



Tasmanian Council of Social Service Inc.

Tasmanian Drug Strategy 2023-2028

August 2023



**INTEGRITY
COMPASSION
INFLUENCE**

About TasCOSS

TasCOSS's vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion.

Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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Introduction

TasCOSS welcomes the opportunity to make a further submission to the Department of Health ('the Department') in response to the Consultation Draft: Tasmanian Drug Strategy 2023-2028 ('the Consultation Draft'). Our response will explore how the Consultation Draft responds to concerns raised in our earlier submission,¹ as well as focusing on further recommendations to implement our recommendations in relation to how Tasmania's Drug Strategy can better support Tasmanians, their families and their communities.

Language

Whilst we support the inclusion of the section entitled 'Our Language Matters',² we recommend the Consultation Draft also incorporate recommendations for person-centred language (for example, the statement, 'people who use crystal methamphetamine' instead of 'crystal methamphetamine users'); avoidance of generalised statements suggesting harm is inevitable for all people who use alcohol, tobacco or other drugs (for example, referring to 'people who have stopped using drugs' rather than 'clean' or 'drug-free'); and to avoid words or statements that could be considered inflammatory or loaded in the context of discussing alcohol, tobacco and other drug use (for example, statements indicating a person who has used/is using substances as dangerous, incapable or at fault for their dependency).

Greater focus on general physical and mental health

Evidence shows a clear connection between problematic or illicit substance use and poor physical and mental health. We therefore believe greater emphasis should be placed on priority actions to address underlying health inequalities in Tasmania, particularly in relation to Tasmanians on low incomes, who continue to experience poorer health outcomes than people in other states and territories.³ We reiterate our recommendation for the inclusion of an action item relating to access to adequate healthcare in the Consultation Draft.

Health Promotion

TasCOSS acknowledges the Consultation Draft now recognises the importance of health promotion – for example, by including a list of protective factors.⁴ However, we believe the Consultation Draft should contain a more explicit focus on promoting healthy behaviours, particularly in relation to priority cohorts.

We reiterate our previous recommendations in relation to the renaming of 'prevention' as 'health promotion'. We also strongly recommend inclusion of specific strategies to address the health needs of priority cohorts (discussed further below).

¹ TasCOSS, Submission to the Department of Health, 'Tasmanian Drug Strategy' (July 2022).

² Tasmanian Government, Mental Health, Alcohol and Drug Directorate, Department of Health, 'Tasmanian Drug Strategy 2023-2028: Consultation draft' (May 2023), 7.

³ Primary Health Tasmania, Health in Tasmania: Health Needs Assessment 2022/23 – 2024/25 (November 2021), 12.

⁴ Tasmanian Government, Mental Health, Alcohol and Drug Directorate, Department of Health, 'Tasmanian Drug Strategy 2023-2028: Consultation draft' (May 2023), 18.

Harm Minimisation

Although harm minimisation is identified as an underlying principle of the Consultation Draft and a central part of the policy framework, TasCOSS remains concerned this principle is not reflected in the action areas.

We strongly recommend the redrafting of the action items to include an additional (ideally first) item focusing on harm minimisation and a public health approach to substance use. This action could include initiatives to address underlying factors relating to problematic and/or illicit substance use, including potential collaborations between services to address community needs holistically. We also encourage inclusion of the following key activities within that action item:

Addressing community attitudes and stigma towards substance use and dependency

The Consultation Draft now includes activities relating to combating stigma and discrimination relating to substance use and dependency, which we support. We recommend this action item is included in the proposed Action Item One: A commitment to harm minimisation and a public health response to drug use, and that detailed actions to address stigma and discrimination are included as activities under this section.

We also recommend the Consultation Strategy acknowledge the damage caused by stigma and discrimination towards substance use in the section 'The impacts of harmful alcohol, tobacco and other drugs use in Australia'.

Non-prosecutorial approaches to substance use

As per our previous submission, we also strongly believe a public health approach to substance use requires the redirection of current expenditure on punitive responses towards therapeutic alternatives. There are some ideas relating to alternative responses to illicit substance use in the Consultation Draft - for example, the expansion of the Court Mandated Diversion (CMD) program and other existing diversionary options for drug offences. However, we have concerns with the narrow focus of the activities listed in Action Area 5 and do not believe they will go far enough towards effectively diverting substance users from the criminal justice system.

