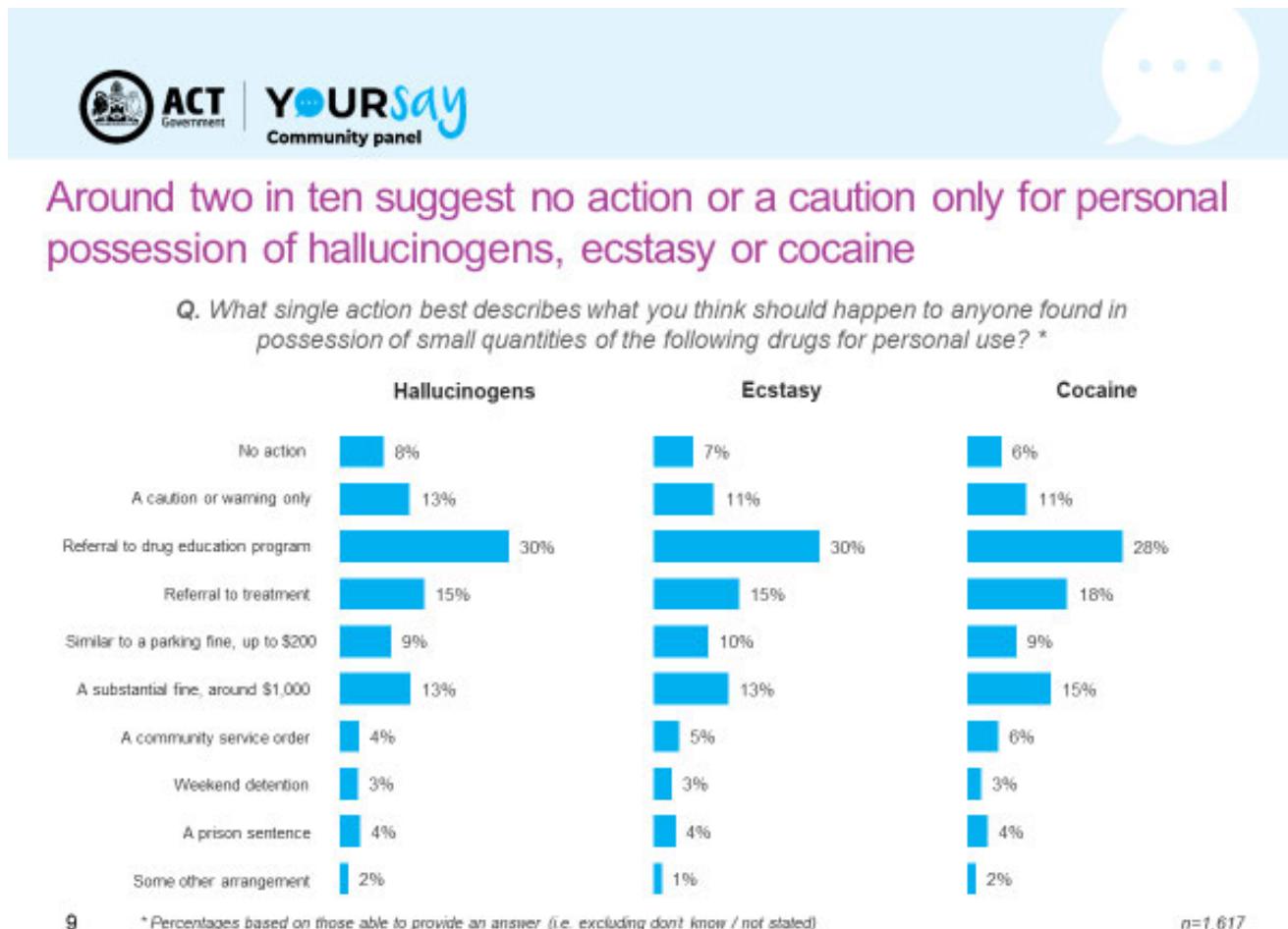
²³ Australian Bureau of Statistics (2019). Opioid-induced deaths in Australia.

<https://www.abs.gov.au/articles/opioid-induced-deaths-australia>

²⁴ Australian Institute of Health and Welfare (2020), National Drug Strategy Household Survey 2019.

- compared with national data, Canberrans appear to lean more strongly towards remediation and rehabilitation for drug use as opposed to more punitive measures.²⁵

More detail about specific attitudes to personal possession of drugs are shown in the following charts.

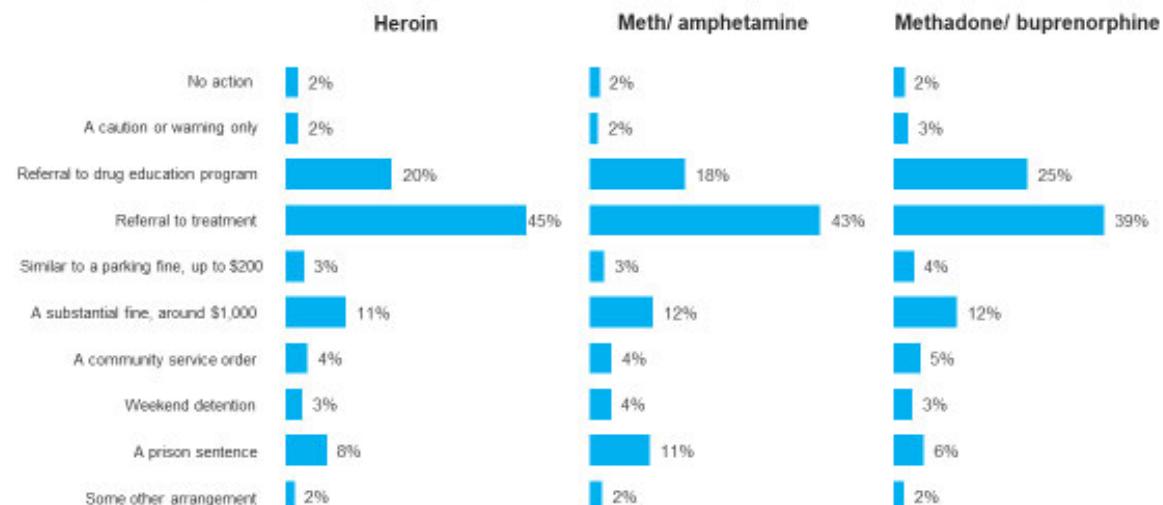


²⁵ ACT Government (2021). YourSay Community Panel Mixed Topic Survey: Drug Law Draft Report. March 2021. CMTEDD has indicated that the report will be finalised by time of the time of the Government Submission to the Select Committee Inquiry.



Education and treatment feature more strongly as a course of action for other substances

Q. What single action best describes what you think should happen to anyone found in possession of small quantities of the following drugs for personal use? *



10

* Percentages based on those able to provide an answer (i.e. excluding don't know / not stated)

n=1,617

Support for depenalisation/diversion is substantial, however support for referral to drug education and treatment is much higher than for fines-based approaches. Approximately two-third of the respondents support referrals to drug education or treatment (61 per cent to 74 per cent depending on drug type), although referral to treatment (approximately two-thirds of those supporting referral to education/treatment) is more supported than referral to education (approximately one-third of those supporting referral to education/treatment).

Support for an approach based solely on small fines is relatively low, as only 14-16 per cent of the population favour a fines-based approach. However, there is stronger support for a substantial fine of around \$1,000 (11 to 12 per cent depending on the drug) than for a smaller fine. Fines similar to parking fines of up to \$200, similar to those proposed by the Bill, have only 3-4 per cent support as the *main* response to illicit drug use. It is unclear from this survey how many people would favour this as an option among responses, for example a secondary response to referral to education.

The Drugs of Dependence (Personal Use) Amendment Bill 2021

The Drugs of Dependence (Personal Use) Amendment Bill 2021 (Bill), proposes to introduce simple offences relating to the possession of less than the prescribed amounts of some drugs of dependence and prohibited substances by amending and extending the simple cannabis offence notice scheme. The issues raised by the Bill are complex, with potential impacts on legal, health, justice and social responses to illicit drugs, as well as the existing system of diversions from the

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criminal justice system by police for people apprehended in the ACT with small amounts of illicit drugs.

The ACT Government supports in-depth consideration of these issues by the Select Committee on the Drugs of Dependence (Personal Use) Amendment Bill 2021 (Select Committee).

The Bill proposes three main measures:

- removing the sentencing option of sending people to prison when their only offence, or their most serious offence, is possessing a small quantity of an illicit drug for personal use;
- reducing the current maximum fine of 50 penalty units (currently \$8,000) that can be imposed by a court for this type of personal possession offence; and
- introducing a Simple Drugs Offence Notice, similar to the ACT Simple Cannabis Offence Notice, so police can issue a \$100 fine to people who possess below a certain amount of any of the 11 drugs listed in the Bill.

The Bill also raises important legal issues, including interactions with Commonwealth law, as well as technical and practical matters relating to measurement of the amount of illicit drugs a person possesses.

The ACT Government notes that the Standing Committee on Justice and Community Safety in its legislative scrutiny role has requested an amended Explanatory Statement from the Private Member to provide more detail about why specific drugs were chosen for the Bill and how it would achieve its stated aims.

The ACT Government will ensure that any measures adopted are informed by evidence on the effectiveness of such measures in reducing the adverse health, social and economic consequences of drug use.

The ACT Government notes that the Bill does not propose any changes to penalties for trafficking illegal drugs.

[Overview of ACT programs for diverting drug offenders away from the criminal justice system](#)

There are five stages of progression into the criminal justice system in which diversionary strategies can be located:²⁶

1. Prior to first contact with police;
2. Law enforcement;
3. Court processing;
4. After sentencing;
5. Pre- and post-release.

The ACT system for diverting drug and drug-related offenders has two main objectives:

- to divert offenders *away* from the criminal justice system; and

²⁶ ACTCOSS & Aboriginal Justice Centre, Circles of Support: Towards Indigenous Justice – Prevention, Diversion & Rehabilitation. (2008).

- to divert drug and drug-related offenders *into* contact with the ACT alcohol and other drug treatment system, including to:
 - education; and
 - assessment and treatment.²⁷

A drug offence is an offence that relates primarily to possession or trafficking of illicit drugs.

A drug-related offence is an offence of another type, for example assault, that was committed under the influence of drugs.

A range of diversion options are currently available in the ACT. A summary of current programs is shown in Table 1.

Table 1: ACT drug diversion programs

Name	Type	Conditions	Details
Simple Cannabis Offence Notice	Infringement Notice/Fine	Now applies to under 18s only Possession of below threshold amounts.	\$100 fine
Youth Alcohol Diversion	Assessment, education, brief intervention.	12-17 years found intoxicated or in possession of alcohol. Parental consent needed.	Police diversion to assessment and education/brief intervention.
Illicit Drug Diversion Initiative (previously the Police Early Diversion)	Diversion to assessment, drug education and treatment referral.	Possession of below threshold amounts of illicit drugs and illicit pharmaceuticals – typically 25% of the trafficking threshold designated in the Criminal Code Regulation 2005. A person must acknowledge owning the drug and admit the offence and consent to diversion. The person must not have had more than two previous diversions or committed a violent offence or the offence	Assessment and referral to treatment by an approved agency is provided by Police and Court Diversion Service, Alcohol and Drug Services Canberra Health Services. Compliance with treatment is checked

²⁷ Hughes C, Shanahan M, Ritter A, McDonald D, Gray-Weale F (2013). Evaluation of the ACT Capital Territory Drug Diversion programs. Drug Policy Modelling Program, National Drug and Alcohol Research Centre, University of NSW, Sydney. Social Research and Evaluation Pty Ltd, Canberra.

Select Committee Inquiry Submission – Drugs of Dependence Personal Use Amendment Bill 2021

Name	Type	Conditions	Details
		involves hydroponic cannabis.	
Court Alcohol and Drug Assessment Service (CADAS)	Pre-sentencing option for people charged with alcohol and drug related offences with the goal of reducing recidivism.	All ages from 12 years	Services the Supreme, Magistrates' and Children's Courts to provide alcohol, tobacco and drug assessment and recommend an appropriate treatment plan.
Drug and Alcohol Court	The Drug and Alcohol Court provides targeted and structured health and justice interventions while holding people to account for their behaviour.	Deals with offences that relate to serious drug and alcohol use.	The aim of the Drug and Alcohol Court is to achieve long-term behavioural change, taking a problem-solving approach to dealing with a participant's behaviour and supporting participants to develop a pro-social lifestyle.
Alcohol and Drug Driving Awareness	Provides education programs for people who have been found guilty of or convicted of a specified drink/drug-driving offences.	People who have been found guilty of or convicted of a specified drink/drug-driving offences and have not completed the course in the past 12 months.	Courses are delivered by approved providers. To ensure that the educational and therapeutic needs of different offenders are accommodated, there are two types of courses available: <ul style="list-style-type: none">• Standard Course: Educational awareness course• Extended Course: Therapeutic and educational awareness course
Alcohol Interlock Program	CADAS provides assessment and treatment for the alcohol interlock program.	Courts are required to refer people to CADAS for assessment before sentencing if exceeded breath alcohol concentration of 0.15g, refused testing, or 2 plus drink	Treatment may be recommended by CADAS. People participating in the Interlock Program serve half their disqualification period with an interlock

Name	Type	Conditions	Details
		driving offences within five years.	device installed which enables them to return to driving sooner.
Aboriginal and Torres Strait Islander Liaison	Culturally appropriate support for Aboriginal people referred to diversion programs	Aboriginal and Torres Strait Islander peoples.	Provides support to diversion programs and offenders and referrals to culturally appropriate agencies.

