



ATT: Dr Mike Freeland MP
Chair, House of Representatives Standing Committee on Health, Aged Care and Sport
PO Box 6021
Parliament House
CANBERRA, ACT 2600

E: Health.Reps@aph.gov.au

30 September 2024

Submission to the Inquiry into the Impact of Alcohol and Other Drugs (AOD) in Australia

Dear Dr Freeland and Committee members,

Harm Reduction Australia (HRA) appreciates the opportunity to provide this submission to the Inquiry into the Impact of Alcohol and Other Drugs (AOD) in Australia.

HRA is a national organisation committed to reducing the health, social and economic harms potentially associated with drug use and drug policy responses. HRA is a membership-based organisation that represents the views of its members who are advocates for the continuation and expansion of harm reduction policies in Australia. HRA takes a non-judgmental approach to drug use within society and aims to ensure that drug policies in Australia first and foremost do no harm and provide real benefit to Australian society through evidence-informed and humane responses to drug use. Further information on HRA can be found on our website [here](#).

Our submission will address the Committee's terms of reference (ToR) by outlining issues and recommendations for improving health, social, and economic outcomes in relation to AOD use in Australia. While we have addressed ToR a), b) and c) separately within the submission, for ToR d) on domestic and international best practice examples, we have opted to weave those examples throughout our responses to the first three ToR.

We have also opted to limit our comments to harm reduction specifically, and the critical role of the harm reduction sector in the Australian AOD response. We have taken this approach, in part because harm reduction is our area of focus and expertise, but also, to highlight harm reduction as a chronically neglected and under-resourced area within the Australian AOD response.

Summary of Recommendations:

1. Improving the Effectiveness of Australia's AOD Response

More Balanced Response – Recommendations

- Australian Governments (at federal and state/territory levels) should ensure a balanced and equitable investment in drug policy spending across the 3-pillars.
- The Australian Government should implement Recommendations 2 and 3 of the Joint Committee on Law Enforcement's *Australia's illicit drug problem: Challenges and opportunities for law enforcement* inquiry report.

National Drug Strategy – Recommendations

- The Australian Government must address the lack of human rights principles within the National Drug Strategy as a matter of urgency.

Effective & Accountable Governance & Funding Arrangements – Recommendations

- The Australian Government must:
 - address the current governance vacuum in relation to the National Drug Strategy as a matter of urgency.
 - reconvene the National Indigenous Drug & Alcohol Committee (NIDAC)
 - undertake a detailed review of the current funding arrangements for AOD services in Australia with the view to creating a more conducive funding environment and ensuring the long-term sustainability of the sector as a whole.
 - establish a national advisory body that feeds into federal drug policy that is led by community.

Drug Policy & Law Reform – Recommendations

- State/Territory Governments should:
 - adopt a full decriminalisation model for all illicit drugs (with cannabis regulated separately – see below) to reduce the health and social harms associated with prohibition and its effects.
 - establish a federal legal regulation framework for cannabis to replace the current prohibitionist approach.

Systemic Stigma & Discrimination – Recommendations

- Australian Governments should:
 - extend anti-discrimination laws to specifically protect people who use or have used illicit drugs from stigma and discrimination in various areas, including employment, education, health care, housing, and access to services – these protections should cover individuals regardless of whether the drug use is deemed legal or illegal.
 - establish rights-based policies and frameworks that combat the stigma and discrimination present within AOD treatment and harm reduction services.
 - provide community-led training for health care providers and law enforcement on reducing stigma in their interactions with people who use drugs should be

mandatory to foster a more supportive and rights-based approach.

Intersection of Racism & Criminalisation – Recommendations

- Australian Governments should:
 - mandate the release of community profiling data from all police forces to ensure transparency and accountability including analysing racial disparities in stop-and-search, arrest, and sentencing practices.
 - introduce mechanisms to hold police services accountable for racialised policing practices to address the discriminatory impacts of current drug laws.
- Australia should raise the age of criminal responsibility from 10 to 14 years to comply with international human rights standards and reduce the disproportionate incarceration of Aboriginal and Torres Strait Islander children.

2. Equity of Access: Current Gaps in Harm Reduction in Australia

Reducing Overdose Deaths – Recommendations

- The Australian Government should:
 - lead the development of a National Overdose Prevention Sub-Strategy as a matter of urgency.
 - Significantly increase the current \$20million Australian Government investment in the Take Home Naloxone (THN) Program to ensure that all pharmacies provide Naloxone free of charge and police officers across all jurisdictions carry and are trained in the use of naloxone.

Early Warning Systems – Recommendations

- The Australian Government should:
 - lead on the development of a national EWS system, co-led by Health, Customs, Police and community (as modelled in Aotearoa/New Zealand) with a focus on for public health and harm reduction benefits for the Australian community rather than having a primary focus on research and/or policing purposes.
 - work with state/territory governments to improve the data collection feeding into EWS including for regional and rural areas, with a careful approach to protecting privacy and confidentiality especially for local and/or Indigenous communities.
 - support push alert systems rather than rely solely on the current passive alert systems in place.

Festival-Based Harm Reduction – Recommendations

- All State/Territory Governments should:
 - end the use of harmful policing practices such as passive alert detection or sniffer dog operations and strip searching at music festivals, events and in public spaces in all states and territories.
 - expand and secure greater funding for peer-based harm reduction services at music festivals and events in all states and territories.

Lack of Access to Drug Checking/Pill Testing – Recommendations

- All state/territory governments urgently implement pill testing/drug checking services in states and territories where such services do not currently exist.
- The ACT, Qld and Vic governments continue to provide pill testing/drug checking services and expand and secure ongoing funding and access to those services.

Safe Injecting Facilities/Drug Consumption Rooms – Recommendations

- The Australian Government to show national policy leadership on the importance of safe injecting facilities/drug consumption rooms to reduce negative attitudes at a local and community level.
- All state and territory governments fund and implement safe injecting facilities/drug consumption rooms where there is a demonstrated need in the community.
- All state and territory governments should investigate new and more cost-effective models for the provision of safe injecting facilities/drug consumption rooms.

Access to AOD Treatment – Recommendations

- The Australian Government should work in partnership with state/territory governments to:
 - increase the scale of funding for evidence-based AOD treatment services in Australia to better meet the demand for treatment in the community particularly in regional and rural areas and to under-served populations.
 - increase the scope of evidence-based AOD treatment services available in Australia including new medications (e.g., heroin-assisted treatment, methamphetamine pharmacotherapies, etc.) and formulations of treatment (e.g., injectable, etc.)
 - prioritise and lead a process to review and update the *National Clinical Guidelines for Medication-Assisted Treatment for Opioid Dependence*.

Medicinal Cannabis – Driving & Roadside Drug Testing – Recommendations

- All state and territory governments to establish a legal defence for medicinal cannabis prescription holders who are charged with the presence of THC in their system while driving (not impaired).

NSP in Prisons – Recommendations

- Australian governments at the federal and state/territory levels must:
 - meet their obligations at domestic and international law in relation to ensuring all prisoners have access to an equivalent standard of health as the general community.
 - take all necessary steps to implement NSP in prisons as a matter of urgency.

Tobacco Harm Reduction – Recommendations

The Australian Government should:

- treated vapes as an adult consumer product, available from licensed, age-restricted premises, and easier to purchase than cigarettes.
- follow the lead of countries such as Aotearoa/New Zealand and make vaping more available than cigarettes in order to achieve the elimination of smoking (defined in Aotearoa/New Zealand as less than 5% of adults smoking) by 2025.

3. Sectors Beyond Health

Education: Increasing the Focus on Harm Reduction – Recommendation

- Australian governments (at federal and state/territory levels) should implement comprehensive, evidence-based, non-judgmental AOD education programs in schools that focus on harm reduction and accessible, credible information.

Employment: Creating More Supportive Workplaces – Recommendation

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - promote the adoption of a harm reduction approach to AOD issues within all Australian workplaces in order to reduce the levels of stigma and discrimination currently experienced by people who use/have used illicit drugs.
 - eliminate the use of workplace-based drug testing in both pre-employment and ongoing employment contexts (outside of workplace settings where intoxication is a legitimate concern in relation to undertaking procedures, tasks or operating equipment that may place the health & safety of others at risk).
 - eliminate criminal record checks for non-violent drug offences in both pre-employment and ongoing employment contexts.
 - encourage businesses to implement flexible policies that support employees in accessing drug treatment without fear of job insecurity or stigma and discrimination.
 - Ensure adequate protections and support for peer workers in the context of criminalisation.

Justice: Shifting from Punitive and Criminalising Approaches – Recommendations

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - implement full decriminalisation of all drugs across Australia, prioritising public health responses and social supports over criminal penalties.
 - implement legal regulation of cannabis across Australia.

Social Services: Holistic Support for Marginalised Communities – Recommendations

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - ensure that harm reduction and AOD services are integrated with housing, mental health, and social services to provide holistic support for marginalised communities.

- increase funding for peer-led and community-based services that offer intensive support and wraparound care for individuals experiencing multiple, intersecting challenges.