As a sentencing option requiring intensive resourcing (and aimed at offenders with a criminal history who are likely facing a substantial term of imprisonment),⁵ we do not view the CMD as an example of a 'diversionary' program but more of a therapeutic tertiary intervention for substance users who are already involved in the criminal legal system. We also agree with the recommendations made by Community Legal Centres Tasmania in relation to the need for expansion of the CMD program to ensure

⁵ Information about the CMD and Drug Treatment Orders found at <https://www.justice.tas.gov.au/communitycorrections/orders/court-mandated-diversion>.

the eligibility criteria reflect the current needs of the community, and to increase the number of places available.⁶

The Illicit Drug Diversion Initiative (IDDI) is a diversionary program which gives police officers the option of ‘cautioning’ both adults and young people (meaning they are not prosecuted) who are engaging in low-level offending relating to drugs. There are different tiers of intervention offered depending on the substance involved or whether the alleged offender has had previous interactions with police, and the interventions can involve engagement with external services (such as AOD counselling). Although reports highlight positive engagement with IDDI,⁷ we are concerned many Tasmanians who might be eligible may not be offered the opportunity to be involved. In their submission to the Consultation Draft, Community Legal Centres Tasmania raise the concern that, ‘(IDDI) is not being utilised to its full potential’,⁸ noting a significant decrease in cautions issued by Tasmania Police over the past decade.⁹

TasCOSS has previously raised concerns in relation to the underutilisation of diversion by Tasmania Police.¹⁰ We have also questioned the effectiveness of diversionary approaches or programs relying on police or prosecutorial discretion, given the findings from other Australian jurisdictions that people from certain cultural or social backgrounds are less likely to be offered cautions or non-prosecutorial options in response to criminal behaviour. We therefore recommend a review of the police caution/diversion framework in Tasmania, as well as greater support and training for police officers to ensure they are appropriately referring people to these and other support programs. We also recommend consideration of referral pathways into diversion which do not depend on the support of police, such as direct referrals from magistrates,¹¹ together with legislative reform to decriminalise possession and use (discussed below).

Decriminalisation of substance use and possession

TasCOSS has previously advocated for the decriminalisation of drug use and possession in Tasmania as a practical and evidence-based approach to reduce involvement in the criminal justice system, and to respond to drug use and possession in a way that is aligned with a public health model.¹² This recommendation is supported by a number of Tasmanian community organisations, including Community

⁶ Community Legal Centres Tasmania, Submission to Department of Health, ‘Tasmanian Drug Strategy 2023-2028 Consultation’ (August 2023), 2-3.

⁷ Bartl, B, Community Legal Centres Tasmania, ‘The Case for a Health Focused Response to Drug Use in Tasmania’s Legal System’ (January 2022), 18-19.

⁸ Community Legal Centres Tasmania, Submission to Department of Health, ‘Tasmanian Drug Strategy 2023-2028 Consultation’ (August 2023), 2.

⁹ Ibid.

¹⁰ For example, TasCOSS, Submission to Legislative Council Parliamentary Committee, ‘Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters’ (April 2023), 12-14; TasCOSS, Submission to Tasmanian Government, ‘Reforming Tasmania’s Youth Justice System’ (March 2022), 14-18.

¹¹ See Liberty Victoria, ‘Justice Diverted? Prosecutorial discretion and the use of diversion schemes in Victoria’ (May 2018).

¹² TasCOSS, Submission to Legislative Council Parliamentary Committee, ‘Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters’ (April 2023), 15.

Legal Centres Tasmania,¹³ the Social Action and Research Centre (SARC) at Anglicare Tasmania,¹⁴ and the Alcohol, Tobacco and other Drugs Council (ATDC).¹⁵

The decriminalisation of drug use and possession has also been implemented in other Australian jurisdictions. For example, the Australian Capital Territory has committed to the decriminalisation of possession of small amounts of illicit substances, which will now attract a Simple Drug Offence Notice (resulting in a fine and/or referral to treatment) rather than criminal sanctions.¹⁶ In the Northern Territory and South Australia, those found in possession of small quantities of cannabis also receive a fine rather than being charged with a criminal offence,¹⁷ and Queensland has also committed to enacting drug law reform to decriminalise personal use of small quantities of a wide range of substances.¹⁸

We also highlight other Australian jurisdictions have committed to reforming public space offences relating to substance use,¹⁹ noting in particular the disproportionate impact of these offences on the Aboriginal community.²⁰ We support the decriminalisation of offences such as public drunkenness, and a commitment to additional funding and resources (such as those to be introduced in Victoria) to ensure a public health response to alcohol misuse and dependency.²¹

Recent research also shows there is significant community support for the decriminalisation of drug use and possession. For example, results from a national survey from 2022 show 41% of respondents supported the legalisation of cannabis, and support for the legalisation of other drugs (including cocaine and MDMA) has increased while public support for a prison sentence as a response to drug use is declining.²²

¹³ Bartl, B, Community Legal Centres Tasmania, 'The Case for a Health Focused Response to Drug Use in Tasmania's Legal System' (January 2022).