The full decriminalisation of minor cannabis offences for adults at the end of January 2020 is also effectively a diversion *away* from the criminal justice system.

ACT Policing takes a harm minimisation approach to illicit drugs. In relation to cannabis, it is standard ACT Policing Operating Procedure to take action on drug possession offences using ACT law in preference to Commonwealth law. In 2019-20, ACT Policing completed 192 referrals to the Illicit Drug Diversion Program. An effective electronic referral process exists between ACT Policing and Canberra Health Services via SupportLink. Similar governance could be established in relation to the Bill.

Currently, the Illicit Drug Diversion Initiative police diversion program operates under a Memorandum of Understanding between ACT Health Directorate and ACT Policing. The program is *not* legislated and is administered under ACT Policing Operational Guidelines. Assessment and education, and treatment referrals, are provided by Canberra Health Services.

It is important to differentiate between ‘mixed’ drug weights and ‘pure’ drug weights. Diversion for possession in the ACT is primarily based on mixed weights – that is the weight of the drug plus the weight of other substances that it may be mixed (or ‘cut’) with. Use of mixed weights acknowledges that a person may have no way of measuring the amount of pure drug that they have purchased, and therefore no way of knowing if they have exceeded a pure weight personal possession threshold. However, they can potentially measure the mixed weight of their purchase and therefore be aware of how they stand legally.

Decision-making to divert is guided by the context of the offence and police officers may use their discretion. For instance, a person may not be diverted if the offence occurs in the context of more serious offences.

Under the Illicit Drug Diversion Initiative police can divert people for possession for a wide range of illicit and pharmaceutical drugs, listed in the [Criminal Code Regulation 2005](#).

Under current legislation exceptions apply for eligibility to ACT diversion programs, for example for visitors to correctional centres. Exceptions to criminal offences for adult cannabis possession also only apply in the ACT, not in Jervis Bay Territory.

The Explanatory Statement to the Bill indicates that the Bill is intended to reduce the burden on the criminal justice system of drug possession offences by “allowing police to divert drug users at the first point of contact to appropriate services and avert prosecution”.

However, police diversion to assessment/education and treatment has been available for all drugs, both illegal and for non-medical use of pharmaceuticals, in the ACT for 20 years under the Illicit Drug

Diversion Initiative. As indicated in the Explanatory Statement the Simple Cannabis Offence Notice has operated since 1992. Introduction of a Simple Drug Offence Notice as proposed by the Bill would therefore not *allow* diversion in the ACT but would be an *additional* diversion option to the several initiatives already in place. If the Bill seeks to formalise a legislative trigger for diversion, then such text could be considered for the Bill.

Operation of the ACT Diversion System

The ACT Drug Diversion System was externally evaluated in 2013 by the National Drug and Alcohol Research Centre at the University of New South Wales (UNSW).²⁸ Strengths of the diversion system included:

- the breadth of diversion options;
- high rates of referral for most programs;
- the adaptability of the system;
- the good will and enthusiasm of stakeholders;
- streamlined referral processes between police and health services;
- the use of a centralised assessment and treatment agency (the Court Alcohol and Drug Assessment Service); and
- the high rates of treatment assessment and completion.

The evaluation found the ACT diversion system was generally functioning well – and it continues to do so. However, the UNSW evaluation also emphasised the need for the ACT to take a coordinated approach to diversion.²⁹ This remains an important requirement for new diversion initiatives within the ACT system, including the approaches proposed by the Bill.

The main drugs of the 177 diversions under the current Illicit Drug Diversion Initiative (referral to assessment/education/treatment) in 2018-19 were:

- Cannabis – 38 per cent;
- MDMA (ecstasy) – 18 per cent;
- Heroin – 3 per cent;
- Meth/amphetamine – 7 per cent;
- Cocaine – 36 per cent; and
- Other – 7 per cent.³⁰

The ACT has the lowest rate in Australia of offenders whose main offence is personal possession – 68.9 per 100,000 population in 2019-20, translating to 253 offenders.³¹ This compares, for example, to NSW at 192.6 per 100,000 population. The equivalent rates in other jurisdictions range from 106.6 per 100,000 population in Victoria to 641.5 per 100,000 population in South Australia.³²

Hughes et al (2019) examined the proportion of offenders with a principal offence of drug possession/use diverted from court action between 2010-11 and 2014-15. The ACT had the second

²⁸ Hughes et al (2013). Evaluation of the ACT Capital Territory Drug Diversion programs. Drug Policy Modelling Program, National Drug and Alcohol Research Centre, University of NSW, Sydney. Social Research and Evaluation Pty Ltd, Canberra.

²⁹ Hughes et al (2013).

³⁰ Canberra Health Services data.

³¹ Australian Bureau of Statistics (2021). Recorded Crime – offenders 2019-20

³² Australian Bureau of Statistics (2021). Recorded Crime – offenders 2019-20

highest proportion of diversions at 78 per cent, compared to the national average of 55.5 per cent. NSW had a diversion rate of 47 per cent, while the highest diversion rate was in South Australia at 98 per cent³³. While South Australia diverts the highest proportion of offenders, it also has a 10 times higher rate of offenders per 100,000 population.

Theories of criminal deterrence tend to indicate that deterrence is more strongly related to the certainty of a penalty rather than the severity of a penalty. It is likely, given the low rate of possession offences in the ACT, that the level of deterrence for personal drug possession is already relatively low. Research from other jurisdictions has shown that individuals are often not aware of the details of drug-related laws and often act regardless.

The University of Canberra carried out a study of ACT court sentencing between 1 July 2012 and 31 August 2015 for the ACT Law Courts and Tribunal.³⁴ For possessing a drug of dependence (controlled medicine such as morphine, ketamine, amphetamine, dexamphetamine, buprenorphine or cocaine),³⁵ the study found:

- 117 sentences were imposed in the ACT over the three-year study period (i.e. approximately 37 per year);
- The most common penalty was a good behaviour order (44 per cent), most commonly of 12 months;
- The second most common penalty was a fine (28 per cent) with a midpoint of \$400;
- Fully suspended sentences were imposed in 9 per cent of cases;
- Males accounted for 89 per cent of offenders;
- The most common age was 21-25;
- 55 per cent of offenders were sentenced for multiple offences;
- It took 3-5 hearings to finalise each case; and
- 71 per cent of offenders initially pleaded guilty but 91 per cent pleaded guilty at final plea.

For sentences for possessing a prohibited substance³⁶ other than cannabis (controlled drug such as heroin, methamphetamine/ice, LSD, ecstasy/MDMA) the study found, over the same time period, that:

- 134 sentences were imposed (average 42 per year);
- The most common penalty was a good behaviour order (50 per cent), most commonly 12 months;
- The second most common penalty was a fine (26 per cent). The most common fine was \$100 and the midpoint amount was \$400;
- Prison was imposed in 10 per cent of cases with a midpoint and most common sentence length of 3 months (54 per cent of prison sentences);
- 85 per cent of offenders were males;

³³ Hughes C, Seear K, Ritter A, Mazerolle L (2019). Criminal justice responses relating to personal use and possession of illicit drugs: the reach of Australian drug diversion programs and barriers and facilitators to expansion.

³⁴ Bartels L (2016) Sentencing snapshot No 5: Drug Possession. Australian Capital Territory Law Courts and Tribunal.

³⁵ Also called controlled medicines. Drugs of dependence include morphine, methadone, amphetamine, dexamphetamine, and cocaine.

³⁶ For example heroin, cannabis, other THC cannabinoids, LSD, ecstasy/MDMA, methamphetamine/ice, GHB, Mescaline. Cannabis is classed as a controlled plant.

- 54 per cent of offenders were sentenced for a single offence;
- Matters were finalised in 3-5 appearances; and
- 82 per cent of offenders pleaded guilty rising to 95 per cent for final plea.³⁷

International law and policy on drug possession offences

The Drugs of Dependence (Personal Use) Amendment Bill 2021

The Bill proposes three main elements, one of which is a Simple Drugs Offence Notice, and two others which are measures to reduce the maximum penalties for possession of below-threshold amounts of the nine illicit drugs listed in the Bill.

Currently for simple drug possession offences in the ACT, with the exception of cannabis possession for over 18 year-olds, a penalty up to maximum of two years imprisonment and up to 50 penalty units could be imposed in court.

In the ACT there is no offence of illicit drug consumption, (although this exists in some other Australian jurisdictions) and no offence of possessing drug-related equipment. The issues of drug use and equipment possession are therefore not addressed by the Bill.

The three main conceptual elements proposed by the Bill are:

1. removal of prison as a sentencing option for primary offences involving possession of a below threshold amount of certain illicit drugs (depenalisation). A person could still be sentenced to prison for other offences committed at the same time under the influence of drugs;
2. a substantial reduction in maximum penalty for possession of small amounts of illicit drugs from 50 penalty units to one penalty unit (currently equivalent to a reducing a maximum \$8,000 fine to a maximum \$160 fine); and
3. introduction of a Simple Drugs Offence Notice for 9 illicit drugs in addition to cannabis.

The Bill therefore goes beyond the recommendation of the Inquiry into Youth Mental Health in the ACT to introduce a Simple Drug Offence Notice with specific reference to young offenders. It does this by also including large reductions in the maximum penalties for illicit drug possession for all adults.

The Bill currently proposes new personal possession limits for 11 illicit drugs/pharmaceuticals used for non-medical purposes which would be eligible for reduced sentences or for diversion via a Simple Drugs Offence Notice. The substances included in the Bill and the proposed personal possession limits (thresholds) are shown in Table 2.

Table 2: Proposed personal possession limits – Drugs of Dependence (Personal Use) Amendment Bill 2021

Substance	Proposed personal possession limit (pure drug weight)
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³⁷ Bartels L (2016) Sentencing snapshot No 5: Drug Possession. Australian Capital Territory Law Courts and Tribunal.

3-4 methylenedioxymethylamphetamine (MDMA, street name ecstasy)	0.5g
Amphetamine (street name speed)	2g
Cannabis (dried)	50g
Cannabis (harvested – also known as ‘wet’)	150g
cocaine	2g
heroin	2g
Lysergic acid	0.002g
Lysergide (LSD, LSD-25)	0.002g
methadone	2g
Methylamphetamine (known by street name ‘ice’ in crystalline form)	2g
Psilocybin (known by street name magic mushrooms)	2g

The three main provisions of the Bill, although parcelled together in the Bill, could potentially operate independently. It would be possible, for example, to introduce a Simple Drugs Offence Notice program and to retain the current maximum penalties.

Although the Bill would greatly reduce penalties that could be imposed in court, a criminal conviction would still be recorded if the matter proceeds to court and is not dealt with by a Simple Drugs Offence Notice. This would influence a young person’s life prospects – a key consideration for the Inquiry into Youth Mental Health in the ACT. It would be open to the Select Committee to recommend to ACT Policing that new ACT Policing policies be introduced to encourage officers to divert persons under the personal possession limit upon first contact, or further detail/eligibility criteria could be specified as appropriate.

Other issues which the Select Committee may wish to consider are:

- the range of drugs currently proposed to be included in the Bill and whether this should be reduced, expanded or maintained; and
- whether the proposed threshold levels to distinguish between personal possession and trafficking (i.e. producing and dealing) offences are optimal.

More information on these options is provided below.

The Program logic of police diversion approaches

Criminal infringement notice-based (fines-based) approaches do not have the *primary* aim of diverting people to the health system.³⁸ The primary aim of such approaches is diverting people out of contact with the criminal justice system by issuing an on-the-spot fine rather than proceeding to court.

However, the current ACT Policing Illicit Drug Diversion Initiative *is* primarily a health-based program. This program is well established, functions well in practice and covers the full range of

³⁸ The 2013 evaluation by UNSW of ACT Drug Diversion programs classifies the Simple Cannabis Offence Notice, which the Simple Drug Offence Notice is based on, as diversion *away* (italics in original, e.g. p.11) from the Criminal Justice System. The Police Early Diversion Program, Youth Alcohol Diversion, the Court Alcohol and Drug Assessment Service and the then Youth Drug and Alcohol Court are classed as diversion *into* (italics in original) education/treatment.

drugs included in the *Criminal Code Regulation 2005*, including both illicit drugs and pharmaceutical drugs for non-medical use.