Housing: Stability as a Foundation for Health & Wellbeing – Recommendations

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - expand funding for and access to harm reduction-focused, non-judgmental housing programs across Australia to ensure individuals experiencing AOD-related harms have access to stable housing.
 - integrate housing support with AOD treatment and social services to provide a comprehensive approach to individual health and wellbeing including for people leaving custodial and residential settings.

Response to Terms of Reference

- a) **Assess whether current services across the alcohol and other drugs sector is delivering equity for all Australians, value for money, and the best outcomes for individuals, their families, and society:**

Harm reduction in Australia – current services, access, equity, value for money and best outcomes

Harm reduction is both a philosophy and a pragmatic approach that is grounded in principles of dignity, justice and human rights and focuses on engaging with people without judgement, coercion, discrimination, or requiring that people stop using drugs as a precondition of support. As such, harm reduction is concerned with both public health and human rights and is therefore, a fundamental aspect of enshrining the right to the highest attainable standard of health for all Australians.

Needle & Syringe Programs (NSP)

Australia has a strong and proud history of harm reduction programming being one of the world's first countries to introduce Needle & Syringe Programs (NSP) in the mid-late 1980s primarily in response to the advent of HIV/AIDS. In 2024, NSP continues to be the frontline of Australia's harm reduction approach, with monitoring reporting that NSPs distribute over 50 million needles and syringes (and other harm reduction supplies) each year.¹ In relation to the impact, coverage, and availability of harm reduction, global research has shown that Australia is one of the only countries in the world where people who inject drugs have access to the WHO recommended standard for high coverage of needles & syringes of greater than 300/person per year² as well as access to the recommended comprehensive package of evidence-based harm reduction interventions.³ Despite this leadership, an area where Australian NSP/harm reduction programming requires strengthening is in stimulant harm reduction. In this context, HRA calls on Australian NSPs to provide access to safer smoking kits, pipes, foil, etc. These initiatives support the same core principles of NSPs, by providing harm reduction support for alternate routes of administration.

Opioid Treatment Program (OTP)

Australia also provides access to a range of AOD treatment options including evidence-based treatment for opioid dependence which includes methadone, sublingual buprenorphine, and long-acting buprenorphine with over 55,000 people accessing the OTP on a snapshot day in 2022.⁴ The OTP is available free of charge through public hospital-based clinics (primarily to high marginalised populations), however, the majority of people on the OTP in Australia access the program through GPs and community pharmacy. As part of making OTP more affordable, recently, the Australian Government introduced reforms which commenced implementation on 1 July 2023, that removed prohibitive, private daily dispensing/dosing fees for individual OTP consumers. These changes have been a significant and positive development in the past 12 months for people on the OTP in Australia. Despite these positive developments, and although the OTP is relatively accessible in large cities and metropolitan areas, as detailed further below, there are ongoing problems with access in many parts of Australia and for some individuals. The OTP

¹ Heard S, Zolala F, Kwon JA and Maher L. (2023). *Needle Syringe Program National Minimum Data Collection: National Data Report 2023*. Sydney: Kirby Institute, UNSW Sydney.

² <https://indicatorregistry.unaids.org/indicator/people-who-inject-drugs-prevention-programmes>

³ <https://www.who.int/publications/i/item/9789240071858>

⁴ <https://www.aihw.gov.au/reports/alcohol-other-drug-treatment-services/national-opioid-pharmacotherapy-statistics/contents/about>

is also available in Australian prisons although there can be restrictions on who can access the program depending on the jurisdiction – an issue that HRA believes should be urgently addressed.

Take Home Naloxone (THN) Program

Australians also have expanding access to a federally funded take-home naloxone (THN) program which makes naloxone available free of charge and without the need for a prescription, to individuals through harm reduction services and some pharmacies. Naloxone is a medication that can reverse the effects of opioids in the event of an opioid-related overdose. A recent evaluation of the federal THN Program showed that the Australian Government is currently investing \$19.6million over four years from 2022-23 in the national THN Program.⁵ While this growing investment is welcomed, the Australian Government needs to invest more to raise awareness and ensure the THN Program has greater reach into the Australian community (see below further discussion in relation to gaps in services).

Safe Injecting Facilities

Australia currently has only two medically supervised injecting facilities one in Sydney and one in Melbourne. The service in Sydney has been in existence for over 20 years, and the Melbourne service for over 5 years with both services overwhelmingly demonstrating their ability to deliver best outcomes for the community. Specifically, evaluations repeatedly have shown the critical role these services play in preventing and managing overdose events, saving lives and supporting, often highly marginalised people, to access evidence-based treatment and other support services⁶. Moreover, there is strong support in wider community for these facilities with 87.7% of respondents to our latest national drug policy survey supporting the establishment of new drug consumption/safe injecting facilities in locations with demonstrated community need.⁷

Pill Testing/Drug Checking

Despite strong evidence to support their effectiveness in reducing the potential for drug related harm, currently there is limited access to pill testing/drug checking services in Australia. The only two jurisdictions currently provide pill testing services, and these are the ACT with the fixed site service (CanTEST) and pilot fixed site and festival-based services in QLD⁸. Victoria has recently announced its intention to implement a pill testing/drug checking pilot of both fixed site and mobile pilot services and the tender for this process is currently open. There is a considerable unmet demand for these evidence-based harm reduction services in other jurisdictions in Australia, an issue which we take up in ToR (b) below. For further information on pill testing services in Australia visit [Pill Testing Australia \(PTA\)](#).

Early Warning Systems

In relation to emerging drug trends and risks, recently there has been a six-fold increase in identifications of novel psychoactive substances (NPS) globally⁹, with new substances also being reported in Australia¹⁰. In particular, the detection of novel benzodiazepines and novel opioids (including fentanyl analogues¹¹ and nitazenes¹²) detected in Australian drug markets

⁵ <https://www.health.gov.au/our-work/take-home-naloxone-program/about-the-take-home-naloxone-program#:~:text=The%20Australian%20Government%20is%20investing,deliver%20the%20THN%20program%20nationally>.

⁶ <https://www.health.vic.gov.au/aod-treatment-services/review-of-the-medically-supervised-injecting-room-trial>

⁷ See reference 6 above.

⁸ <https://pilltestingaustralia.com.au/pill-testing-is-said-to-slash-the-number-of-overdoses/>

⁹ United Nations Synthetic Drugs Strategy 2021-2025,

<https://syntheticdrugs.unodc.org/syntheticdrugs/en/strategy.html>

¹⁰ <https://www.anu.edu.au/news/all-news/anu-scientists-make-australian-first-detection-of-new-drug>

¹¹ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/heroin-may-contain-fentanyl-sydney-update.aspx> and <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/Dangerous-Substance-Alert-Acetyl-Fentanyl-andFentanyl.aspx>

¹² <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/heroin-found-to-contain-nitazenes.aspx> and <https://www.health.vic.gov.au/drug-alerts/yellow-powder-containing-protonitazene-may-be-sold-as-ketamine>

have the potential to cause immense harm to the community¹³. These circumstances have led to the roll out of health-led ‘early warning systems’ (EWS) both at national¹⁴ and state and territory levels¹⁵. These systems share health and law enforcement information to inform clinical and public health responses, including the circulation of public drug warnings¹⁶. These EWS require expansion and further development and refinement, however, issues that we take up further under ToR (b) below.

BBV Testing & Treatment Services

Australia provides a good level of free access to HIV anti-retroviral treatment for HIV, access to PrEP and PEP and associated HIV-related care and support. Since 2016, Australia has also provided subsidised (affordable) universal access to direct acting antivirals (DAA) for the treatment of hepatitis C virus (HCV). Access to HIV and HCV prevention, testing and treatment has meant that Australia continues to have one of the lowest rates of HIV among people who inject drugs in the world and is one of the few countries set to achieve the goal of eliminating HCV as a public health concern by 2030. It should be noted, however, that access to BBV prevention, testing and treatment remains an ongoing priority as low rates of HIV and HCV in the community will only be maintained into the future with ongoing vigilance.

Peer-based Drug User-Led Organisations

Australia also has a proud and strong track-record in relation to the work and contributions of peer-based drug user organisations that extends over many decades. Specifically, the work of the Australian Injecting & Illicit Drug Users League (AIVL) and its state/territory member organisations have been at the forefront of Australia’s enviable track-record in responding to both the HIV and HCV epidemics in Australia, as well as led on other areas of advocacy for people who use/inject drugs including OTP, THN, pill testing, overdose, etc. HRA places a high priority on the voice, expertise and perspectives of people who use drugs, and we believe that a robust and effective national response to AOD issues that also represents value for money, must prioritise the voice of those who are most affected by these issues, that is, people who use drugs. HRA is an affiliate member of AIVL, and in this regard, we stand with AIVL, support ongoing government investment in their existence and support the issues and recommendations that AIVL or its member organisations make to this Inquiry.