¹⁴ Social Action and Research Centre, Anglicare Tasmania, 'Action for a healthier community: an effective response to illicit drugs' (2023).

¹⁵ Alcohol, Tobacco and other Drugs Council Tasmania, 'Decriminalising personal use: position paper' (December 2022).

¹⁶ ACT Government, https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rachel-stephen-smith-mla-media-releases/2022/act-to-decriminalise-small-amounts-of-illicit-drugs.

¹⁷ Hughes, C., Ritter, A., Chalmers, J., Lancaster, K., Barratt, M. & Moxham-Hall, V, UNSW, 'Decriminalisation of drug use and possession in Australia – A briefing note' (February 2016), accessed at <https://ndarc.med.unsw.edu.au/sites/default/files/ndarc/resources/Decriminalisation%20briefing%20note%20Feb%202016%20FINAL.pdf>.

¹⁸ Jemima Burt, 'Queensland is to relax its drug laws, even for ice and heroin. How could it affect you?' ABC News (22 February 2023) accessed at <https://www.abc.net.au/news/2023-02-22/queensland-illicit-drug-law-changes-three-strikes/102005684>.

¹⁹ Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021 (Vic) – this offence will be abolished in Victoria from November 2023.

²⁰ See Expert Reference Group on Decriminalising Public Drunkenness, 'Seeing the Clear Light of Day: Report to the Victorian Attorney-General' (August 2020); Parliament of Victoria, Legislative Council Legal and Social Issues Committee, 'Inquiry into Victoria's criminal justice system: Volume 1' (March 2022), 478-480.

²¹ Victorian Government, Department of Health, 'Public intoxication reform', accessed at <https://www.health.vic.gov.au/alcohol-and-drugs/public-intoxication-reform-0>.

²² Weatherburn D, Alexeev S & Livingston M, 'Changes in and correlates of Australian public attitudes toward illicit drug use' Drug and Alcohol Review (July 2022), 41, 1029–1040, accessed at https://www.researchgate.net/profile/Sergey-Alexeev-4/publication/357390147_Changes_in_and_correlates_of_Australian_public_attitudes_toward_illicit_drug_use/links/63ca06336fe15d6a5731fd8a/Changes-in-and-correlates-of-Australian-public-attitudes-toward-illicit-drug-use.pdf.

Whilst we support the expansion of diversionary programs as a response to substance use, we strongly believe these programs should be accompanied by legislative change to embed a public-health response to substance use.

Evidence-based options for intervention and treatment

We support the recommendation from the ATDC submission that the Consultation Draft include explicit reference to evidence-based programs and initiatives in relation to all four drug action areas,²³ ideally accompanied with examples of activities or programs which already have demonstrated positive outcomes. Examples could include the implementation of pill testing as trialled in other jurisdictions,²⁴ the expansion of existing initiatives such as the needle and syringe and naloxone programs,²⁵ and the introduction of programs with a strong evidence-based from other jurisdictions, such as medically supervised injecting rooms.²⁶

Priority Populations

While the Consultation Draft does contain reference to priority populations, we strongly recommend more explicit actions and activities to address the needs of these populations.

We recommend the Consultation Draft include specific activities designed for the priority populations identified. This should include specific activities in both 'Prevention' (our recommendation is to rename this section to 'health promotion') and 'Interventions and Treatment'.

Examples of activities in relation to health promotion could include additional funding for Aboriginal community-controlled organisations to develop and implement programs to engage with individuals, families and communities – this could include targeted initiatives relating to substance use, such as smoking cessation and ATOD programs, as well as more general programs to strengthen community engagement and promote understanding of/access to health services.

Examples of activities in relation to interventions and treatment could include funding for a specialist ATOD inpatient facility for children and young people in Tasmania, funding for the development and implementation of initiatives for the Tasmanian Aboriginal community, programs to work more effectively and therapeutically with Tasmanians experiencing co-occurring and complex conditions (as highlighted by ATDC in their submission), and evidence-based programs for prisoners and those in secure facilities including a prison-based rehabilitation program and throughcare for prisoners pre-and-post-release.

All activities relating to priority cohorts should be developed in collaboration with community and local organisations, and incorporate the voice of lived experience. The Government should commit to the

²³ Alcohol, Tobacco and other Drugs Council Tasmania, 'Tasmanian Drug Strategy' (August 2023), 2.

²⁴ Groves, A, 'Worth the test? Pragmatism, pill testing and drug policy in Australia' Harm Reduction Journal (2018)15, 12, accessed at <https://link.springer.com/article/10.1186/s12954-018-0216-z>.