The Select Committee may consider if it is necessary to include an active health-based referral to accompany the issuing of a Simple Drug Offence Notice given that a well-functioning system of diversions to assessment and treatment already exists. If the current Bill were amended to include a Simple Drug Offence Notice *and* referral to assessment and treatment, this would replicate the current Illicit Drug Diversion Initiative, and would effectively *increase* the current penalty for individuals from a diversion to assessment, education and treatment, to both a fine and a required diversion to education and treatment.

The potential removal of court proceedings and the possibility of imprisonment, as well as the greatly reduced maximum fines, would be likely to have a larger secondary effect by reducing fear of punishment than would the introduction of offence notices.

In 2018, a team from UNSW and the University of Kent carried out a review of approaches to simple drug possession offences to inform policy considerations by the Irish Government (Irish Government review).³⁹ The Irish Government review developed program logics for different types of diversion approaches including police diversion programs, which are useful for current considerations in the ACT. Program logics provide a high-level overview of the aims and operations of different programs, noting they may work differently in practice in different jurisdictions.

In the terminology of the Irish Government review, Simple Cannabis Offence Notices and Simple Drug Offence Notices are examples of decriminalisation with civil/administrative sanctions.

The program logic reinforces that this type of fines-based approach is primarily a diversion away from the criminal justice system, although it may have the effect of reducing stigma about drug possession and use.

Program Logic of decriminalisation with civil/administrative sanctions

Program aim: To ensure that people are not criminalised for simple possession alone, while also recognising that complete removal of sanctions may send the wrong signal and thus to institute a new and alternate system. This also seeks to save police time to focus on more serious criminal activity.

Table 3: Program Logic – decriminalisation with civil/administrative sanctions

Problem Statement	Inputs	Process	Outputs	Outcomes
Drug possession should not be a crime, but it should not just be ignored as this may send the wrong message (to) people for drug possession and	Legislative change (new civil/administrative law) New system to response e.g. pay a fine online Public education	Police switch to issuing civil/admin sanctions instead of arresting defenders	Quicker interactions with police for simple possession No new people or fewer people are convicted (dependent upon model)	Reduced collateral consequences of convictions (e.g. on employment) Reduce burden on CJS and cost

³⁹ Hughes C, Stevens A, Hulme S and Cassidy R (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences: A report for the Irish Department of Justice and Equality and the Department of Health (and the working group on this issue). University of Kent and UNSW Australia.

Problem Statement	Inputs	Process	Outputs	Outcomes
lead to new harms.			Offenders pay civil penalties	(Possibly) increase policing of serious crime Reduce stigma but also send message that it is a sanctionable offence (Possibly) increase revenue

Adapted from Hughes et al.⁴⁰

The Program Logic authors note that existing cannabis offence notice schemes in the ACT, NT and SA are examples of this type of approach. The word “possibly” has been added to indicate that these assumptions have not yet been tested in the ACT context.

While there is not necessarily a direct health output from offence notice style programs, as people are not necessarily referred directly to treatment under these programs, the impact of the more indirect outcome of reduced stigma is potentially important. The Bill, in proposing reductions in the maximum court penalties for drug use, may substantially reduce stigma and the related fear that people may have about admitting illegal drug use and attending health services to address drug use. As noted in the introduction to the submission, research has indicated that people may be afraid to call an ambulance if a person has overdosed in case they get into trouble with police. The current Bill may significantly reduce this fear.

Hughes et al (2018) also summarised the potential advantages and disadvantages of the two types of approach to police diversions for simple possession offences. Table 4 illustrates the advantages and disadvantages of diversion with civil/administrative sanctions (Simple Cannabis Offence Notice and the Proposed Simple Drugs Offence Notice).

Table 4. Summary of potential advantages and disadvantages of diversion with civil/administrative sanctions

Advantages	Disadvantages
<ul style="list-style-type: none"> • Reduce convictions for people who use drugs • Potentially faster for police • Potentially cheap to run (particularly with new revenue) • Social benefits for offenders from reducing conviction e.g. increased employment prospects 	<ul style="list-style-type: none"> • Need a civil/administrative system • Need a system for payment • Alternate system may not be fair for all i.e. advantages for wealthy people • Risk of net widening as “easy” for police • Risk of increased drug use and driving

⁴⁰ Hughes C, Stevens A, Hulme S and Cassidy R (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences: A report for the Irish Department of Justice and Equality and the Department of Health (and the working group on this issue). University of Kent and UNSW Australia.

As indicated in the above table, a known policy risk of simple and efficient penalty notices is that ease of use can result in ‘net-widening’, an increase in the number of offences processed by police, which then leads to defaults on fines, and more people being required to go to court. Evaluation of the initial introduction of the Simple Cannabis Offence Notices in South Australia in the late 1980s found that net-widening had occurred.⁴¹

The existing ACT Illicit Drug Diversion Program is currently based on a de facto (non-legislated) approach of diverting drug possession offenders to assessment/education/treatment. The program logic for this type of approach is shown in the next table.

Program Logic of de facto (non-legislated) police diversion

The aim of the police diversion program is to redirect people who use drugs away from the traditional criminal justice response and into health or social services, and thereby provide opportunities to intervene early, to build knowledge/skills and to reduce recidivism and drug related harm.

Table 5: Program Logic – de facto (non-legislated) police diversion

Problem Statement	Inputs	Process	Outputs	Outcomes
Drug use is more of a social or health issue than a criminal justice issue. Criminalising people for drug possession alone is disproportionate and costly, but turning a blind eye is also not the right approach. Police should thus divert offenders to health or social services.	New procedure (police or prosecutorial) including rules around eligibility e.g. drug types and threshold quantities	Police (potentially) switch to referring people instead of arresting for possession alone	Potentially quicker police interactions for simple possession Fewer people are convicted More referrals to health or social services	Reduce/avoid collateral consequences of convictions (e.g. on employment) Reduce burden on CJS and cost Increase knowledge/skills among people who use drugs Reduce drug-related harms

Adapted from Hughes et al. (2018).⁴²

⁴¹ Single E, Christie P and Ali R (2000). The impact of cannabis decriminalisation in Australia and the United States. *Journal of Public Health Policy*, 21(2), pp. 157-186.

⁴² Hughes C, Stevens A, Hulme S and Cassidy R (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences: A report for the Irish Department of Justice and Equality and the Department of Health (and the working group on this issue). University of Kent and UNSW Australia.

Hughes et al note that this type of approach exists in five Australian jurisdictions, including the ACT Illicit Drug Diversion Initiative Program. The word “potentially” has been added where assumptions have not been tested in the ACT.

Table 6 illustrates the main advantages and disadvantages of de facto police diversion approaches, such as the existing ACT Illicit Drug Diversion Initiative, as identified by Hughes et al.⁴³

Table 6: Potential advantages and disadvantages of de facto police diversion:

Advantages	Disadvantages
<ul style="list-style-type: none"> • Reduces convictions of people who use drugs • Increases access of offenders to treatment/mental health/social services • Assessment and early intervention • Addresses offender needs e.g. access to alcohol and other drug treatment, employment or legal (dependent on model) • Reduces costs of criminal justice • Reduces drug-related harms, e.g. high frequency use • Reduces recidivism 	<ul style="list-style-type: none"> • May be resource intensive (in short term for police and justice system) • Increases costs for other services • Given this is discretionary there may be specific groups of offenders who ‘miss out’ e.g. people of minority backgrounds • Access may vary by region, e.g. regional vs metropolitan areas.

Reproduced from Hughes et al. (2018).

Some jurisdictions use a similar police diversion approach to that used in the ACT, but the diversion programme is legislated (de jure). The key difference in such an approach is that police are required to offer referral to all the target groups that are included in the legislation. This seeks to overcome potential inconsistent application of diversion and provide clarity for police. Examples of this type of approach are the South Australian Police Drug Diversion Initiative, the Queensland Police Diversion Initiative, and the Western Australian Cannabis Intervention Requirement.

However, ‘de facto police diversion’ is embedded in ACT Policing’s governance and policies. ACT Policing could incorporate specific guidance around police engagement with minority groups to ensure no specific group ‘misses out’. There are also a number of initiatives across ACT Policing currently under consideration to address these issues more broadly – including the introduction of a Disability Liaison Officer, developing a Better Practice Guide on engagement with people with disabilities, ACT Policing’s Reconciliation Action Plan, and initiatives to address over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.

The Select Committee may consider whether to put the potential Simple Drug Offence Notice and the Illicit Drug Diversion Initiative on an equal legislative footing, by potentially legislating both schemes.

⁴³ Hughes C, Stevens A, Hulme S and Cassidy R (2018). Review of approaches taken in Ireland and in other jurisdictions to simple possession drug offences: A report for the Irish Department of Justice and Equality and the Department of Health (and the working group on this issue). University of Kent and UNSW Australia.

Legal Issues relating to the Drugs of Dependence (Personal Use) Amendment Bill 2021

The Government is still considering potential legal issues arising from the Bill, including interactions with Commonwealth law, the proposed possession limits and the proposed penalties.

Interaction of the Bill’s proposed measures with the existing ACT system of diversions

If a Simple Drugs Offence Notice were implemented it would be important to ensure that it did not undermine access to health-based assistance for anybody who would currently be diverted under the Illicit Drug Diversion Initiative. It should also not disrupt, complicate, or make less efficient the operations of existing Illicit Drug Diversion Program and the ACT diversion system as a whole.

Administration of a Simple Drugs Offence Notice needs to be efficient for police officers. The Select Committee may wish to consider including any Simple Drug Offence Notice within the existing administrative framework for Criminal Infringement Notices under the Magistrates Court Act 1930, which may ease administrative processes for police officers.

A potential Simple Drugs Offence Notice may be considered by the Select Committee as a complementary but separate option to the existing diversions to the health system under the Illicit Drug Diversion Initiative, which currently functions well.

The Select Committee may wish to consider how a decision is made about how a person apprehended in possession of a small amount of illicit drugs is either diverted out of the criminal justice using a Simple Drugs Offence Notice, or diverted into contact with health services via assessment, education and referral to treatment.

Drug trafficking thresholds and personal possession limits provide decision points for how a person is handled by the criminal justice system. If a person possesses more than the trafficking threshold they can be charged with more serious offences for drug dealing. Personal possession limits or thresholds are usually set lower than trafficking thresholds, which is currently the case in the ACT. A person with an amount of drugs below the applicable limit may be eligible for diversion, but a person with an amount above the limit may have to be charged and go to court for a personal possession offence.

The current thresholds proposed in the Bill are in some cases the same amounts that appear in Commonwealth trafficking thresholds, although in practice there does not appear to be a conflict due to the different ways the proposed possession limits are expressed in law – i.e. less than the proposed limit versus greater than or equal to the threshold amount under Commonwealth law. However, the apparent overlap of the figures, as illustrated in Table 7, may be confusing for the public.

Table 7: Proposed personal possession limits in the Bill compared to Commonwealth trafficking thresholds

Column 1 Substance	Column 2 Proposed personal possession limit in Bill	Column 3 Commonwealth trafficking Threshold
3,4-methylenedioxymethylamphetamine (MDMA [ecstasy])	0.5g	0.5g
Amphetamine	2g	2g
Cannabis (dried)	50g	250g
Cannabis (harvested)	150g	250g
Cocaine	2g	2g
Heroin	2g	2g
Lysergic acid	0.002g	0.002g
Lysergide (LSD, LSD-25)	0.002g	0.002g
Methadone	2g	2g
Methylamphetamine	2g	2g
Psilocybin	2g	2g

Before the introduction of mixed weight legislation in the ACT, 2 grams was the trafficable weight limit for most controlled substances covered by serious drug offences. These weights are not consistent with the ACT Policing guideline threshold currently of 25 per cent of the trafficable weight.

Although not indicated in the Bill, the proposed thresholds in the Bill appear to be pure drug weights. In the early 2000s, extensive policy work was conducted in the ACT to move to mixed drug weights in legislation for personal possession offences, allowing users to have more certainty in whether they were in breach of a legislative limit. As mentioned above, most people who purchase drugs for personal use do not know the pure drug content of what they have obtained, which could vary widely depending on what the pure drug has been mixed with, and they have no feasible way of finding out. However, they can potentially weigh the ‘mixed’ substance in their possession and therefore be better aware of their legal position.

The additional benefit of the ACT changing to mixed weights in the early 2000s was a substantive reduction in the need for the ACT to conduct purity analysis, with its associated costs to the Territory.