Family-led Support Services

Australia has a well-established national harm reduction-focused family-led support organisation in the form of Family Drug Support (FDS) that operates a national 24-hour telephone support line (staffed by largely by volunteers), support groups, as well as the highly regarded ‘Stepping Stones’ workshop and other support, education, advocacy and campaign activities. In a recent joint national drug policy survey conducted by HRA, FDS and Students for Sensible Drug Policies (SSDP), approximately 95% of respondents stated that there should be greater investment in support services led by and for families/carers who have experience assisting family member/s navigate issues related to drug and alcohol use. As a critical harm reduction service in the AOD space, HRA supports ongoing investment in FDS and the services it provides, and we support the issues and recommendations that FDS has made to this Inquiry.

Cost Effectiveness of Harm Reduction Approaches

¹³ <https://www.health.nsw.gov.au/aod/public-drug-alerts/Pages/public-drug-warning-counterfeit-alprazolam-July2022.aspx> and <https://www.health.vic.gov.au/drug-alerts/high-potency-benzodiazepine-tablets>

¹⁴ National Centre for Clinical Research into Emerging Drugs. The Prompt Response Network: <https://nccred.org.au/collaborate/prompt-response-network/>

¹⁵ <https://www.health.nsw.gov.au/aod/resources/Pages/cosmoss.aspx>

¹⁶ Camilleri A, Alfred S, Gerber C, Lymb S, Painter B, Rathjen A, Stockham P. Delivering harm reduction to the community and frontline medical practitioners through the South Australian Drug Early Warning System (SADEWS). *Forensic Sci Med Pathol*. 2021 Sep;17(3):388-394. doi: 10.1007/s12024-021-00381-1. Epub 2021 May 19. PMID: 34013465. Available from: <https://pubmed.ncbi.nlm.nih.gov/34013465/>

In addition to delivering great outcomes, in relation to value for money, there is long-standing evidence that shows the extraordinary cost effectiveness and impact of harm reduction programs. For example, the Return on Investment Study conducted by the Department of Health & Ageing in 2001 and again, in 2009, found that investment in harm reduction programs saved billions of dollars for the community, with \$27 of return on investment for every \$1 invested in harm reduction programs such as NSP.¹⁷ Further, a recent report from the Australian Institute of Criminology showed that for every \$1 invested in AOD treatments like OTP, \$5.40 is returned in benefit to the community.¹⁸

b) Examine the effectiveness of current programs and initiatives across all jurisdictions to improve prevention and reduction of alcohol and other drug-related health, social and economic harms, including in relation to identified priority populations and ensuring equity of access for all Australians to relevant treatment and prevention services;

Improving the Effectiveness of Australia’s AOD Response

Although evidence clearly shows the effectiveness and value for money associated with harm reduction programs, a chronic lack of investment and as well as structural and systemic barriers are significantly hampering both the effectiveness and reach of harm reduction approaches and negatively impacting Australia’s overall AOD response. In order to get the best health outcomes in relation to AOD issues and ensure equity of access for all Australians, HRA believes that:

1. the drug policy spend needs to be more equitably and appropriately balanced across the 3 key pillars of investment
2. the National Drug Strategy needs to be underpinned by a human rights framework
3. there is a need for more effective and accountable governance and funding arrangements; and
4. there is an urgent need for significant drug policy and law reform.

More Balanced Investment

Australia’s National Drug Strategy 2017-2026 is based on a 3-pillar approach, however, the relative levels of investment in these pillars are significantly disproportionate. For example, supply reduction which includes a primary focus on law enforcement, receives the vast bulk of Australian Government investment in drug policy at over 65%, with demand reduction receiving just over 30% and harm reduction less than 2% (1.6%) of total government investment. A recent national report produced by the Drug Policy Modelling Program at UNSW, showed that of the estimated \$5.5 billion of proactive drug policy spending across all levels of government in Australia each year, \$3.5 billion is directed towards law enforcement (including \$1.8 billion on routine, street-level policing of illicit drugs) and only \$90 million spent on harm reduction responses.¹⁹ The need for a more balanced approach was also called out in our recent national drug policy survey of almost 1,200 respondents that showed 96.5% support for greater investment in harm reduction.

¹⁷ National Centre in HIV Epidemiology and Clinical Research. (2009). Return on investment 2: Evaluating the cost effectiveness of needle and syringe programs in Australia. Canberra: Department of Health and Ageing

¹⁸ Voce, A. & Sullivan, T. (2022). *What are the monetary returns of investing in programs that reduce demand for illicit drugs? Trends & issues in crime and criminal justice no. 657*. Canberra: Australian Institute of Criminology

¹⁹ Ritter, A., Grealy, M., Kelaita, P. & Kowalski, M. (2024). *The Australian ‘drug budget’: Government drug policy expenditure 2021/22. DPMP Monograph No. 36*. Sydney: Social Policy Research Centre, UNSW

This imbalanced approach to funding for drug policy responses has not changed in over 10 years, and continues despite the fact that punitive, prohibitionist/law enforcement-based approaches to addressing drug use in society have been globally discredited as ineffective, a waste of resources and inhumane.²⁰ In addition, this out-dated and imbalanced approach to AOD spending has continued despite multiple surveys showing the extent of illicit drug use in the community including the most recent National Drug Strategy Household Survey which showed that 18% of Australians aged 14 years and over have used an illicit substance in the past 12 months and 43% have used an illicit substance in their lifetime.²¹

At a time when Australia (and countries globally) are dealing major shifts in patterns of drug use and the emergence of novel synthetics such as nitazenes, it is unacceptable that Australian governments continue to under-invest in evidence-informed, cost-effective health-based approaches that are proven to save lives and reduce other drug related harms. Therefore, HRA believes this imbalanced approach to proactive government spending on illicit drugs must end as a matter of priority and in the interests of the Australian community. Further, we recommend that the Australian Government implement Recommendations 2 and 3 of the Joint Committee on Law Enforcement's *Australia's illicit drug problem: Challenges and opportunities for law enforcement* inquiry report, which states that:

*'The committee recommends that the evaluation of the National Drug Strategy 2017-2026 (recommendation 2 above), include a review by the Australian Government, in consultation with state and territory governments, of the current resourcing for the three pillars of the Strategy. Should the differences still be substantial, consideration should be given to increasing funding for demand and harm reduction measures. Any additional allocation in funding should not come at the expense of funding for law enforcement's supply reduction efforts.'*²²

For further on this issue, please also see HRA's submission to the [Joint Committee on Law Enforcement Inquiry](#).

Recommendations:

- Australian Governments (at federal and state/territory levels) should ensure a balanced and equitable investment in drug policy spending across the 3-pillars.
- The Australian Government should implement Recommendations 2 and 3 of the Joint Committee on Law Enforcement's *Australia's illicit drug problem: Challenges and opportunities for law enforcement* inquiry report.

National Drug Strategy – Absence of Human Rights Framework

The human rights of all Australians who use drugs should be protected but this is largely missing from Australian Government responses to AOD. Indeed, despite the Assistant Minister for Mental Health this year at the Commission on Narcotic Drugs' High-Level Session declaring that the National Drug Strategy 2017-2026 is underpinned by human rights, there is not one specific reference to human rights in this strategy. This situation is further limited by the Commonwealth Government's lack of appetite to implement a Human Rights Framework²³, and lack of appetite of many state and territory governments to implement the same, despite Australia's aforementioned signature to various human rights conventions. In this regard, HRA believes there is a lack of action in Australia in implementing policies in the AOD context, that adhere to international human rights

²⁰ <https://www.globalcommissionondrugs.org/reports/time-to-end-prohibition> 2021.

²¹ Australian Institute of Health and Welfare (2024). *National Drug Strategy Household Survey 2022-23*. Canberra: AIHW.

²² https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/IllicitDrugs/Report/List_of_recommendations

²³ See recent Australian Government Inquiry into an Australian Human Rights Framework and HRA submission to this Inquiry available on HRA website.

obligations. This is demonstrated by Australian governments implementing policies that directly violate the rights of people who use drugs in Australia to equitable health and social principles that they otherwise would, if for not our drug policies²⁴.

Recommendation:

- The Australian Government must address the lack of human rights principles within the National Drug Strategy as a matter of urgency.

Effective and Accountable Governance & Funding Arrangements

Another issue of concern in relation to Australia's AOD response is the current state of affairs in relation to the National Drug Strategy (NDS) and associated governance/advisory and funding arrangements. The AOD sector currently lacks a national governance structure to facilitate dialogue among governments, funding bodies, and other stakeholders especially civil society and community. Several years ago, the key high-level advisory bodies and the ministerial and intergovernmental committees overseeing the governance of the NDS were disbanded and replaced with a single, at-arms-length ministerial advisory structure only (ANACAD). HRA believes this has created a serious governance vacuum that among other issues, is affecting Australia's track-record in several key areas including overdose prevention and drug treatment service delivery to name just two.

This void has been in place since the Council of Australian Governments (COAG) and the Ministerial Drug and Alcohol Forum (MDAF), were disbanded in 2020. Previous national bodies, such as the Ministerial Council on Drug Strategy (MCDS), the Inter-Governmental Committee on Drugs (IGCD) and the Australian National Council on Drugs (ANCD), along with the ANCD's National Indigenous Drug & Alcohol Committee (NIDAC), all played key roles in shaping and monitoring the National Drug Strategies. Together these structures ensured effective identification of strategic priorities, as well as better coordination and monitoring of system development and funding at both Commonwealth and State/Territory levels.