²⁵ Bruno, R, Wilson, Y, Greaves, G and Briggs, M 'Access to naloxone in Tasmania, 2014-2022' (2022).

²⁶ Information about the Medically Supervised Injecting Room Trial in Richmond, Victoria (including independent reviews of its operation) can be found at the following website: <https://www.health.vic.gov.au/aod-treatment-services/review-of-the-medically-supervised-injecting-room-trial>.

additional funding and resourcing required for these programs to be co-designed, developed with and delivered by priority populations and community organisations with specialist knowledge and experience relating to the needs of these groups.

Recommendations

- The Draft Strategy include 'Access to healthcare' as an action item, with key activities addressing health inequalities in Tasmania – examples could include the following:
 - Increased access to community health services, including bulk billed GPs, specialist services and allied health throughout Tasmania;
 - Initiatives to increase transport options; and
 - Measures to improve digital literacy and increase access to telehealth and other services, such as initiatives to provide free or low-cost telecommunications devices or the expansion of the Tasmanian concessions scheme to include telecommunications.
- The section entitled 'Language Matters' should also incorporate recommendations for person-centred language, the avoidance of generalised statements suggesting harm is inevitable for all people who use alcohol, tobacco or other drugs, and to avoid inflammatory or language
- Reframe the current action area 'Prevention' as 'health promotion' and include activities which are not only designed to prevent ill health, but promote behaviours associated with improved health and wellbeing outcomes, including:
 - Encourage Tasmanians to think of themselves as healthcare decision-makers, not simply passive consumers;
 - Engage individuals and communities in identification and co-design of health promotion/prevention/literacy needs, mobilisation to address these needs, and design and delivery of interventions;
 - Ensure that programs address health-related behaviours, beliefs, experiences and emotions; and
 - Ensure that initiatives include social support - community health engagement initiatives which also build social support show promise in achieving positive health behaviour outcomes.
- The Consultation Draft should acknowledge the damage caused by stigma and discrimination towards substance use in the section 'The impacts of harmful alcohol, tobacco and other drugs use in Australia';
- The Consultation Draft should include an additional first action area - Action Area 1: 'Harm minimisation and a public health approach to substance use', and should include the following activities:
 - 'Reducing stigma and discrimination'
 - Work closely with clients/consumers, carers and service providers to embed respectful, nonstigmatising and nondiscriminatory attitudes across all service providers
 - Strengthen relationships with local media to increase accuracy of reporting of AOD issues in Tasmania
 - The development and promotion of activities to reduce stigma and discrimination associated with AOD use (including community campaigns)

- 'Non-prosecutorial approaches to substance use'
 - Support the expansion of existing diversionary options for drug offences, and address underlying factors which may be contributing to the reported decrease in cautions and diversions offered by police²⁷ – this would include additional funding for community organisations to increase their capacity to provide support and education programs;²⁸
 - Review of police caution/diversion framework in Tasmania
 - Training for police officers in relation to cautions, diversions and options for non-prosecutorial responses to substance use
 - Expand the CMD program and broaden the eligibility criteria;
 - Remove the requirement for prosecutorial discretion in relation to drug diversions and/or cautions, and allow direct referral from magistrates or judges to diversionary programs;
 - 'Decriminalisation of substance use and possession'
 - Review the existing legislative framework in relation to drug use and possession, to consider whether certain actions should be decriminalised - for example, possession of a small amount of cannabis under s24 of the *Misuse of Drugs Act 2001* (Tas);²⁹
 - Abolish offences in the Police Offences Act 1935 (Tas) relating to public drunkenness and commit to additional funding to implement a public health approach;
- Include explicit reference to evidence-based programs and initiatives in relation to all four drug action areas, with examples of potential programs for implementation or expansion in Tasmania;
 - Include specific activities for priority populations in action areas relating to prevention (or health promotion) and intervention/treatment; and
 - Provide funding and resourcing for priority programs to be co-designed with and delivered by organisations linked to these cohorts (such as Aboriginal community controlled organisations).

²⁷ As outlined in Tasmanian Government, Department of Health, Tasmanian Drug Strategy 2013-2018: Report on Activities (2019), 21, the number of cautions and diversions offered by police in Tasmania continued to decline between 2013-14 and 2018-19.

²⁸ A list of community organisations providing relevant treatment is found at Tasmanian Government, Department of Health, Tasmanian Drug Strategy 2013-2018: Report on Activities, 19-20.

²⁹ *Possessing, using or administering controlled drug*

A person must not –

(a) possess a controlled drug; or

(b) use a controlled drug; or

(c) administer a controlled drug to another person.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.