An option that could be considered by the Select Committee is to establish dosage units within the existing Criminal Code based on the weights in that legislation, and reference personal limits purely by dosage units rather than weights, providing clarity to both users and law enforcement.

For example, the weight of one dose of LSD could vary widely depending on what the active drug has been applied to, such as blotting paper or a sugar cube. But both one sugar cube and one piece of blotting paper constitute one dose. A certain number of doses could therefore potentially be used as a diversion threshold. In practice neither ACT Policing nor most drug users will be able to measure 0.002g of LSD, the threshold proposed in the Bill.

In introducing the Bill, the Private Member mentioned that the personal possession amounts have been set for legal ease. However, those amounts are not necessarily consistent with the amount of each drug that is commonly used as a single “dosage” amount within the ACT specifically. For instance, for methylamphetamine and heroin, the proposed personal possession limits are currently set higher than a common dosage amount. For instance, 0.1g of methylamphetamine can be considered one dose. This means that the current set amount of 2g may be seen as enabling trafficking.

Under the proposed Bill people with amounts below the current ACT Policing thresholds/personal possession limits (generally 25 per cent of the ACT trafficking threshold) would be eligible for either a diversion to assessment/education/treatment or a Simple Drugs Offence Notice.

However, people possessing more than ACT Policing Illicit Drug Diversion Initiative Threshold but less than the Simple Drugs Offence Notice threshold in Column 2 (as proposed in the Bill) would only be eligible for a Simple Drugs Offence Notice, not for diversion to assessment, education and treatment under the Illicit Drug Diversion Initiative.

The Select Committee could therefore choose to recommend that ACT Policing revise its diversionary thresholds in its governance and policies to align them with thresholds in the Bill, noting that the view of ACT Policing view is that particular thresholds in the Bill should be revised down, with particular respect to methamphetamine and heroin. The thresholds for individual drugs will need to be considered in detail. A 2014 report conducted for the ACT Government by the Drug Policy Modelling Program UNSW, ‘Legal thresholds for serious drug offences: expert advice to the ACT on determining the amounts for trafficable, commercial and large commercial drug offences’, provides detailed consideration of drug threshold issues in the ACT context.

Another factor to consider is cost. While the costs of a Simple Drugs Offence Notice may be lower than a health-based referral, further exploration of this issue is needed.

The drugs covered by the Bill are more difficult for police to identify than cannabis, which is usually recognisable to police by look and smell. Time would be required once the substance is seized to refer the substance for testing, which also incurs costs. Drug testing equipment would require additional investment, as would training and maintenance expenses. There would also be a cost in administering the fine. However, a fines-based approach does not directly incur health staff costs.

A Simple Drug Offence Notice program could therefore be considered for implementation as a more cost-effective complementary alternative for people who would not benefit from a referral to in-person education/treatment or assessment – for example people who indicate that they would not benefit from such a referral and would only be going “through the motions”. However, there needs to be clear decision-making criteria for how an offence notice would be allocated as opposed to a diversion under the Illicit Drug Diversion Initiative. Further investigation of the comparative costs of the different proposed approaches may be required.

While a referral to education and/or assessment can be advantageous for many people, it can also potentially risk over-servicing clients who are not interested in receiving the treatment intervention, or who do not benefit from it, at a cost to the health system. Allowing an individual to choose whether they want a fine or a referral to education/treatment would be consistent with a human rights and health-based perspective. Alternatively, the decision could be mandated by legislation based on certain criteria, or incorporated into police guidelines.

Current police guidelines are that a health-based referral via the Illicit Drug Diversion Initiative is preferred to a Simple Cannabis Offence Notice. The Select Committee may wish to consider if this preferencing should be applied to a potential Simple Drugs Offence Notice, or whether a different approach is recommended.

Proposed reduction of maximum sentences for drug possession – prison sentences

Removal of the option of a prison sentence may be regarded by some members of the community as “sending the wrong message” regarding illicit drugs. However, community opinion is strongly against prison sentences for simple drug possession offences.

Removing prison sentences as an option for simple drug possession offences does remove the threat of prison as an escalating penalty if a person defaults on referral to treatment, fines or good behaviour orders.

It is noted that prison sentences for trafficking offences are not affected by the Bill’s proposals.

Proposed reduction of maximum sentences for drug possession – maximum fines

There is an option to remove the possibility of prison sentences but to still retain the option of non-custodial sentence options such as fines higher than one penalty unit. A criminal conviction would still be recorded in the case of a penalty of one unit (currently \$160).

The March 2021 YourSay survey indicates that for the ACT community fines for drug possession are viewed more favourably for cocaine, ecstasy and LSD than for heroin, methylamphetamine or methadone. There is a higher level of support for more substantial fines for drug possession such as \$1,000 than for lower fines of \$200 or below. However, from a policy perspective higher fines may not be equitable, particularly for highly disadvantaged population groups such as dependent injecting drug users.

If a person defaults on a fine of \$100, the benefits of pursuing the fine in court may be outweighed by the relatively high administrative cost of doing so.

The Bill currently refers only to custodial sentences and to fines. However, other penalties are available to courts such as Good Behaviour Orders.

If a person is charged and proceeds to court for a simple drug possession offence and a related different offence, the option is already available for them to be diverted to the Diversion Service at Canberra Health Services Alcohol and Drug Services on split charges.

Scope of drugs proposed for inclusion in the Bill

The *Drugs of Dependence Act 1989* uses the term ‘prohibited substance’ and explains that ‘substance’ has the same meaning as in the Criminal Code, chapter 6: (a) a controlled drug; (b) a controlled plant; (c) a controlled precursor.

The Select Committee could consider a phased approach to the introduction of a Simple Offence Notice, starting with drugs which have a lower overall level of health and social harms (such as MDMA/ecstasy or cocaine) and potentially progressing to other drugs with a higher level of harm (such as heroin and methamphetamine) dependent on assessment/evaluation of the earlier phase. A phased approach of this type could address potential community concerns about the scope of drugs

included in the legislation, and build community knowledge and confidence in the operation of the scheme.

A variant of this approach would be a treatment-only option (which already exists) for specific drugs associated with dependence such as heroin or methamphetamine, or a choice of approach could be offered to a person who is caught in possession of a drug captured in the scope of the Bill.

An alternative approach would be expanding the range of drugs covered by the Bill to include the drugs listed in the *Criminal Code Regulation 2005*, which are all eligible for diversion under the Illicit Drug Diversion Initiative. This could be done, for example, by referencing the *Criminal Code Regulation 2005* in the Bill and providing police officers with the option of proceeding via the Illicit Drug Diversion Initiative or issuing a Simple Drugs Offence Notice. The current limited list of eligible drugs included in the Bill may create a significant inconsistency with the current Illicit Drug Diversion program.

The drugs eligible for a Simple Drugs Offence Notice and reduced penalties are currently listed in the Bill and will therefore be written into the *Drugs of Dependence Act 1989* if the Bill is passed.

The Standing Committee on Justice and Community Safety, in its Legislative Scrutiny Role, identified in March 2021 that there is no provision to extend the list of substances included in the Bill except by legislative amendment – a process which may be viewed as unnecessarily complex. It may be more efficient to include the list of drugs in regulation, which may be easier to amend. A list of this type is already included in the *Criminal Code Regulation 2005*.

Theoretically, a person could be sent to prison for possession of a drug outside those nominated in the Bill that has a lower level of harms than drugs included in the Bill. This may create a negative public impression of the Bill. However, deciding drug by drug which drug and threshold might be included in the legislation is likely to be time-consuming and inefficient. It could be a more efficient option to link the legislation to the *Criminal Code Regulation 2005*.

In introducing the Bill, the Private Member flagged potential inclusion of other pharmaceutical drugs within the scope of the Bill.

The current distinction between 50g of dry cannabis and 150g of wet cannabis has been indicated to be impractical from the point of view of analysis by the ACT Government Laboratory.

Road Safety

The ACT will not be making any changes to its drug driving laws in response to the Drugs of Dependence (Personal Use) Amendment Bill 2021 and road safety is one of the legal, social and health impacts of the Bill being considered by Government.

Like all Australian jurisdictions, the ACT has a zero-tolerance approach to drug driving, meaning that it is an offence for a driver to have any amount of certain illicit drugs in their system while driving or have any other drug (illicit or not) in their system (including certain prescription medications) to such an extent that it influences their ability to have proper control of a motor vehicle. This approach to drug driving and roadside testing has proved to be successful in detecting and preventing drug driving, with associated road safety benefits.

The *ACT Road Safety Action 2020-2023* includes drink and drug driving as a focus area. As part of the Road Safety Action Plan, the ACT Government will:

- undertake a review and assessment of the effectiveness of the Territory's drink and drug driving scheme against best practice models including to consult with experts and the community on the effectiveness of the scheme and potential reforms; and explore measures that are appropriate for the ACT, which will deter drink and drug driving;
- consider national and international developments as they arise, and evolving strategies and methods for managing the road safety risks posed by drug driving. This includes national and international approaches to roadside drug testing and impairment testing, any scientific or research developments that would allow the development of effective impairment thresholds, and any new evidence regarding the substances that can or should be detected via a roadside test.

To date, no major international or technological developments have been able to categorically establish a direct causal link between specific levels of drugs and impairment which can be consistently applied across the population. This is different to alcohol, where there has long been an agreed position on the levels at which alcohol impairs one's driving ability and significant education exists about standard drinks and alcohol concentration levels. Alcohol is also a regulated drug.

Given the quantity of active ingredients in a drug, particularly an illegal drug, are often unknown, and the difficulties in determining the quantities which are likely to impair the average driver, there are challenges in setting a prescribed 'acceptable level'. The safest option is to promote a road safety message that focuses on the safety risks associated with the consumption of drugs or alcohol and then driving.

[Other considerations](#)

In the Parliamentary and Governing Agreement for the 10th ACT Legislative Assembly, the ACT Government committed to raise the minimum age of criminal responsibility (MACR).

Proposed legislative reform under MACR may affect maximum penalties for a primary offence of drug possession for children under 14 years. In relation to the right to equality before the law, the Select Committee could consider the presumption of *doli incapax* (deemed incapable of forming criminal intent) for children and young people and prioritising diversion for young drug users.

Police operational guidelines currently apply restrictions to the operations of the Illicit Drug Diversion Initiative (referral to assessment, education and treatment). Restrictions include possession thresholds set at around 25 per cent of the trafficking threshold (or other threshold set under ACT Policing) as well as limits on the number of times people can be diverted.

The Select Committee may wish to consider the eligibility criteria for a potential Simple Drug Offence Notice, including consistency with the Illicit Drug Diversion Initiative eligibility criteria. It would be open to the Select Committee to recommend to ACT Policing that new ACT Policing policies could be introduced to achieve the intended diversion thresholds, to encourage officers to divert persons under the personal possession limit upon first contact or other eligibility criteria. However, criminal convictions with low penalties would remain possible under the Bill, although maximum penalties would be reduced.

An issue for consideration is that people who are physically dependent on drugs, and who are therefore more likely to have health problems related to drug use, may also be more likely to have drugs in their possession, and therefore more likely to be apprehended on multiple occasions.

A 2019 UNSW report on diversions in Australia stated that Aboriginal and Torres Strait Islander people may be less likely to be willing to admit an offence, or may have higher levels of distrust of

admitting offences to police, and therefore may be less likely to be diverted unless restrictions such as admission of offending are not required.

An additional equity consideration is ability to pay fines. ACT treatment data shows that a disproportionately high percentage of people who attend alcohol and other drug treatment services are unemployed. Fines-based approaches inevitably tend to be biased towards those people with higher disposable incomes and greater ability to pay. Experience with the original introduction of the Cannabis Offence Notice in South Australia in the 1980s found evidence of a net-widening effect – because police officers found the offence notice simple to administer compared to initiating more court proceedings, they responded by initiating a larger number of proceedings. However, a relatively large proportion of people defaulted on paying, ultimately leading to a larger number of cases going to court for cannabis offences than previously. It is important that an ACT scheme avoid this unintended consequence, including consideration of a potential impact on ACT courts.

The proposed \$100 penalty notice may be considered a reasonable amount to pay. However, the current equivalent penalty notice in NSW is set at \$400. If a person can choose whether to discharge the offence by paying a fine or being diverted to the Illicit Drug Diversion Initiative, a non-financial penalty option is immediately available.

Some studies (see Stevens et al 2019) have found evidence of a potential link between drug decriminalisation and increased drug driving offences, which merits further investigation.

Section 2. Drug Policy and Treatment in the ACT

Programs and services provided to prevent and respond to drug problems in the ACT

The Alcohol, Tobacco and Other Drug (ATOD) sector is a specialised area of healthcare promoting the minimisation of harm for individuals, families and communities experiencing problems related to alcohol and other substance abuse. The ATOD sector provides the full continuum of services from prevention and early intervention, to various levels of care and interventions, in various settings, through to specialist medical services.