The absence of such a structure has resulted in insufficient monitoring of key national strategies, sub-strategies, and frameworks for over five years. Notable examples include the National Drug Strategy 2017-2026 which has not undergone a mid-point review as part of assessing its strategic focus, effectiveness and value for money. Furthermore, important sub-strategies have also either lapsed without review or have been discontinued without adequate (or at times any) stakeholder consultation including the current absence of a National Overdose Strategy. The National Quality Framework for Drug and Alcohol Treatment Services is another example of a critical national framework that has also seen inadequate implementation due to a lack of coordination and funding at the Commonwealth level.

This lack of national governance and monitoring is not merely a 'bureaucratic' matter but is a matter of government accountability. These issues also have real implications for individuals in need of AOD harm reduction and treatment services in the community. Indeed, it is those who are most marginalised and vulnerable who are suffering the most from these ongoing system level problems as unregulated services can pose real dangers for individuals and their families.

The absence of a national governance structure not only affects existing strategies but also hinders the ability to develop holistic responses to emerging challenges including identifying the need for new sub-strategies. One such area is Australia's lack of a national plan to address overdose prevention and opioid dependence treatment. The emergence of potent

²⁴ See HRA and Civil Society Committee's UPR and CESCR submissions available on HRA website.

substances like nitazenes, which have already led to multiple fatalities²⁵, illustrates the urgent need for coordinated national action. Without a governance body to lead the response, the community remains at significant risk. To this end, HRA believes a new national advisory body that is led by the community of people who use drugs should be established to feed into Australia's national drug policy responses.

One of the key areas of focus for an effective and accountable governance structure, is the issue of ensuring a conducive funding environment. As others have identified in this submission process, AOD services in Australia are currently funded through a mix of Commonwealth, State, and Territory streams, often involving several portfolios and agencies. Commonwealth funding comes from multiple sources such as the Department of Health and Aged Care, the National Indigenous Australians Agency, and Primary Health Networks, etc. Additional funding is provided through temporary budget measures. This results in AOD services having to navigate multiple funding applications, management processes, and reporting requirements. Consequently, quantifying the total Commonwealth funding and identifying potential duplication is not only difficult, but near impossible.

This complex funding structure is further complicated by the lack of a national governance structures (outlined above) to coordinate planning and prioritisation of funding allocations. As a result, some areas receive duplicate funding while others are overlooked or underfunded. Competing budget proposals and a lack of coordination within the Commonwealth exacerbate this issue, contributing to an overall fragmented funding environment.

Inconsistent application of indexation in Commonwealth funding since 2012 has worsened the situation. While state and territory governments have applied regular indexation to AOD contracts, Commonwealth contracts have not consistently followed suit. For small and often under-resourced organisations and services, regular government indexation is critical and frequently means the difference between services surviving having to cut services and staff.

Recommendations:

- The Australian Government must:
 - address the current governance vacuum in relation to the National Drug Strategy as a matter of urgency.
 - reconvene the National Indigenous Drug & Alcohol Committee (NIDAC)
 - undertake a detailed review of the current funding arrangements for AOD services in Australia with the view to creating a more conducive funding environment and ensuring the long-term sustainability of the sector as a whole.
 - establish a national advisory body that feeds into federal drug policy that is led by community.

Drug Policy and Law Reform

Under Australia's current approach to drug policies and laws, with few exceptions²⁶ the personal use and possession of drugs other than alcohol and tobacco, are criminalised. The criminalisation of people who use drugs in Australia prevents access to harm reduction and results in direct harms associated with criminal convictions and incarceration. Furthermore, UN bodies and periodic reviews at the country level have repeatedly found that the

²⁵ <https://www.abc.net.au/news/2024-09-15/nitazene-detections-australia-overdose-deaths-broadmeadows/104327798>

²⁶ Notably the recent shift to a decriminalisation approach to small amounts of drugs for personal use and possession in the ACT and QLD.

criminalisation of drug use and possession for personal use operates as a barrier to the right to health and has recommended decriminalisation²⁷.

There is a growing global recognition of the need to urgently move towards the full decriminalisation/legal regulation of the use and supply of currently illicit substances for personal consumption, along with possession for personal use, to address the significant long-term health, financial and social harm that is caused by criminalising, arresting, convicting, and often incarcerating people who use drugs. Multiple reports from the Global Commission on Drugs (a group of eminent past heads of state and other dignitaries) have reiterated their collective view that drug prohibition has failed both the world and individual countries utterly and that significant drug policy reform is a matter of global emergency.²⁸

One of the most frequently cited examples of the benefits of decriminalisation in the drug policy context, is Portugal. Over two decades ago, Portugal decriminalised the personal use and possession of small amounts (up to 10 days' supply) of all drugs. Decades later, the benefits of decriminalisation in Portugal have been documented in multiple reports and independent evaluations that have demonstrated (among other outcomes) significant decreases in arrests, criminal records and incarceration rates and significant public health benefits including reduced deaths.²⁹ In the past decade, other countries and jurisdictions have followed suit either with cannabis legalisation or, in some cases, have moved to wider decriminalisation approaches.

Meanwhile in Australia, (with the exception of recent developments in the ACT), we have largely continued with harmful, punitive, prohibitionist approaches to drug use that continue to cause untold levels of health and social harm associated with ongoing criminalisation and the impacts of entrenched stigma and discrimination on people who use drugs. Further, far from aiding in the reduction of drug-related harm, current prohibitionist, and law enforcement approaches, are contributing to an increase in deaths from drug-related overdose which have now reached new record levels in Australia due to ongoing fears associated with police intervention and criminalisation.³⁰

It is HRA's view that we can no longer claim that the current system of drug control somehow acts as a deterrent. The calls for policy change are clear. The current system is not a deterrent of any kind, it is a system that has failed to achieve its desired outcomes and needs fundamental reform if we are serious about responding to AOD use in society in an effective, compassionate and humane way. HRA believes that the Commonwealth Government needs to act in concert with jurisdictional governments to shift all Australian jurisdictions to a model of full decriminalisation for all currently illicit drugs, with the exception of cannabis, which we believe must be managed through a system of legal regulation. This shift in laws and policy alone would significantly reduce the level of harm for the many thousands of Australians routinely charged and convicted for personal drug offences every year.

²⁷ See, amongst others: CESCR, Concluding Observations on the *6th Periodic Review of Norway*, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/NOR/CO/6&Lang=En; CESCR (2020), Concluding Observations on the *7th Periodic Review of Ukraine*, <https://uhri.ohchr.org/en/document/f538cf71-f6d1-4e89-b96b-3818e5de8c6a>; CESCR (2020), *Concluding Observations on the 3rd Periodic Review of Benin*, <https://uhri.ohchr.org/en/document/b68e7215-1425-47f7-8e10-d635cfd970d2>

²⁸ Ibid.

²⁹ Transform. 2014. Drug Decriminalisation in Portugal: Setting the Record Straight. Retrieved from: <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Transform-Drug-Policy-Foundation/Drugdecriminalisation-in-Portugal.pdf>

³⁰ AIHW: <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugsaustralia/contents/impacts/health-impacts>

This type of reform also has growing support within the AOD sector and wider Australian community with the most recent National Drug Strategy Household Survey, showing that almost 80% of those surveyed agreed that possession of cannabis for personal use should not be a criminal offence.³¹ In addition, recent results from the HRA, FDS & SSDP national drug policy survey showed that 88% of respondents supported some form of decriminalisation and over half of respondents supported decriminalisation of all drugs. For further detail on HRA's position on drug policy and law reform issues please also see our previous submissions to the [Parliamentary Joint Committee on Law Enforcement Inquiry](#) and to the [Inquiry into the Legalising Cannabis Bill 2023](#).

Recommendations:

- State/Territory Governments should:
 - adopt a full decriminalisation model for all illicit drugs (with cannabis regulated separately – see below) to reduce the health and social harms associated with prohibition and its effects.
 - establish a federal legal regulation framework for cannabis to replace the current prohibitionist approach.

Systemic Stigma and Discrimination:

Directly associated with our current law enforcement-oriented approach to addressing drug use in society, is the issue of stigma and discrimination. Research has found that the levels of stigma and discrimination routinely experienced by people who use/have used illicit drugs in the Australian community is both profound and pervasive. Indeed, Australian research into alcohol and other drugs (AOD) stigma and discrimination found that the experience of stigma and discrimination for people who use drugs is so pervasive that it is basically a daily experience. Further, a recent Victorian coronial inquiry into the death in custody of an Aboriginal woman who was also an illicit drug user found, in a legal global first, that drug-related stigma was a contributing factor in her death³².