Prevention approaches and programs

ACT schools implement the Australian Curriculum. Learning opportunities about alcohol and drug use are included in the Australian Curriculum: Health and Physical Education from Foundation (Kindergarten) to Year 10.

Alcohol and drug education in ACT public schools supports students to make well-informed and healthy decisions. Principals, in consultation with school boards, decide how they organise their school's curriculum and additional programs to maximise learning opportunities for each student.

Teachers can access a range of resources on alcohol and drug education to support the delivery of the curriculum in ACT schools. Decisions to adopt specific educational materials and resources are school based.

The Australian Curriculum provides students with opportunities to learn how to access, evaluate and synthesise information to take positive action to protect, enhance and advocate for their own and others' health, wellbeing, and safety.

‘Alcohol and other drugs’ is one of 12 focus areas in the *Australian Curriculum: Health and Physical Education* which provides the breadth of learning across Foundation to Year 10 that must be taught for students to acquire and demonstrate the knowledge, understanding and skills described in the achievement standard for each band of learning.

The ‘Alcohol and other drugs’ focus area addresses a range of drugs, including prescription drugs, bush and alternative medicines, energy drinks, caffeine, tobacco, alcohol, illegal drugs and performance-enhancing drugs. The content supports students to explore the impact drugs can have on individuals, families, and communities.

It is expected that all students at appropriate intervals across the continuum of learning from Foundation to Year 10 will learn about:

- safe use of medicines;
- alternatives to taking medicines;
- the effect of drugs on the body (including energy drinks and caffeine);
- factors that influence the use of different types of drugs;
- impact of drug use on individuals and communities;
- making informed decisions about drugs (assertive behaviour, peer influence, harm minimisation, awareness of blood-borne viruses); and
- performance-enhancing drugs in sport.

School Resources

To assist teachers in planning their lessons in line with the Australian Curriculum, resources have been mapped into focus areas within the Australian Curriculum. A range of resources and support agencies that provide teachers information to support alcohol and drug education in ACT include:

1. **Positive Choices** is an online portal to help Australian schools and communities access accurate, up-to-date evidence-based alcohol and other drug education resources. Positive Choices is part of a broader national strategy funded by the Australian Government aimed at preventing and or delaying the uptake of alcohol, tobacco, and other drug use, and reducing the harm associated with these substances.
2. **Climate Schools** is a universal school-based program that includes a range of curriculum aligned, interactive online modules for students in years 8-10. Modules include realistic cartoon storylines that were codesigned with young people, along with additional teacher-facilitated activities.
3. **Life Education**- The program covers topics including drugs and alcohol, personal safety, cyber safety, food and nutrition, physical activity, social and emotional wellbeing and the human body. (See: <https://www.lifeeducation.org.au/teachers/>)
4. **Student Wellbeing Hub** -The Student Wellbeing Hub has been developed by Education Services Australia for the Australian Government Department of Education and work with experts, academics, teachers and leaders, professional associations and industry providers to support the education community in Australia. (See: <https://studentwellbeinghub.edu.au/>).

5. The **Australian Student Wellbeing Framework** advocates the teaching of skills and understandings related to personal safety and protective behaviours. Schools can use the Framework to help students become responsible for their own wellbeing and to build the social and emotional skills to be respectful, resilient and safe.
6. **Constable Kenny Koala/Stay OK for LIFE:** 45-minute presentation for students in year 5 or 6 which covers themes such as thinking about consequences before acting, immediate and long-term consequences of actions/decisions and how actions affect others. (See: <https://www.constablekenny.org.au/9-12/life/>).
7. **ACT Road Ready program** - Schools deliver the Road Ready course to their students who are aged between 15 years and 9 months to 17 years old. The Road Ready course is designed to help young people in the ACT become safer and more competent drivers. Core to the Road Ready course are modules focusing on alcohol and drugs and their negative impact on driving skills. (See: <http://www.roadready.act.gov.au/c/roadready>).

Alcohol, tobacco and other drug treatment services in the ACT

Alcohol and drug treatment services – an outline of resources

The *National Framework for Alcohol Tobacco and Other Drug Treatment 2019-2029* defines alcohol, tobacco and other drug treatment as: “Structured health interventions delivered to individuals (by themselves, with their families, and/or in groups) to reduce the harms from alcohol, tobacco, prescribed medications or other drugs and improve health, social and emotional wellbeing.” Most services provide help for a broad range of drug use, including alcohol, tobacco and pharmaceutical drug use as well as use of illicit drugs. However, some treatment types, such as opioid maintenance treatment, are specific to a certain type of drugs, while others, such as needle and syringe programs, address a specific type of drug use, in this case injecting drug use. The National Treatment Framework for Alcohol, Tobacco and Other Drug Treatment 2019-2029 also acknowledges there are different types of interventions with a range of intensities and objectives.

Three main types of interventions make up the Australian alcohol, tobacco and other drug treatment service system:

- interventions to reduce harm;
- interventions to screen, assess and co-ordinate care; and
- intensive interventions.

Specialised alcohol and other drug treatment services available in the ACT

The availability of intervention types and key elements of the Australian alcohol, tobacco and other drug treatment service system in the ACT is shown in Table 8. In 2018-19 (the latest data that has been published by the AIHW) there were 16 treatment agencies – 14 non-government, and two government in the ACT.⁴⁴

⁴⁴ Australian Institute of Health and Welfare (2020). Alcohol and Other Drug Treatment Services in Australia 2018-19.

Table 8: Availability of Alcohol Tobacco and Other Drug Treatment Services in the ACT by Treatment Type⁴⁵

Intervention type	Service element	Available in ACT?	Number of providers	Funding
Interventions to Reduce Harm	Sobering Up Shelters	Yes	One (five beds)	ACT Government
	Needle and Syringe Programs (NSPs)	Yes	2 primary (dedicated services) 9 secondary outlets 31 pharmacies 6 syringe vending machines 1 syringe disposal service (multiple sites) ⁴⁶	ACT Government
	Drop-in services	Yes	5 (with different target groups, including 2 youth-focused)	ACT Government
	Peer support	Yes	4 government-funded; other self-funding organisations	ACT Government, Capital Health Network, Self-funded
	Overdose prevention	Yes	2 main programs with interventions at multiple sites	ACT Government Australian Government
	Family support	Yes	7 programs	ACT Government, Australian Government, Capital Health Network
Interventions to screen, assess, coordinate	Screening and Brief Intervention	Yes	3 programs Screening and brief intervention take place in several settings including primary care, such as general practice services, hospitals and emergency departments and drop-in services	ACT Government, Australian Government
	Assessment	Yes	All government-funded AOD treatment services	ACT Government
	Consultation Liaison	Yes	One	ACT Government

⁴⁵ Information included in the table is sourced from: ACT Health Directorate internal records; the National Data Report 2019 - Needle Syringe Program National Minimum Data Collection (Kirby Institute, UNSW Sydney); and, the National Opioid Pharmacotherapy Statistics Annual Data (NOPSAD) Collection 2019 Report.

⁴⁶ Kirby Institute, NSW Sydney (2020). The National Data Report 2019: Needle Syringe Program National Minimum Data Collection.

Intervention type	Service element	Available in ACT?	Number of providers	Funding
	Case management and Care cooperation	Yes	15 programs	ACT Government, Capital Health Network
	Withdrawal management	Yes	Four programs including: One residential medicated service (10 beds) 2 residential non-medicated services 1 non-residential medicated service.	ACT Government and Capital Health Network
Intensive Interventions	Psychosocial counselling	Yes	6 programs	ACT Government Capital Health Network
	Rehabilitation	Yes	Four residential services, 8 programs (104 beds) Two non-residential services	ACT Government & self-funding
	Pharmacotherapy	Yes	70 prescribers 40 dosing points sites - One hospital-based opioid pharmacotherapy service (two locations) -38 pharmacies -One correctional facility Also alcohol and nicotine pharmacotherapy prescribing in specialist and primary care.	ACT Government Australian Government

The amount of treatment provided each year for drug and alcohol use in the ACT

In 2019-20, 6,438 ‘closed’⁴⁷ episodes of alcohol and drug treatment were provided in the ACT. The main treatment type was opioid medications only, such as methadone treatment.

Detailed information on the types of drugs that people received treatment for in 2019-20 is not yet available from the AIHW. However, in 2018-19:

- alcohol was the most common principal drug of concern (43 per cent of episodes);

⁴⁷ Treatment episodes can be closed, that is finished for the purposes of the data set, for several reasons including successful completion, discharge against advice, a person could not be contacted, or a person changed treatment type.

- amphetamines was the next most common principal drug of concern (23 per cent), and methamphetamine comprised 86 per cent of episodes within this category; and
- other significant drugs of concern were cannabis (13 per cent) and heroin (11 per cent).⁴⁸

The main treatment types that were provided with a breakdown of the main drugs that people received treatment for in each category in the ACT 2018-19 (2019-20 data is not yet available for this analysis) are shown in Table 9.⁴⁹

Table 9: Types of alcohol, tobacco and other drug treatment delivered, by percentages, ACT 2018-19, showing percentages for the main drugs addressed by treatment.

Treatment type and (percentage of total closed episodes)	Substance as percentage of closed episodes of each treatment type			
	1st	2nd	3rd	4th
Information and education (29%)	Alcohol (39%)	Amphetamines and heroin (both 15%)	Cannabis and other analgesics (both 10%)	Ecstasy and cocaine (both 2%)
Counselling (28%)	Alcohol (44%)	Amphetamines (25%)	Cannabis (17%)	Heroin (7%)
Support and case management (14%)	Alcohol (33%)	Amphetamines (32%)	Heroin (13%)	Cannabis (12%)
Assessment only (14%)	Alcohol (55%)	Amphetamines (24%)	Cannabis (9%)	Heroin (7%)
Withdrawal management (8%)	Alcohol (64%)	Amphetamines (19%)	Cannabis (11%)	Heroin (4%)
Rehabilitation (6%)	Amphetamines (35%)	Alcohol (34%)	Cannabis (18%)	Heroin (7%)

Opioid maintenance (pharmacotherapy) treatment information is gathered in a different dataset to other types of treatment. On a snapshot day in 2019, 1,121 people received opioid pharmacotherapy treatment in the ACT.⁵⁰ The number of people receiving pharmacotherapy treatment in 2019 has grown by 75 per cent from 641 in 2001.⁵¹ 100 Per cent of treatment delivered in this category is for opioids (for example illicit opioids such as heroin or non-medical use of pharmaceutical opioid pain-killers such as oxycodone or fentanyl).

⁴⁸ Australian Institute of Health and Welfare (2020). Alcohol and Other Drug Treatment Services in Australia 2018-19.

⁴⁹ Australian Institute of Health and Welfare (2020). Alcohol and Other Drug Treatment Services in Australia 2018-19.

⁵⁰ Australian Institute of Health and Welfare (2020). National Opioid Pharmacotherapy Statistics Annual Data Collection 2019.

⁵¹ Australian Institute of Health and Welfare (2020). National Opioid Pharmacotherapy Statistics Annual Data Collection 2019.

Table 10 provides a summary of the amount of treatment provided in the ACT in 2018-19 and 2019-20, provided by specialist services including psychological treatments, more medical withdrawal and medication services, and distribution of sterile injecting equipment.

Table 10: Alcohol, tobacco and other drug treatment provided in the ACT in 2019-20 compared to 2018-19

Program/service type	Closed episodes of care 2019-20	Closed Episodes of care 2018-19
Counselling	1736	1877
Withdrawal management	491	521
Support and Case Management only	927	920
Rehabilitation	412	428
Information and Education only	1803	1912
Assessment Only	987	917
Other	82	41
Total	6438⁵²	6700⁵³
Opioid Pharmacotherapy	1120 clients on snapshot day ⁵⁴	1,121 clients on snapshot day ^{55,56}
Needle and Syringe Programs	949,864 sterile needle and syringes ⁵⁷	885,996 sterile needles/syringes distributed ⁵⁸

Despite the COVID lockdown period in the April – June quarter of 2019-20 there was only a 4 per cent decline in treatment episodes in 2019-20 compared to 2018-19, accounted for mostly by fewer counselling and information and education episodes. Rehabilitation episodes were 4 per cent lower in 2019-20 than in 2018-19, in line with the general trend, and withdrawal episodes were 6 per cent lower. For comparison, NSW experienced a 15 per cent fall in rehabilitation episodes from 5,643 in 2018-19 down to 4816 in 2019-20. Withdrawal episodes in NSW also fell 7 per cent from 7,659 in 2018-19 to 7,143 in 2019-20.

The number of opioid pharmacotherapy clients was essentially identical in 2020 compared to 2019. The distribution of sterile needles and syringes increased by 7 per cent in 2020 compared to 2019.

⁵² Australian Institute of Health and Welfare (2021). Alcohol and other drug treatment services in Australia 2020.

⁵³ Australian Institute of Health and Welfare (2020). Alcohol and other drug treatment services in Australia 2019.

⁵⁴ Australian Institute of Health and Welfare: National Opioid Pharmacotherapy Statistics Annual Data Collection 2019.

⁵⁵ Opioid Treatment is measured by clients attending services on a ‘snapshot’ census day once a year. Opioid maintenance treatment episodes may last for years, and therefore episodes completed in a single year have limited value as a measurement of treatment provided.

⁵⁶ Australian Institute of Health and Welfare: National Opioid Pharmacotherapy Statistics Annual Data Collection 2019.

⁵⁷ Heard S, Iverson J, Geddes L, Kwon JA, Maher L (2020). Needle Syringe Program National Minimum Data Collection: National Data Report 2020. Sydney: Kirby Institute, UNSW Sydney; 2020.

⁵⁸ Heard S, Iverson J, Kwon JA, Maher L (2020). Needle Syringe Program National Minimum Data Collection: National Data Report 2019. Sydney: Kirby Institute, UNSW Sydney; 2019.

While most people do not enter alcohol and other drug treatment specifically to stop smoking, a much higher percentage of people in alcohol and other drug treatment are smokers than in the general community. ACT alcohol and other drug treatment services often offer quit smoking support as part of their treatment mix.

Treatment providers in the ACT and treatment funding

Alcohol and other drug treatment services in the ACT are provided free or at low cost to clients. Services are delivered by a mix of government and non-government organisations.

Canberra Health Services (CHS) Alcohol and Drug Services provides specialist medical services, consultation and liaison, opioid medication (or pharmacotherapy) treatment, withdrawal (detoxification), Drug Court Services, counselling and Police and Court Drug Diversion Services. These services are provided as inpatient and outpatient services.

Non-government organisations (NGOs) also provide a range of other services including counselling, case management, residential and non-residential withdrawal programs, and needle and syringe distribution services. The ACT Government funds the Canberra Alliance for Harm Minimisation and Advocacy (CAHMA) to carry out overdose response training for consumers and their families, and to develop suitable information materials for people who use drugs.

Alcohol and other drug rehabilitation programs are provided by non-government service providers only and operate in both residential and non-residential settings. NGOs operating treatment programs in the ACT include national/cross-jurisdictional organisations, such as the Salvation Army, Ted Noffs Foundation and CatholicCare, and also ACT-based organisations such as Directions Health Services, Karralika Programs, Winnunga Nimmityjah Aboriginal Health Services, and Gugan Gulwan Youth Aboriginal Corporation.

Most ACT residents will seek alcohol, tobacco and other drug treatment services in the ACT. However, some people, particularly for residential treatment, will seek services in NSW or elsewhere because, for example, they want to be away from their usual environment, or because they are concerned about maintaining their anonymity in treatment. Some people from other states and territories seek treatment, particularly residential treatment, in the ACT for similar reasons. However, ACT residents are prioritised for service access. ACT residents can also access several [nationally-based online and telephone support services](#).

As well as specific alcohol, tobacco and other drug service specific settings, drug treatment services are provided in generalist primary care settings, for example by general practitioners. Consumers also have access to national telephone lines and websites to support people with alcohol and other drug problems.

ACT Health Directorate funds the Alcohol, Tobacco and Other Drug Association ACT (ATODA) to compile and maintain the ACT Alcohol, Tobacco and Other Drug Services [Online Directory](#), a comprehensive directory for consumers seeking information about ACT services and how to access them. ATODA is also funded to support the sector, including non-government service providers, by, for example, providing communications regarding developments in treatment research, organising training, and running sector-wide projects such as upskilling staff regarding domestic and family violence.

All Government-funded services, whether operated by government or NGOs, are accredited under standards approved under the National Quality Framework for Drug and Alcohol Treatment Services, except one service which is working towards accreditation.

Comparison between ACT treatment levels and other states and territories

The ACT Government has taken a nation-leading approach in advancing a harm minimisation approach to alcohol and other drug policy. National data indicates that compared to other jurisdictions in non-pandemic circumstances, the ACT has relatively high rates of access to treatment. In 2018-19 the rate of (non-primary pharmacotherapy) clients receiving treatment was the second highest in the country at 1,096 per 100,000 population compared to an Australian average treatment rate of 623 per 100,000.⁵⁹ The rate of opioid pharmacotherapy treatment clients on a census day in 2020 was the second highest in the country at 26 per 10,000 population (only behind NSW at 28 per 10,000 population), compared to a national average of 21 per 10,000 population.⁶⁰

This high rate of access to treatment is supported by an ACT Government investment of more than \$22 million each year in government and non-government alcohol and drug treatment and support services. The Australian Government also funds treatment in the ACT through channels such as the Medicare Benefits Schedule, Pharmaceutical Benefits Scheme, and funding through the Capital Health Network. Under the Community Health and Hospitals Program, the Australian Government has committed \$4.3 million for Alcohol and Other Drug Residential Rehabilitation and Modernisation to increase treatment and to expand the capacity of residential alcohol and other drug rehabilitation services in the ACT. Additional funding is also provided by non-government charities.

Demographics of people attending drug and alcohol treatment in the ACT

ACT Health Directorate funds ATODA to conduct a three-yearly snapshot survey of treatment consumers from both pharmacotherapy and non-pharmacotherapy-based services, the Service Users' Satisfaction and Outcomes Survey (SUSOS). On the SUSOS census day in 2018, the profile of drug and alcohol treatment service consumers was as follows:

- 58.3 per cent male;
- 37.5 years average age;
- 31.0 per cent Aboriginal and/or Torres Strait Islander;
- 20.4 per cent with a disability;
- 49.9 per cent over 18+ with Year 10 or less as their highest level of education;
- 61.2 per cent of adults are parents;
- 69.5 per cent unemployed or not working;
- 30.1 per cent homeless or at risk of homelessness ; and
- 88.6 per cent living in the ACT (1 in 5 in Tuggeranong).⁶¹

⁵⁹ See <https://www.aihw.gov.au/reports/alcohol-other-drug-treatment-services/alcohol-other-drug-treatment-services-aus/contents/key-findings/data-visualisations>

⁶⁰ Australian Institute of Health and Welfare (2020). National Opioid Pharmacotherapy Statistics Annual Data Collection 2019.

⁶¹ Alcohol, Tobacco and Other Drug Association ACT (2020). 2018 ACT Service Users' Satisfaction and Outcomes Survey.

There are high levels of customer satisfaction with ACT alcohol, tobacco and other drug services. The 2018 SUSOS found that overall client satisfaction was 92.4 per cent. In addition, 75.3 per cent said their drug use had reduced as a result of using the relevant treatment service.

Waiting times to access ACT drug treatment services

ACT residents must be prioritised for access to ACT treatment services over people from other states and territories seeking to access services in the ACT. Individual services may also triage access to services based on need, for example prioritising people at higher medical risk, and pregnant women and young people.

The ACT does not have a single centralised waiting list for treatment services - individual services maintain their own waiting lists and it is possible for individuals to be waiting on a waiting list for more than one service.

Waiting times depend partly on service type: long-term residential rehabilitation programs often have longer waiting times because of the length of programs and slower client turnover. Waiting times for shorter-term or less intense treatments with higher turnover are often much shorter.

People on waiting lists for rehabilitation programs must be offered less intensive treatment and support options while waiting for admission. Waiting lists for AOD treatment services are also impacted by staff availability. Alcohol and Drug Services (ADS) at CHS is experiencing ongoing staff shortages for counselling positions, as are services in other jurisdictions. A range of ongoing workforce recruitment strategies are being developed through Canberra Health Services' Mental Health, Justice Health and Alcohol and Drug Services Workforce Committee. These include:

- redesign of positions such as implementation of Nurse Practitioner role;
- restructure of positions to enable career pathways to attract suitable applicants and support succession planning;
- recruiting counsellors and nurses who can be developed into the roles by ensuring they have regular access to mentors;
- timely training to support clinical skill development; and
- ensuring ADS has a flexible workforce where clinical staff can work across multiple programs and multiple sites. E.g. ADS nursing and medical staff work at the public clinics and community health centres to improve client access to services.

CHS has a Clinical Governance Framework in place, where the Partnering with Consumers Standard, which is part of the National Safety and Quality Health Standards, is embedded. There is consumer representation at meetings at all levels including ADS. Consumer feedback is welcomed and listened to. For example, following feedback regarding the difficulties people living in North Canberra experienced in accessing opioid maintenance therapy at Canberra Hospital, CHS opened the Northside opioid maintenance therapy dosing clinic in December 2020.

Government initiatives to increase and improve services

Since the commencement of the ACT Drug Strategy Action Plan in 2018, multiple improvements and adaptations have been made to the ACT alcohol and other drug treatment system, including to respond to increased diversion from the criminal justice system. In the 2019-20 ACT Budget more than \$10 million in new funding was provided for alcohol and drug responses, including:

- \$1.080 million to expand treatment availability in the Alexander Maconochie Centre;
- \$1.246 million over four years to expand access to take-home naloxone - this work has now been contracted and is ongoing;
- \$200,000 to commission work to examine the feasibility of a potential medically supervised injecting facility in the ACT - the feasibility study has been completed;
- \$3.014 million over four years to open and operate an opioid treatment clinic in Canberra's north - the northside clinic opened in December 2020;
- \$2.93 million over four years to expand early intervention and diversion programs for people in contact, or at risk of contact with the criminal justice system - additional staff have been employed with this funding and services reviewed;
- \$2.1 million to implement the National Real Time Prescription Monitoring system to reduce pharmaceutical related harms; and
- \$300,000 for co-design and planning for an Aboriginal and Torres Strait Islander Alcohol and Drug Residential Rehabilitation Facility – this work is ongoing.

Since 2018 key improvements to treatment services include:

- incorporation of direct screening, assessment and treatment for hepatitis C as part of services provided by Canberra Health Services Alcohol and Drug Services;
- introduction of the ACT Drug and Alcohol Court program and increased funding to treat people referred by the court;
- a supportive policy environment for pill testing at Groovin' the Moo festivals in April 2018 and April 2019;
- an investment of \$250,000 to Alcohol, Tobacco and Other Drug Association ACT to upskill alcohol and drug treatment services in responding to domestic and family violence;
- joint funding with Capital Health Network and John James Foundation of the Mobile Primary Care Outreach Clinic (“Pat”, or Pathways to Assistance and Treatment) delivered by Directions Health Services. This mobile outreach service provides weekly integrated primary care, appropriate acute care services (health, mental health and AOD), and access to a range of supports to highly vulnerable people with complex service needs at five locations across the ACT for free and without an appointment;
- roll out of new long-acting opioid treatment medications in both correctional centres and community settings; and
- rapid adaption of services to respond to COVID-19, including transfer of face-to-face services to online delivery, and ensuring secure and ongoing delivery of opioid maintenance treatment to people in quarantine or isolation.

Implementation of the ACT Drug Strategy Action Plan during 2019 and the first half of 2020 is summarised in the [ACT Drug Strategy Action Plan 2018-2021: Progress Report 2019-20](#).

Drug treatment services have experienced additional pressures due to the COVID-19 pandemic. The capacity of bed-based services, for example, has been reduced by infection control and social distancing requirements during the COVID-19 period, while other services had to suspend in-person face-to-face services during lockdown.

Strenuous efforts were made by both the sector and the ACT Government to maintain access to treatment services during the COVID-19 pandemic period, particularly access to opioid pharmacotherapy treatment. The ACT Government convened a whole of sector working group, including representation from all specialist service providers, to coordinate the sector response. The group met at least monthly during 2020.

The ACT Government provided an additional \$518,000 to support alcohol and drug services to respond to the COVID-19 pandemic, including \$200,000 in flexible funding to respond to demand pressures or innovate in the way essential services are delivered. Additional funding was also provided to support a continuing supply of opioid treatment medications. The Alcohol, Tobacco and Other Drug Association ACT received funding during the COVID-19 pandemic to train alcohol and other drug treatment staff to ensure they provide current information to consumers on drugs and COVID-19.

As acknowledged in the ACT Drug Strategy Action Plan 2018-2021, there is a strong relationship between marginalisation and social disadvantage and poor health and wellbeing. Access to health care, secure income, adequate housing and living conditions, education, health promoting environments and social supports are all important enablers in maximising health and wellbeing. These powerful environmental influences are sometimes called the social determinants of health.

Drug related harms tend to disproportionately affect people who are socially disadvantaged. Drug problems, and particularly drug addiction in turn compound inequality and social disadvantage. Addiction is one of the key ‘social determinants of health’ alongside other social factors such as stress, early life events, unemployment and food.⁶² It is recognised in the ACT Drug Strategy Action Plan that a criminal record for a minor drug offence may increase stigma and disadvantage, and that the ACT Government is therefore committed to increase diversions from the criminal justice system. The National Drug Strategy identifies the need for integrated and systems-based partnerships to take action to address the social determinants of health.