One of the ongoing issues in the context of human rights and anti-discrimination protections for people who use/have used illicit drugs in Australia, is that outside of circumstances that involve the delivery of services, education, employment, and commodities, people who use/have used illicit drugs are very often not protected at law in relation to any stigma and discrimination they may face. So, although some people may be protected at under anti-discrimination legislation if their rights are found to have been breached in the context of for example, experiencing discrimination due to being on a registered opioid dependence treatment program, discrimination on the basis illicit drug use is typically not protected at law. This is because the 'behaviour' involved is illegal and therefore, their rights are often not protected. This can extend to employment, education, health care, insurance, club memberships and trade unionism, autopsies and funeral services, the list is long.

It is now well-accepted that 'stigma kills' and this is particularly relevant in the context of illicit drug use where people are often made to feel separate from the remainder of the community. It should also be noted, that AOD treatment does not necessarily protect people who use or have used illicit drugs from rights violations with many reports documenting significant levels of stigma and discrimination for people engaged in AOD treatment and other harm reduction services due to the obvious power imbalances in these areas of health care³³.

³¹ Australian Institute of Health and Welfare. (2019). National Drug Strategy Household Survey detailed report. Canberra: Australian Government.

³² See media report here: <https://www.abc.net.au/news/2023-01-31/veronica-nelson-victoria-aboriginal-death-in-custody/101900156>

³³ See Lancaster, K., Seear, K., and Ritter, A. her: <https://ndarc.med.unsw.edu.au/resource/reducing-stigma-and-discrimination-people-experiencing-problematic-alcohol-and-other-drug>

Recommendations:

- Australian Governments should:
 - extend anti-discrimination laws to specifically protect people who use or have used illicit drugs from stigma and discrimination in various areas, including employment, education, health care, housing, and access to services – these protections should cover individuals regardless of whether the drug use is deemed legal or illegal.
 - establish rights-based policies and frameworks that combat the stigma and discrimination present within AOD treatment and harm reduction services.
 - provide community-led training for health care providers and law enforcement on reducing stigma in their interactions with people who use drugs should be mandatory to foster a more supportive and rights-based approach.

Intersection of Racism and Criminalisation:

It is well-documented that Aboriginal and Torres Strait Islander people are profoundly over-represented in the Australian criminal justice system. In relation to illicit drug use, Aboriginal and Torres Strait Islander people are some 8 to 10 times more likely to be incarcerated than non-Indigenous people who use illicit drugs. Although the racial disparities experienced by Aboriginal and Torres Strait Islander people within public drunkenness offences have recently been abolished in Victoria, they still remain on the books in other jurisdictions in Australia. These offences along with the ongoing over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system breach the right not to be racially discriminated against and of course, act as a fundamental barrier to the right to health.

Several state police forces, including Victoria's, are not required to release community profiling data. In NSW, where this practice is managed via the Bureau of Crime Statistics and Research, significant disparities have been shown in the NSW Police Force's profiling of Aboriginal and Torres Strait Islander communities in the stop-and-search, arrest, and sentencing practices for cannabis possession. Given that Aboriginal and Torres Strait Islander peoples are incarcerated at the highest per capita level of any country in the world, coupled with the early implications of recently released NSW data, and the well documented racist origins and impacts of drug prohibition, there are serious questions to be asked about racialised policing of Australian drug laws and the lack of mechanisms in place to hold this practice to account³⁴.

Noting the above point, and that Aboriginal and Torres Strait Islander children accounted for 65% of the nearly 600 children aged ten to 13 years sent to prison in a twelve-month period, refusing to raise the age at which children can be sent to prison from ten to 14 years of age also breaches both the right not to be racially discriminated against and the principle of proportionality³⁵.

Recommendations:

- Australian Governments should:
 - mandate the release of community profiling data from all police forces to ensure transparency and accountability including analysing racial disparities in stop-and-search, arrest, and sentencing practices.
 - introduce mechanisms to hold police services accountable for racialised policing practices to address the discriminatory impacts of current drug laws.

³⁴ Australian Civil Society Committee on UN Drug Policy, 2021. Submission to the UN CESCR, proposing a List of Issues focusing on Australia's human rights obligations with respect to drug policies, drug legislation and their implementation. Available from: <https://www.fairtreatment.org/blog/2021/09/21/australias-human-rights-obligations-with-respect-to-drug-policies-laws-and-their-implementation/>

³⁵ Ibid

- Australia should raise the age of criminal responsibility from 10 to 14 years to comply with international human rights standards and reduce the disproportionate incarceration of Aboriginal and Torres Strait Islander children.

Equity of Access: Current Gaps in Harm Reduction in Australia

Reducing Overdose Deaths

Since 2002, the rate of drug-induced deaths steadily increased on average by 3.5 per cent per year. In 2021, there were 1,788 drug-induced deaths among Australians according to the Drug Trends program at the National Drug and Alcohol Research Centre (NDARC), UNSW Sydney.³⁶ This equates to one death every four hours and majority of these deaths are due to illicit opioid use. Despite this alarming situation, Australia currently does not have a National Overdose Prevention Strategy and as documented elsewhere in this submission has ongoing problems with adequate access to opioid dependence treatment and other harm reduction programs, including expanding the THN Program, that could help address this concerning situation.

Although the Australian Government has invested almost \$20million over 4 years into the THN Program³⁷, HRA believes that a significant increase in the current investment is needed to address and reduce the current rate of opioid-related overdoses in Australia which currently exceeds the national road toll. This recommendation is based on assessments of the current level of investment in equipping and training police with Naloxone in WA and Qld, together with the current investment in the THN Program, and the greater level of investment that is needed to ensure that police officers in all Australian jurisdictions carry and are trained in the use of Naloxone, and that individuals can access Naloxone from ANY pharmacy in Australia. Indeed, as we write this submission, the urgency of expanding Australia's overdose prevention efforts and THN program could not be more apparent. In late September 2024, the first fentanyl detection in a sample of heroin for personal use (as opposed to detections in police seizures at the border) was identified at the CanTEST drug checking service in Canberra³⁸. This detection (along with multiple recent nitazene detections over recent months³⁹) further signals the urgency of expanding our opioid overdose prevention response in Australia.

As identified above, HRA also believes there is a need for the Australian Government to take a leadership role in the national response to drug-related overdose deaths. This should include the development, implementation and appropriate monitoring of a new National Drug-Related Overdose Prevention Sub-Strategy. The strategy needs to be appropriately resourced and involve the meaningful engagement of community and other key stakeholders in the development process, to ensure both the relevance and effectiveness of the strategy. This is also supported by those working in and around harm reduction with 95% of respondents to a recent national drug policy survey by HRA, FDS & SSDP stating that governments should be doing more to respond to overdose deaths.

Recommendations:

³⁶ Chrzanowska A, Man N, Akhurst J, Sutherland R, Degenhardt L, Peacock A. (2023) Trends in overdose and other drug-induced deaths in Australia, 2002-2021. Sydney: National Drug and Alcohol Research Centre, UNSW Sydney

³⁷ <https://www.health.gov.au/our-work/take-home-naloxone-program/about-the-take-home-naloxone-program#:~:text=The%20Australian%20Government%20is%20investing,opioid%20overdose%20or%20adverse%20reaction.>

³⁸ <https://www.abc.net.au/news/2024-09-29/drug-testing-cantest-finds-fentanyl-in-brown-powder-sample/104410508>

³⁹ <https://www.health.vic.gov.au/drug-alerts/cocaine-adulterated-with-protonitazene> and https://www.unsw.edu.au/research/ndarc/resources/availability_nitazenes_australia_internationally_cryptomarkets

- The Australian Government should:
 - lead the development of a National Overdose Prevention Sub-Strategy as a matter of urgency.
 - Significantly increase the current \$20million Australian Government investment in the Take Home Naloxone (THN) Program to ensure that all pharmacies provide Naloxone free of charge and police officers across all jurisdictions carry and are trained in the use of naloxone.

Early Warning Systems

Despite the effectiveness of these EWS, unfortunately, some of the best outcomes for individuals, families and society more broadly, have been compromised when police agencies refuse to share data for public health purposes. HRA believes this issue must be addressed through policy leadership at the Commonwealth level. For example, a national system, co-led by Health, Customs and Police has been recently implemented in New Zealand⁴⁰. Opportunities exist at both the national and state and territory level for law enforcement agencies to share information from customs and seizures into these health-focused systems for public health and harm reduction benefits in Australian communities. These opportunities for collaboration in Australia are too often being complicated, however, by differences in the systems/approaches used from one jurisdiction to the other. For example, whether police will share data varies significantly from state to state. There are also complications caused by a lack of genuine partnership between ministries of health, peer-based drug user-led organisations and policing agencies.

Australia should work towards EWS that are co-led by community, as well as Health Customs and Police, to ensure that responses are community-driven and act in the best interest of community. That is, they should be configured with the predominant purpose of informing the community, rather than monitoring drug trafficking or other purposes. Specifically, Australia needs to implement initiatives that are community-driven in response to NPS. In the absence of decriminalisation/regulation of currently illicit drugs, Australian Governments must be mandated to respond to/recognise the impacts that Australian drug policies are having on communities of people who use drugs in Australia.

HRA also believes there is a need to discuss whether EWS should be reconfigured as 'services' rather than a research initiatives (which is what we currently have at federal level in Australia) with the Prompt Response Network (PRN). Although funding for initiatives such as PRN is critical, it is compromised by this funding coming through research institutes setting up systems for research rather than for public health purposes in order to provide the community with timely (potentially lifesaving) information and education. There is also a lack of data from regional/rural areas feeding into EWS. The Emerging Drugs Network of Australia (EDNA) is starting to bring more regional/rural data in though (at least in VIC and WA). Nevertheless, this is an ongoing issue that needs to be carefully managed given the potential sensitivities for drug alerts in small towns and/or among Indigenous communities in relation to protecting privacy and confidentiality.

It is also important to note that HRA/PTA has developed a new mobile phone App to address the current passive alert system for dangerous substances circulating in the community. That is, the current alert system relies on sharing of social media posts with no ability to actually target potentially at-risk individuals. Our new App provides a unique opportunity for alerts to be sent directly to individuals. It is telling that requests for support for this App were all rejected in favour of maintaining the status quo with alerts. Nonetheless, HRA/PTA developed the App with its own resources and will be publicly launching it this year.

Recommendations:

⁴⁰ <https://www.highalert.org.nz/about-us/>

- The Australian Government should:
 - lead on the development of a national EWS system, co-led by Health, Customs, Police and community (as modelled in Aotearoa/New Zealand) with a focus on for public health and harm reduction benefits for the Australian community rather than having a primary focus on research and/or policing purposes.
 - work with state/territory governments to improve the data collection feeding into EWS including for regional and rural areas, with a careful approach to protecting privacy and confidentiality especially for local and/or Indigenous communities.
 - support push alert systems rather than rely solely on the current passive alert systems in place.

Festival-Based Harm Reduction

Festival/event-based harm reduction is an effective, peer-based initiative that is a crucial aspect of a comprehensive approach to reducing the potential for drug related harm at music festivals and other public events. Despite the effectiveness and high levels of support for peer-based festival harm reduction services⁴¹ such as Dancewize in VIC & NSW and Conscious Nest in QLD, these initiatives are constantly under-threat from policing practices that create fear and barriers to harm reduction. For example, the use of drug sniffer dogs and strip searches, particularly of young people breaches the right to privacy and the principle of proportionality as well as acting a significant barrier to harm reduction and therefore, the right to health. Further, prohibitionist policing practices have been shown to cause significant unintended harms with young people being searched in public places and young people being traumatised by being subjected to bodily searches in police and custodial environments⁴².

Passive alert detection or sniffer dog operations in several Australian jurisdictions targeting music event patrons (and other public places) have been causally linked to drug toxicity deaths from 'panic -swallowing', fear of accessing harm reduction services (such as drug checking programs) and post-traumatic stress disorders from being strip searched. There have been formal recommendations in various inquiry reports to stop such practices⁴³. Unfortunately, however, these practices continue due to ongoing investment in prohibitionist approaches and false claims by law enforcement officials that such practices are necessary to prevent young people using illicit drugs. Recent reports in Australia have shown that drug detection/sniffer dogs are not only highly unreliable making errors 75% of the time but are waste of public funds and result in harmful unintended consequences⁴⁴.

Recommendations:

- All State/Territory Governments should:
 - end the use of harmful policing practices such as passive alert detection or sniffer dog operations and strip searching at music festivals, events and in public spaces in all states and territories.

⁴¹ In a recent national drug policy survey conducted by HRA, FDS & SSDP, almost 95% of respondents stated they supported or strongly supported peer-based harm reduction at music festivals and events.

⁴² <https://www.smh.com.au/politics/nsw/girls-aged-12-and-13-strip-searched-by-nsw-police-20231016-p5ecig.html>

⁴³ See: https://coroners.nsw.gov.au/coroners-court/download.html/documents/findings/2019/Music_Festival_Redacted_findings_in_the_joint_inquest_into_deaths_arising_at_music_festivals_.pdf

⁴⁴ <https://www.smh.com.au/politics/nsw/drug-detection-dogs-are-wrong-more-than-right-data-reveals-20230926-p5e7pp.html>

- expand and secure greater funding for peer-based harm reduction services at music festivals and events in all states and territories.

Lack of Access to Drug Checking/Pill Testing:

The ongoing absence of drug checking/pill testing services (outside of the fixed site pilot service in the ACT, pilot fixed site and festival-based services in QLD⁴⁵ and soon to be implemented fixed site and mobile pilot services in VIC) despite overwhelming evidence and expert and coronial opinion justifying its implementation⁴⁶ needs to be addressed as a priority. Multiple coroner's reports have now recommended the funding and implementation of drug checking/pill testing services at music festivals and events but certain jurisdictional governments including NSW, WA, NT, SA and TAS refuse to implement these life-saving harm reduction programs⁴⁷.

As we move into yet another summer festival season, warnings are already being issued about the potential for further deaths associated with increasing higher temperatures and emerging novel analogues and NPS.⁴⁸ HRA therefore urges all Australian states and territories to implement evidence-based drug checking harm reduction services to reduce the potential for further harm and deaths during the coming summer. For further detail on the critical role of pill testing services and HRA/PTA work in this space, please see the PTA website [here](#).

Recommendations:

- All state/territory governments urgently implement pill testing/drug checking services in states and territories where such services do not currently exist.
- The ACT, Qld and Vic governments continue to provide pill testing/drug checking services and expand and secure ongoing funding and access to those services.

Safe Injecting Facilities/Drug Consumption Rooms

As noted above, there are currently only two safe injecting facilities/medically supervised injecting rooms in entire country in Sydney and Melbourne (with decades between the first and second room being established). This is despite the overwhelming evidence that these facilities save lives and that more facilities are urgently needed in Australian cities⁴⁹ and, widespread support from those working in and accessing harm reduction services.⁵⁰ The ongoing lack of these facilities in the face of increasing overdose deaths in Australia cities is a human rights issue and has been shown in other international jurisdictions such as Canada to be a denial of the right to the highest attainable standard of health.

These ongoing and unacceptable delays to the timely establishment of evidence-based, effective harm reduction services in the community raises important questions about why

⁴⁵ <https://pilltestingaustralia.com.au/pill-testing-is-said-to-slash-the-number-of-overdoses/>

⁴⁶ Olsen, A, Wong, GT & McDonald, D 2019, ACT Pill Testing Trial 2019: program evaluation, Australian National University, Canberra, <https://openresearch-repository.anu.edu.au/handle/1885/195646?mode=full>; State Coroner's Court of New South Wales 2019, Inquest into the death of six patrons of NSW music festivals, Hoang Nathan Tran, Diana Nguyen, Joseph Pham, Callum Brosnan, Joshua Tam, Alexandra Ross-King. Hearing dates: 8 – 19 July 2019, 10 – 13 September 2019, 19 – 20 September 2019. Findings of Magistrate Harriet Grahame, Deputy State Coroner. Date of findings: 8 November 2019, State Coroner's Court, Sydney.

⁴⁷ <https://www.sydneycriminallawyers.com.au/blog/nsw-premier-wont-introduce-pill-testing-despite-continuing-deaths-and-calls-from-his-own-party/>

⁴⁸ <https://pilltestingaustralia.com.au/illegal-ketamine-use-is-at-a-record-high-and-dangerous-chemical-cousins-are-entering-the-market/>

⁴⁹ <https://www.health.vic.gov.au/aod-treatment-services/review-of-the-medically-supervised-injecting-room-trial>

⁵⁰ In a recent national drug policy survey conducted by HRA, FDS & SSDP, almost 90% of respondents supported the establishment of safe injecting facilities/drug consumption rooms where there is a demonstrated need in the community.

this is occurring. HRA believes that the delays to the establishment of these facilities has been significantly driven by negative, stigmatising, and discriminatory media coverage and negative public attitudes towards people who use/inject drugs. Repeated negative media articles and public statements (by authorities including senior police, parliamentarians, councillors, and business owners) that promulgate strong NIMBY (not in my backyard) attitudes among the Australian community is, in our opinion, a human rights concern. Again, national policy leadership from the Australia Government on the importance of safe injecting facilities/drug consumption rooms would go some way towards addressing negative attitudes at a local and community level, paving the way for jurisdictions to fund and implement more of these services.

HRA is also aware of the budgetary concerns with the high cost associated with medicalised safe injecting facilities/drug consumption rooms and supports the potential introduction of differing models (based on need and community consultation) to ensure greater geographic coverage. The safe injecting facilities/drug consumption rooms available in Europe and North America could provide valuable insight into these differing models.

Recommendations:

- The Australian Government to show national policy leadership on the importance of safe injecting facilities/drug consumption rooms to reduce negative attitudes at a local and community level.
- All state and territory governments fund and implement safe injecting facilities/drug consumption rooms where there is a demonstrated need in the community.
- All state and territory governments should investigate new and more cost-effective models for the provision of safe injecting facilities/drug consumption rooms.