The ACT Government is continuing to work to increase the accessibility and affordability of alcohol, tobacco and other drug service provision in the ACT, and to further improve treatment quality by fully implementing the National Quality Framework for Drug and Alcohol Treatment Services and the National Treatment Framework for Alcohol, Tobacco and Other Drug Treatment 2019-2029, in line with national processes. An example of Government action to increase the affordability of treatment is that Canberra Health Services provides supplementary funding to community pharmacies to reduce the cost of opioid treatment medication to consumers to increase the likelihood that they remain in treatment and contributing to their health and social wellbeing.

Improving linkages between ATOD services and other wrap-around support services such as housing, mental health, primary care and domestic and family violence services is a key priority. Improved linkages between ATOD services and mental health services to better address co-morbidity is a key feature of the 20 August 2020 ACT Legislative Assembly Resolution on alcohol and other drug harm minimisation, the current ACT Action Plan, and election commitments. ACT Health Directorate is also working with the alcohol, tobacco and other drug sector and the Office of the Coordinator-General

⁶² Wilkinson R and Marmot M (2003). Social determinants of health: the solid facts. Second edition. World Health Organization: Europe.

for Family Safety on trialling the ACT Government Domestic and Family Violence Framework in the sector.

Treatment Services for Aboriginal and Torres Strait Islander people

As indicated in the ACT Drug Strategy Action Plan 2018-2021, the ACT Government recognises that alcohol, tobacco and other drug use are key factors contributing to the gap in health outcomes between Aboriginal and Torres Strait Islander peoples and other Australians. The *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028* outlines the ACT's priorities to enable equitable outcomes for Aboriginal and Torres Strait Islander people in the ACT, in line with the National Agreement on Closing the Gap. Under this Agreement, the 'Significant Focus Area: Health and Wellbeing' includes a commitment to collaborate with Aboriginal and Torres Strait Islander services and other stakeholders to determine specialist AOD implementation priorities, including residential rehabilitation for Aboriginal and Torres Strait Islander peoples. This commitment is also included in the ACT Drug Strategy Action Plan 2018-2021.

The rate of people identifying as Aboriginal and Torres Strait Islander who access alcohol and other drug treatment services is well above the population level both nationally and in the ACT and this must be addressed. The ACT Government recognises that the rate of Aboriginal and Torres Strait Islander people treated for alcohol and other drug problems reflects the historical disadvantage and discrimination experienced by Aboriginal and Torres Strait Islander peoples.

Specialist Aboriginal and Torres Strait Islander health services are provided by Winnunga Nimmityjah Aboriginal Health and Community Services, Gugan Gulwan Youth Aboriginal Corporation, and the Connection, the Aboriginal and Torres Strait Islander Peer Support Service.

The ACT Government is committed to a culturally-specific ACT Alcohol and Other Drug Residential Rehabilitation Facility for Aboriginal and Torres Strait Islander people, and to constructing a new building for Gugan Gulwan during the term of the current Government.

Aboriginal and Torres Strait Islander community representatives called for increased, better and targeted drug and rehabilitation services at a Roundtable with four ACT Government Ministers on 25 March 2021. These representatives noted that some local people with substance disorders have had to seek treatment in Queensland to get timely and supportive services. The call for these services from the Aboriginal and Torres Strait Islander community has been echoed at other meetings with ACT Justice and Community Safety Directorate in recent months.

Aboriginal and Torres Strait Islander people can access general community alcohol, tobacco and other drug services, and people may choose to do so. All ACT alcohol, tobacco and drug treatment services are required to deliver culturally appropriate services. ADS also provides the service of an Aboriginal Liaison Officer services to support Aboriginal people in alcohol, tobacco and other drug treatment. Some people may choose to access services outside the ACT, including in their area of origin.

The ACT Government recognises that there is the potential for further development of culturally appropriate alcohol, tobacco and other drug treatment programs in the ACT, and this will be a focus of the next iteration of the ACT Drug Strategy Action Plan.

The ACT Drug and Alcohol Court

The ACT's Drug and Alcohol Court⁶³ commenced operations on 3 December 2019. The Drug and Alcohol Court deals with offences that relate to serious drug and alcohol use. It protects the community and reduces offending by rehabilitating high risk and high need offenders who have serious issues with drug and/or alcohol use.

The aim of the Drug and Alcohol Court is to achieve long-term behavioural change, taking a problem-solving approach to dealing with a participant's behaviour and supporting participants to develop a pro-social lifestyle. The Drug and Alcohol Court provides targeted and structured health and justice interventions. Participants have individualised treatment and sentence management plans that include intensive judicial supervision, frequent drug and alcohol urine and breath testing, and regular and ongoing contact with health and corrections staff.

As of 18 March 2021, there have been 56 referrals to the Drug and Alcohol Court, with 14 participants on Drug and Alcohol Treatment Orders and 11 currently undergoing assessment for suitability.

Other ACT treatment related to the criminal justice diversion

As noted in Table 1 (pages 13-14) the ACT operates several other treatment services and programs to support people diverted from the Criminal Justice System. These include education programs for people who have been found guilty of or convicted of a specified drink/drug-driving offences.

The ACT Government approach to drug policy

The ACT Government's drug policy approach sits within the context of the *National Drug Strategy 2017-2026*. The national policy approach aims to build safe, healthy and resilient communities through preventing and minimising alcohol, tobacco and other drug-related health, social, cultural and economic harms to individuals, families and communities. The national approach to drug policy encompasses alcohol, tobacco, illegal drugs and pharmaceutical drugs used for non-medical purposes within its policy scope, although sub-strategies addressing individual drugs or specific drug types sit below this strategy, for example the national strategies that are specific to alcohol, tobacco and ice.

The national policy approach is harm minimisation, comprising the three pillars of: supply reduction, demand reduction and harm reduction. The ACT's drug policy approach is aligned with the national approach, which is in turn aligned with international conventions, laws and policy.

The ACT Government has consistently supported innovative approaches to reduce drug-related harms. In August 2020 the ACT Legislative Assembly passed a resolution noting the nation-leading approach taken by the ACT Government in advancing a harm minimisation approach to alcohol and other drug policy, including: implementing the actions outlined in the ACT Drug Strategy Action Plan 2018-21; passage and implementation of legislation to allow for possession and personal use of small amounts of cannabis; development of the Festivals Pill Testing Policy following the festival pill testing at Groovin' the Moo festivals in 2018 and 2019, and the release of the Australian National University evaluation of the pill testing pilots.

⁶³ The Drug and Alcohol Court may also be referred to as the Drug and Alcohol Sentencing List (DASL).

The ACT Government routinely monitors drug policy in other jurisdictions and consults with other jurisdictions. Recent examples of projects which were informed by examining best practice elsewhere include development of the ACT Drug and Alcohol Court, consultations on a potential Medically Supervised Injecting Facility, and the current project to develop an ACT Aboriginal and Torres Strait Islander AOD residential rehabilitation facility. Other jurisdictions also seek information from the ACT, for example on pill testing.

In 2019 the ACT Government implemented the DAPIS Online Remote Access (DORA) real time prescription monitoring platform for health practitioners to assist reduce pharmaceutical related harms including deaths in the community.

The ACT Government is also working with the Commonwealth and other jurisdictions to implement the national Real Time Prescription Monitoring system, consistent with a Council of Australian Governments Health Council commitment in April 2018. Due to the impact of COVID-19 and Commonwealth vendor issues, it is expected that it will be implemented by the end of 2021.

The ACT Drug Strategy Action Plan 2018-2021

The National Drug Strategy requires each jurisdiction to develop a “strategy action plan” which details local priorities and activities under the principle “national direction, jurisdictional implementation”. The national strategy envisages a balance across supply reduction, demand reduction and harm reduction.

The ACT Drug Strategy Action Plan 2018-2021 (the ACT Action Plan) committed to an ambitious agenda of alcohol, tobacco and other drug initiatives informed by key stakeholder and public consultation. Evaluating the ACT Action Plan is a commitment contained in the Action Plan. A working group to advise on the evaluation was established in December 2019. The working group reports to the ACT Drug Strategy Action Plan Advisory Group.

The ACT Drug Strategy Action Plan 2018-2021 includes commitments to:

- implement actions to address or expand overdose prevention and responses;
- work to improve the two-way pathways between alcohol and other drug treatment and primary care;
- expand alcohol and other drug services to meet the needs of the growing ACT population;
- implement the National Treatment Framework and National Quality Framework;
- better respond to co-occurring alcohol and other drug and mental health disorders;
- support development of a skilled and diverse workforce;
- collaborate with Aboriginal and Torres Strait Islander services, specialist AOD services and other stakeholders to determine specialist implementation priorities; and
- investigate the feasibility of a potential ACT medically supervised injecting facility: the [feasibility report](#) by the Burnet Institute was released on 25 March 2021.

Future approaches

The ACT Government will continue to take a harm minimisation approach to alcohol and other drug issues and will continue to invest in community and hospital-based alcohol and other drug and mental health services and work to better integrate such services.

The ACT Government recognises there is scope to develop service models to meet identified gaps in the alcohol and other drug treatment system. ACT Health Directorate intends to undertake detailed service planning in 2021, in close consultation with the ATOD sector and broader community, to inform future investment in the sector.

The ACT Government will work to:

- improve access to ATOD services, including culturally appropriate services;
- improve links between ATOD and related services;
- make effective use of data to focus on evidence and impact to provide high quality ATOD services when and where they are needed;
- maintain and ensure person-centred services led by a capable workforce;
- implement the National Quality Framework and National Treatment Framework to ensure quality standards are met;
- collaborate with the Capital Health Network and the Australian Government to ensure effective coordination of funding;
- collaborate with the alcohol and other drug sector to ensure sustainable investment in evidence-based and practice-informed harm minimisation responses;
- ensure that the right tools are in place, including appropriate regulation and enforcement approaches and diversion from criminal justice system;
- cultivate innovative approaches to harm minimisation, but also maintain and improve on what is already working well; and
- work within the context of people’s lives to ensure that the necessary conditions are in place for them to thrive, for example, stable housing, access to employment, and social opportunities.

There are a number of opportunities to improve service mix. These include:

- expanding consumer consultation, including people who might use treatment but are not currently doing so;
- further development of prevention, treatment and support programs for Aboriginal and Torres Strait Islander peoples;
- ensuring a suitable balance of probity and transparency and non-onerous reporting;
- ensuring that the data gathered is the most important data and is used to improve services and to respond to client needs;
- improving facilities at a number of ACT Health-funded alcohol and other drug services that have been assessed as either in fair or poor condition;

- improving linkages between services – for example with general practitioners, mental health services and housing;
- considering need and demand for specialised services, for example for methamphetamine/stimulants, or additional services for young people;
- attracting people to services by better explaining what they are and how they work;
- strengthening integrated harm minimisation initiatives;
- increasing the number of GPs who prescribe opioid maintenance treatment;
- providing suitable services for the growing population and considering geographical balance;
- ensuring that diversion programs operate optimally;
- making cost-effective use of funding to ensure that it is well targeted and that services are both accessible and of suitable intensity for the needs of service users, for example by using stepped care approaches;
- ensuring an appropriate balance between the needs of people referred from the criminal justice system and those using treatment voluntarily;
- exploring further options for closer collaboration between funding bodies, such as joint commissioning and report and a potential shared outcomes framework;
- considering future funding needs in light of the findings of the Inquiry; and
- developing a new ACT Drug Strategy Action Plan with the sector to ensure actions are focussed on addressing key population groups over the coming three years. The new Plan will also incorporate accepted recommendations of the Inquiry.

Attachment A1 – Detailed summary of ACT Alcohol, tobacco and other drug treatment services and alignment to the National Framework for Alcohol, Tobacco and Other Drug Treatment 2019-2029.

A comprehensive description of services designed for consumers can be found on the Alcohol, Tobacco and Other Drug Association ACT (ATODA) ACT Alcohol, Tobacco and Other Drug Services Association ACT [Online Directory](#). The ACT Government funds ATODA to compile and maintain this site.

Further information can also be obtained from individual service websites including [Canberra Alliance for Harm Minimisation and Advocacy](#) (CAHMA), [Canberra Health Services Alcohol and Drug Services](#), [CatholicCare](#), [The Connection](#), [Directions Health Services](#), [Gugan Gulwan Youth Aboriginal Corporation](#), [Ted Noffs Foundation](#), , and [Toora Women Inc](#) and [Winnunga Nimmityjah Aboriginal Health Services](#).

ACT alcohol, tobacco and other drug treatment services: alignment to the National Framework for Alcohol, Tobacco and Other Drug Treatment and main funding sources.