Access to AOD Treatment:

As outlined above, although Australia has a comprehensive AOD treatment system with OTP and a range of other government and non-government drug treatment services and programs across the country, there are ongoing problems associated with equity of access, inadequate resourcing and issues with inflexible and out-of-date models of care and service delivery.

Issues associated with inflexible and out-dated models of care within the OTP system, are also associated with the fact that the *National Clinical Guidelines for Medication-Assisted Treatment for Opioid Dependence* have not been reviewed or updated since 2014. Not surprisingly, this has led to breakdown in communication and cohesion across the system whereby each jurisdiction administers the OTP in slightly different ways that invariably creates confusion and disruption for OTP consumers who often need to travel and move between jurisdictions.

Additionally, in relation to accessing drug treatment services including the OTP there are ongoing barriers to treatment including insufficient places, long waiting lists in some jurisdictions, lack of information on where and how to access services, systemic stigma and discrimination, and a chronic lack of services in regional and rural areas, as well as a lack of services for women, and families with children, etc. Further, despite growing demand for the OTP in Australia, there continues to be problems with at least another 50,000 people estimated as eligible for drug treatment but unable to access a suitable treatment program at any given time⁵¹.

⁵¹ Ritter, A., Berends, L., Chalmers, J., Hull, P., Lancaster, K. & Gomez, M. (2014). *New Horizons: The review of alcohol and other drug treatment services in Australia*. Sydney, NSW: Drug Modelling Program, National Drug and Alcohol Research Centre, UNSW.

There are also ongoing issues with access to appropriate medication-assisted treatments for drugs other than opioids. Recent research and inquiries (including the NSW Special Commission into methamphetamine and other ATS) have highlighted that methamphetamines are now the most commonly used drugs reported by people accessing harm reduction programs such as NSP and drug consumption rooms, but Australia still has no pharmacotherapy-based treatment options for people regularly using methamphetamines.⁵²

Finally, there are also issues associated with the refusal to permit the use of some drug treatment modalities that research globally has repeatedly demonstrated are of proven efficacy and cost-effectiveness⁵³ and are already used in other countries including diacetylmorphine/heroin-assisted treatment (HAT) of opioid dependence and in our view, these constitute breaches the right to the highest standard of health and is an area that needs to be addressed. This issue also highlights the need for additional treatment formulations in Australia including more injectable and other new/novel formulations.

In the recent national drug policy survey conducted by HRA, FDS & SSDP, 92.8% of respondents stated that AOD treatment resourcing should be an urgent priority for Australian governments. HRA believes tis response in many ways highlights the extent of the resourcing crisis facing the Australian AOD sector in 2024.

Recommendations:

- The Australian Government should work in partnership with state/territory governments to:
 - increase the scale of funding for evidence-based AOD treatment services in Australia to better meet the demand for treatment in the community particularly in regional and rural areas and to under-served populations.
 - increase the scope of evidence-based AOD treatment services available in Australia including new medications (e.g., heroin-assisted treatment, methamphetamine pharmacotherapies, etc.) and formulations of treatment (e.g., injectable, etc.)
 - prioritise and lead a process to review and update the *National Clinical Guidelines for Medication-Assisted Treatment for Opioid Dependence*.

Medicinal Cannabis – Driving & Roadside Drug Testing

HRA believes that roadside drug testing of drivers where police have no reasonable suspicion that the driver is impaired by a drug/s, but rather, charges people with the offence of having any detectable level of a proscribed drug in the body rather than impaired driving: breaches the right of freedom from arbitrary arrest and detention. It also breaches the core human rights principle of proportionality as there is no evidence that roadside drug testing increases road safety.

Despite the ongoing implementation of roadside drug testing in Australia over several years, and the thousands of people losing their licenses and receiving severe penalties, there has not been a single study conducted to evaluate the impact of this on road safety⁵⁴. In the alternative, the ACT Human Rights Commissioner has documented the many ways in which

⁵² Howard, D. (2018). *Report of the Special Commission of Inquiry into crystal methamphetamine and other amphetamine-type stimulants – Volume 1*. Sydney: State of NSW and Heard S, Zolala F, Kwon JA and Maher L. (2023). *Needle Syringe Program National Minimum Data Collection: National Data Report 2023*. Sydney: Kirby Institute, UNSW Sydney.

⁵³ Degenhardt, L., Grebely, J., Stone, J., Hickman, M., Vickerman, P., Marshall, B. D., ... & Larney, S. (2019). Global patterns of opioid use and dependence: harms to populations, interventions, and future action. *The Lancet*, 394(10208), 1560-1579.

⁵⁴ McDonald, D 2009, 'The policy context of roadside drug testing', *Journal of the Australasian College of Road Safety*, vol. 20, no. 1, pp. 37-43.

roadside drug testing breaches both the ACT Human Rights Act and Australia's broader international human rights obligations.

Furthermore, medicinal cannabis has been legal in Australia since 2016, but currently people accessing these medications are not legally able to drive and face losing their driver's licence and frequently therefore, their livelihoods, due to random roadside drug testing that has no ability to distinguish between presence and impairment. HRA is seeking reform of the current driving laws in relation to medicinal cannabis that are fair, equitable and underpinned by a public health approach. Current drug driving laws fail to improve road safety, discriminate against those medical cannabis patients that have THC contained in the prescription⁵⁵, and impede public health outcomes. For further information on medicinal cannabis and driving please see our submissions on our '[Drive Change](#)' campaign website.

Recommendations:

- All state and territory governments to establish a legal defence for medicinal cannabis prescription holders who are charged with the presence of THC in their system while driving (not impaired).

NSP in Prisons

The issue of NSP in prisons has been vigorously debated for decades. There have been multiple reports, strategies, and recommendations from all levels of government including statements in the National BBV/STI Strategies⁵⁶. There has also been, a wide range of public health experts and organisations publicly advocating NSP in prisons⁵⁷. Yet today, as of mid 2023, no Australian prison has an NSP. Worse still, the discussion on 'the missing piece' of our harm reduction response has effectively fallen silent. This needs to change.

There is ample research evidence to show that despite all efforts, illicit drugs are readily available in Australian prisons and there are high levels of associated injecting drug use (driven at least in part, by the ongoing criminalisation of people who use/inject drugs). Research and anecdotal reports also confirm that inmates are routinely forced to re-use and re-fashion injecting equipment with a single needle and syringe being used and shared 100s of times between inmates with all the attendant BBV risks entailed.

As stated earlier, there are currently no NSPs in Australian prisons, however countries that have implemented access to new injecting equipment in prisons, have shown that such programs can be run successfully and without occupational health and safety risks to prison staff. Australia is a signatory to the International Covenant on Economic, Cultural, Social Rights (ICESCR) which under Article 12 enshrines in Australian domestic law the right to the highest attainable level of physical and mental health for all people including the right of prisoners to an equivalent standard of health as the general community.⁵⁸

It is within this context that we express our view that the ongoing refusal of Australian Governments to provide the full range of evidence-based harm reduction services in prisons such as access to new injecting equipment despite their availability in the community, breaches the right to the highest attainable standard of health for Australian prisoners. For further information see HRA's advocacy statement the [Missing Piece – NSP in Prisons](#).

⁵⁵ Being 70% of the total number (350,000) of annual prescriptions

⁵⁶ <https://www.health.gov.au/resources/collections/national-strategies-for-bloodborne-viruses-andsexuallytransmissible-infections>

⁵⁷ <https://www.ama.com.au/media/needle-and-syringe-programs-neededprisons> and <https://www.smh.com.au/opinion/needle-and-syringe-program-opportunity-lost-for-the-act20150415-1mljfy.html>

⁵⁸ <https://humanrights.gov.au/our-work/rights-and-freedoms/right-health>

Recommendations:

- Australian governments at the federal and state/territory levels must:
 - meet their obligations at domestic and international law in relation to ensuring all prisoners have access to an equivalent standard of health as the general community.
 - take all necessary steps to implement NSP in prisons as a matter of urgency.

Tobacco Harm Reduction

From the 1st of October, Australians can legally purchase nicotine vaping products from participating pharmacies. While an improvement on previous legislation which required people to acquire a medical prescription to purchase a vape, this approach remains inadequate and imposes significant barriers for people seeking alternatives to deadly cigarettes. Tobacco harm reduction focuses on directly minimising the harm associated with smoking without necessarily eliminating nicotine consumption altogether – an approach that is explicitly endorsed in Australia’s National Drug Strategy and supported by Australia’s commitment as a signatory to the Framework Convention on Tobacco Control.

Countries like Aotearoa/New Zealand, the UK, Sweden, and Japan have seen an accelerated decline in smoking rates by embracing tobacco harm reduction. By contrast, since 2011, Australia has imposed stricter regulations on vaping – a much safer alternative to smoking. This is particularly concerning given that each year cigarettes, cause the deaths of 21,000 Australians, a toll greater than the combined fatalities from all other psychoactive drugs (including alcohol, prescription drugs, and illicit substances), along with HIV, suicide, and road crashes.