Intervention type	Service element	Available in ACT?	Details	Funding source
Interventions to Reduce Harm	Sobering Up Shelters	Yes	The ACT Sobering Up Shelter operated by CatholicCare provides overnight support, care, and monitoring for people over the age of 18 who are intoxicated from alcohol and other drugs in its five-bed facility. The shelter provides an alternative to overnight detention at the ACT Watchhouse.	ACT Government
	Needle and Syringe Programs (NSPs)	Yes	Directions Health Services manages the ACT Needle and Syringe Program which provides an extended range of sterile injecting equipment and other services to people who inject drugs including information and education, crisis support, brief interventions and referrals to health and social services.	ACT Government
			Directions Health Services operates ACT primary Needle and Syringe Program Services where the core business is needle and syringe provision. Other services provide secondary Needle and Syringe services as part of a	ACT Government

Intervention type	Service element	Available in ACT?	Details	Funding source
			broader range of health services, including Hepatitis ACT, Winnunga Nimmityjah and ACT Government nurse-led walk-in centres.	ACT Government
			Directions Health Services operates several sterile equipment vending machines for out of hours access.	ACT Government
			Transport Canberra and City Services provides waste collection for used equipment.	
Supervised consumption centres	No		This option of a supervised drug consumption centre is being considered by the ACT Government. A feasibility report by the Burnet Institute a potential ACT supervised consumption facility was released on 25 March 2021.	Not applicable
Drop-in services	Yes		Ted Noffs Foundation Community Outreach Outclient Program (Street University) supports young people aged 12–17 years who are experiencing alcohol and other drug issues in the community, and who do not want or need residential rehabilitation services.	ACT Government
			The Gugan Gulwan Youth Aboriginal Corporation offers access alcohol, tobacco and other drug information, support, advocacy for young Aboriginal and Torres Strait Islander people aged 12–25 years.	ACT Government
			Canberra Alliance for Harm Minimisation and Advocacy (also known as CAHMA) offers drop-in access to its peer support services and overdose prevention brief intervention program.	ACT Government
Peer support	Yes		Canberra Alliance for Harm Minimisation and Advocacy is peer-based users group run by and for past or current illicit/injecting drug users, their families, and friends. CAHMA provides education and information on the range of drug treatment services available to suit individual needs, assists with	ACT Government and Capital Health Network

Intervention type	Service element	Available in ACT?	Details	Funding source
			<p>accessing treatments and provides advocacy support for clients during and after treatment.</p>	
			<p>The Connection provides a peer-based support and education service for Aboriginal and/or Torres Strait Islander people and their friends and family. The Connection service aims to reduce the harms associated with alcohol & other drugs, with a focus on illicit and/or injecting drug use.</p>	Capital Health Network
			<p>Directions Health Services provides a range of support and self-help groups for people experiencing alcohol, tobacco and other drug issues, their families, and friends.</p>	ACT Government
			<p>Peer support organisations such as Alcoholics Anonymous and Narcotics Anonymous are also available, but are self-organising and not funded by Governments.</p>	Self-funding
Overdose prevention	Yes		<p>Canberra Alliance for Harm Minimisation and Advocacy operates a Naloxone distribution program for illicit and injecting drug users which provides training, naloxone, and relevant information with the aim of reducing and reversing overdoses. CAHMA provides also provides overdose response and naloxone training to other alcohol and drug service providers.</p>	ACT Government
			<p>Canberra Health Services Alcohol and Drug Services provides overdose response training and naloxone. ACT primary needle and syringe services provide overdose response training.</p>	ACT Government
			<p>Access to Naloxone is offered on discharge from correctional facilities (a high risk period).</p>	ACT Government

Intervention type	Service element	Available in ACT?	Details	Funding source
			The ACT Government currently provides grant funding to the Australian Red Cross for the save-a-mate overdose response program for young people and their parents.	ACT Government
	Family support	Yes	Canberra Health Services Alcohol and Drug Services provides counselling, including counselling for family members.	ACT Government
			The Canberra Health Services 24-hour helpline provides advice on assisting and managing people who may have alcohol and other drug issues. ACT residents are also able to access the national Family Drug Support hotline.	ACT Government & Australian Government
			Canberra Alliance for Harm Minimisation and Advocacy provides peer support for drug users and their families and friends.	ACT Government
			The Connection provides support and education for Aboriginal and/or Torres Strait Islander people and their friends for family.	Capital Health Network
			Directions Health Services provides support and self-help services including for partners and families.	ACT Government
			The Karralika Family Program provides up to 12 months of residential rehabilitation within a therapeutic community setting for adults with alcohol and other drug problems with accompanying children up to the age of 12.	ACT Government
Interventions to screen, assess, coordinate	Screening and Brief Intervention	Yes	Screening and brief intervention take place in several settings including primary care, such as general practice services, hospitals and emergency departments and drop-in services.	ACT Government, Australian Government

Intervention type	Service element	Available in ACT?	Details	Funding source
	Assessment	Yes	<p>All government-funded services provide assessment for intake into programs as required component of service delivery, excepting low intensity services such as needle and syringe programs.</p> <p>Canberra Health Services Police and Court Drug Diversion Service programs aim to divert people apprehended for AOD use or AOD related offences from the judicial system into the health system following assessment for suitability and matching to programs.</p> <p>The Canberra Health Services Alcohol and Drug Service Consultation and Liaison Service provides specialised assessment in the Canberra Hospital.</p> <p>The Canberra Health Services Alcohol and Other Drug Services provides a 24-hour helpline that provides information on alcohol and other drugs and associated issues.</p>	ACT Government ACT Government ACT Government ACT Government
	Consultation Liaison	Yes	Canberra Health Services Alcohol and Drug Services provides consultation and liaison support, assessment information, and referrals for people in Canberra Hospital who are experiencing alcohol, tobacco and other drug issues.	ACT Government
	Case management and Care cooperation	Yes	<p>The Directions Health Service Treatment and Support Service provides case management and support services for individuals, their partners, families, and friends impacted by alcohol, tobacco, and other drugs.</p> <p>CatholicCare AOD Support Connections offers short-term case management and assertive outreach for individuals experiencing issues related to alcohol and other drug use.</p>	ACT Government Capital Health Network

Intervention type	Service element	Available in ACT?	Details	Funding source
Intensive Interventions	Withdrawal management	Yes	Toora Women Inc provides case management as part of its alcohol and other drug day program.	ACT Government
			Gugan Gulawn offers case management and court support for young Aboriginal and Torres Strait Islander people aged 12-25 years.	ACT Government
			Canberra Health Services Police and Court Drug Diversion Service programs support coordination of alcohol and other drug treatment and support between the justice and health systems. Similar services are provided for the ACT Drug and Alcohol Court, as well as for diversions from other courts and from police diversion programs.	ACT Government
			Ted Noffs Foundation and Gugan Gulwan provide in-reach services to the Bimberi Youth Justice Centre. Karralika Justice Services.	ACT Government
			Canberra Health Services Alcohol and Drug Services (10 beds) provides up to seven days of medicated residential inpatient support for people experiencing withdrawal from alcohol and other drugs.	ACT Government
			Residential non-medicated withdrawal beds are at their residential rehabilitation facilities at the Ted Noffs Foundation adolescent withdrawal program, and at Directions Health Services Arcadia House which provides residential 7–14 day non-medicated withdrawal support.	ACT Government
			Karralika provides a non-residential withdrawal program to support ACT residents with predicated mild to moderate withdrawal symptoms to safely reduce or withdraw from psychoactive substances in the comfort of their own home, in order to enter a specialist residential or day rehabilitation program.	Capital Health Network & ACT Government

Intervention type	Service element	Available in ACT?	Details	Funding source
	Psychosocial counselling	Yes	<p>Canberra Health Service, Alcohol and Drug Services (ADS) provides specialist alcohol, tobacco and other drug counselling for adults, young people, family members and carers including a range of therapeutic and education groups.</p> <p>CatholicCare Canberra and Goulburn provides counselling and therapeutic interventions through an outreach approach.</p> <p>Toora Women Inc provides counselling for women with alcohol and other drug issues and other complex traumas.</p> <p>Directions Health Services Treatment and Support Services provides counselling for individuals, partners, families and friends.</p> <p>Karralika Inc provides specialist alcohol, tobacco and other drug counselling support for community-based individuals connected to Justice Services in the ACT (e.g. Community Corrections and Alexander Maconochie Centre), or those who have concluded with these services within the last three months. The program focusses on supporting people to transition back to the community.</p> <p>The ACT Government contracts NSW Quitline to provide smoking cessation counselling services for ACT.</p>	ACT Government Capital Health Network ACT Government ACT Government Capital Health Network ACT Government
Rehabilitation	Yes		Residential rehabilitation programs are provided by Karralika Programs Inc (44 beds), the Salvation Army Bridge Program ACT (39 beds, Directions Health Services Arcadia House (11 beds), and Ted Noffs Foundation ACT Program for Adolescent Life Management (10 beds). Five residential rehabilitation beds are dedicated to ACT Drug and Alcohol Court Program Participants.	ACT Government & self-funding ACT Government

Intervention type	Service element	Available in ACT?	Details	Funding source
			Karralika Inc's Short Stay Program provides up to 8 weeks of residential rehabilitation within a therapeutic community setting for single adults and couples with alcohol and other drug issues. The Karralika Therapeutic Community Adult Program provides up to 12 months of residential rehabilitation within a therapeutic community setting for single adults and couples with alcohol and other drug problems. The Karralika Family Program Provides up to 12 months of residential rehabilitation within a therapeutic community setting for adults with alcohol and other drug problems with accompanying children up to the age of 12.	ACT Government
			Karralika also operates the Solaris Therapeutic Community Program that provides a therapeutic community program for adult males in the Alexander Maconochie Centre (AMC) with moderate to severe alcohol and other drug dependence.	ACT Government
			The ACT Salvation Army Bridge Program provides residential rehabilitation program for people experiencing alcohol and other drug and/or gambling dependencies.	ACT Government, Salvation Army
			The Ted Noffs Foundation Program for Adolescent Life Management Provides up to three months residential rehabilitation for young people aged between 13–17 years experiencing alcohol and other drug issues. The Continuing Adolescent Life Management Program provides up to three years of aftercare for young people who have completed the residential program.	ACT Government
			The Directions Arcadia House Program provides withdrawal, residential and day treatments for clients who wish to cease their use of alcohol, tobacco and other drugs, including: 7–14 day non-medicated withdrawal support for people experiencing withdrawal; 12-week day program; and 12-week combined residential rehabilitation and day program.	ACT Government

Intervention type	Service element	Available in ACT?	Details	Funding source
			<p>Non-residential day rehabilitation programs are provided by Directions Health Services and Toora Women Inc. The Toora Program 8-week alcohol and other drug day rehabilitation program provides information, education, case management and counselling, to women to minimise the harms associated with alcohol and other drug dependency. Approximately 22 day rehabilitation places have been dedicated annually to ACT Drug and Alcohol Court Program participants.</p>	ACT Government
			<p>Toora Women Inc also provides a program of three months of supported accommodation and outreach support for women (including those with accompanying children) who are experiencing AOD problems. Toora also provides transitional supported accommodation, for a maximum of 12 months depending on individual circumstances, for women experiencing alcohol and other drug problems and accompanying children.</p>	ACT Government
			<p>Supportive transitional housing programs are also provided by the Salvation Army, Karralika and Toora services.</p>	ACT Government & self-funding
Pharmacotherapy	Yes		<p>Canberra Health Service, Alcohol and Drug Services provides opioid substitution treatment and coordinates care by working with other health and pharmacotherapy services. A new northside clinic opened in December 2020, supplementing the existing clinic at the Canberra Hospital. Opioid pharmacotherapy treatment is also provided in the ACT adult correctional facility, the Alexander Maconochie Centre.</p>	ACT Government
			<p>Doctors also prescribe opioid pharmacotherapy in community settings and medications are provided through dosing at community pharmacies. Treatment prescribers for community dosing include doctors at Canberra Hospital, the Northside opioid Clinic, Winnunga Nimmityjah, Directions Althea Wellness Centre in Woden, Interchange General Practice in the Civic</p>	Australian Government Pharmaceutical Benefits Scheme &

Intervention type	Service element	Available in ACT?	Details	Funding source
			<p>and Interchange Health Co-op Tuggeranong. The ACT government provides additional funding to support low cost access for consumers to these medications when dispensed at community pharmacies.</p>	Medicare Benefits Payments ACT Government
			<p>Effective medications are also available through a doctor's prescription to treat alcohol use disorders and to support smoking cessation.</p>	Australian Government
			<p>The ACT Government provides funding to support providing nicotine replacement therapy to alcohol and drug treatment clients. Alcohol, Tobacco and Other Drug Association ACT (ATODA) coordinates this program.</p>	ACT Government