Globally, four reduced-risk nicotine products are now available for those who are unable or unwilling to quit: vaping, heated tobacco products, snus, and nicotine pouches. However, Australia’s resistance to adopting these harm reduction measures has led to a burgeoning black market for illicit nicotine products, characterised by increasing violence similar to that seen in illicit drug markets. Reducing smoking among adults must take precedence over curbing experimental youth vaping. Unfortunately, the government has formulated its current tobacco control policy without consulting people who smoke or vape, disregarding the principle of ‘nothing about us without us.’

Recommendations:

The Australian Government should:

- treated vapes as an adult consumer product, available from licensed, age-restricted premises, and easier to purchase than cigarettes.
- follow the lead of countries such as Aotearoa/New Zealand and make vaping more available than cigarettes in order to achieve the elimination of smoking (defined in Aotearoa/New Zealand as less than 5% of adults smoking) by 2025.

c) Examine how sectors beyond health, including for example education, employment, justice, social services and housing can contribute to prevention, early intervention, recovery and reduction of alcohol and other drug-related harms in Australia; and

Globally, it is now well recognised that repressive drug policies and laws not only result in widespread human rights violations, but untold levels of preventable drug-related harms in society. Furthermore, it is also acknowledged, that our current approaches to addressing drug use in society are having a disproportionate impact on those who are most marginalised in society with high levels of stigma, discrimination, violence, poverty and disadvantaged.

The potential harms associated with alcohol and other drugs (AOD) are not confined to the health sector. They extend across many facets of society, including education, employment, justice, social services, and housing. These sectors play a crucial role in reducing AOD-related harms by contributing to harm reduction, treatment, and broader health and wellbeing. By fostering cross-sector collaboration and adopting evidence-based policies and programs, Australia can take significant steps toward addressing the complex challenges associated with AOD use.

1. Education: Increasing the Focus on Harm Reduction

Schools and educational institutions are critical platforms for delivering AOD education and ensuring that young people are equipped with evidence-based, credible and accessible information on alcohol and other drug use. Currently there is a lack of focus, however, within Australian school-based programs on the importance of harm reduction and providing young people non-judgmental information on drugs, their use and their potential harms and benefits. The National Drug Strategy Household Survey shows that over half of the Australian population has used an illicit drug in their lifetime. This data suggests that drug use is a reality in the society and there is a need, therefore, to ensure that young people are equipped with the accurate, evidence-based and accessible information to enable them to make informed decisions while at school, and critically, as they move from school into their adult lives. To this end, HRA also believes there is an important link to drug checking in the educational context, and the opportunities for young people to educate themselves through accessing critical services to reduce the impacts of criminalisation on their lives and health.

Recommendations:

- Australian governments (at federal and state/territory levels) should implement comprehensive, evidence-based, non-judgmental AOD education programs in schools that focus on harm reduction and accessible, credible information.

2. Employment: Creating More Supportive Workplaces

The health and wellbeing benefits of employment include improved mental health, increased social engagement, financial stability, and a sense of purpose, all of which contribute to overall life satisfaction. Unfortunately however, workplaces are also key sites for drug use-related stigma and discrimination. Criminal record checks are routinely used in many industries resulting in large numbers of people (many of whom may have a criminal record from a minor drug offence as a young person) unable to secure and/or retain employment. In many workplaces, employers are also using urine/blood drug screens for pre-employment screening or performance management purposes in relation to ongoing employees. The use of such testing is stigmatising and discriminatory. Rather than taking these punitive approaches, it is critical that Australian workplaces move to approaches that allow individuals to seek support for drug use issues without fear of stigma, discrimination or job loss. To this end, Australian workplaces should introduce harm reduction policies that provide employees with confidential access to evidence-based treatment programs and support services, with the aim of improving individual health outcomes and fostering a health workplace.

HRA also believes it is important to highlight the impacts of criminalisation on the development and expansion of AOD/harm reduction peer workforces. Many jurisdictions are now supporting the employment of people with lived/living experience of drug use. While this is an important and positive development, this is often being done without putting in place

adequate mechanisms to protect peer workers ‘as workers’ – i.e., people are being asked to admit to criminal activity (drug use) to be employed in these roles but are rarely provided with support and/or protections for the implications associated with this disclosure. HRA believes that governments/services should not be able to 'benefit' from having peer workforces without addressing the issues of criminalisation and the associated stigma and discrimination that invariably accompanies it.

Finally, HRA supports better drug law reform that protects people, particularly patients who are using prescribed medicinal cannabis and/or who could benefit from being prescribed this treatment. Currently, patients on medicinal cannabis are being discriminated in their employment due to workplace drug testing policies (testing positive for THC, regardless to whether they are causing impairment), even though they are using prescribed cannabis for medical conditions.

Recommendations:

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - promote the adoption of a harm reduction approach to AOD issues within all Australian workplaces in order to reduce the levels of stigma and discrimination currently experienced by people who use/have used illicit drugs.
 - eliminate the use of workplace-based drug testing in both pre-employment and ongoing employment contexts (outside of workplace settings where intoxication is a legitimate concern in relation to undertaking procedures, tasks or operating equipment that may place the health & safety of others at risk).
 - eliminate criminal record checks for non-violent drug offences in both pre-employment and ongoing employment contexts.
 - encourage businesses to implement flexible policies that support employees in accessing drug treatment without fear of job insecurity or stigma and discrimination.
 - Ensure adequate protections and support for peer workers in the context of criminalisation.

3. Justice: Shifting from Punitive and Criminalising Approaches

There is a growing global recognition of the need to urgently move towards the full decriminalisation/legal regulation of the use and supply of currently illicit substances for personal consumption, along with possession for personal use, to address the significant long-term health, social and economic consequences associated with criminalising, arresting, convicting, and often incarcerating people who use drugs.

The justice system plays a significant role in many of the harms associated with our current approach to drug use in society. Punitive approaches, such as criminalisation, often exacerbate harm by entrenching individuals in cycles of incarceration, marginalisation and poverty. Instead, there needs to be a focus on decriminalisation as well as prioritising person-centred health and social support responses. Additionally, there should be a focus on de-incarceration in relation to people who use drugs both in terms of releasing people from prison, and reducing the number of people subjected to imprisonment for drug related offences. Indeed, removing contact with the criminal justice system (police) particularly for high marginalised individuals, has been shown to be effective in reducing reoffending and re-incarceration rates.

Recommendations:

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - implement full decriminalisation of all drugs across Australia, prioritising public health responses and social supports over criminal penalties.
 - implement legal regulation of cannabis across Australia.

4. Social Services: Holistic Support for Marginalised Communities

Social services play a crucial role in addressing the social determinants of health that can contribute to the potential for drug-related harms. Highly marginalised populations, such as people experiencing homelessness, individuals with mental health conditions, and those living in poverty, are at higher risk of experiencing drug-related harms.

Holistic, wraparound and peer-based services that integrate harm reduction and drug treatment with mental health care, housing support, and social inclusion initiatives can help support and empower individuals to find solutions that work for them and address their specific needs.

By way of examples, the Medically Supervised Injecting Room in Melbourne provides a harm reduction service that not only prevents overdoses but also connects people who use drugs with housing, healthcare, and social services, addressing the broader needs of marginalised individuals. Peer-based drug user-led services at the state/territory level, are staffed by people with direct living experience of drug use which provides a safe, relevant and trusted environment for people who use drugs to address their sometimes complex and/or intersecting needs in relation to a wide range of health and social issues.

Recommendations:

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:
 - ensure that harm reduction and AOD services are integrated with housing, mental health, and social services to provide holistic support for marginalised communities.
 - increase funding for peer-led and community-based services that offer intensive support and wraparound care for individuals experiencing multiple, intersecting challenges.

5. Housing: Stability as a Foundation for Health & Wellbeing

Stable housing is a critical component of health and wellbeing for most people in the community. Without secure housing, it can be very difficult for individuals to maintain their health and wellbeing and to engage in harm reduction and/or access treatment. Housing programs, that prioritise stable housing without judgment and preconditions such as abstinence or sobriety, have been shown to improve health outcomes and reduce the potential for drug-related harms over time. In this way, these harm reduction-focused, non-judgemental approaches to housing services can lead to significant improvements in health and social outcomes among people who use drugs. HRA also recommends a greater focus on supporting transition to community and into stable and secure housing for people leaving custodial and residential AOD treatment settings.

Recommendations:

- Australian governments (at federal and state/territory levels) and in accordance with their legislative, regulatory and policy mandates should:

- expand funding for and access to harm reduction-focused, non-judgmental housing programs across Australia to ensure individuals experiencing AOD-related harms have access to stable housing.
- integrate housing support with AOD treatment and social services to provide a comprehensive approach to individual health and wellbeing including for people leaving custodial and residential settings.

Conclusion:

HRA would like to thank the committee for the opportunity to provide this submission to the Inquiry into the Impact of AOD in Australia. HRA would welcome the opportunity to provide further information and/or answer any questions arising from this submission should there be an opportunity to appear at a hearing associated with the Inquiry. We look forward to hearing from you in due course.

Yours sincerely



Dr Annie Madden AO
Executive Director
Harm Reduction Australia
E: executivedirector@harmreductionaustralia.org.au