

COMMUNITY LEGAL CENTRES TASMANIA

15 July 2022

Department of Health
Office of the Secretary
GPO Box 125
Hobart TAS 7001
attn: Dr Robyn Greaves

via email: mhadd@health.tas.gov.au

Dear Dr Greaves,

Re: *Tasmanian Drug Strategy 2022-2027*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the draft *Tasmanian Drug Strategy 2022-2027* (“the Strategy”).¹ We strongly support the Government’s aim “to prevent the health, economic and social costs and harmful effects of alcohol, tobacco and other drug use in Tasmania”. However, we share the concerns of those organisations working on a day-to-day basis in the alcohol, tobacco and other drugs sector including the Alcohol, Tobacco and Other Drugs Council of Tasmania that the Strategy as currently drafted will not bring about meaningful change.

In our opinion, the aim cannot be achieved as long as we continue to treat some drug use as a crime. Whilst the Tasmanian Government continues to spend millions of dollars on law enforcement in a futile war on illicit drug use, thousands of drug users across Tasmania are missing out on the treatment they need. In short, we need to reorientate personal drug use as a health rather than a law enforcement issue.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

Focus on law enforcement a failure

Harm minimisation is the underlying concept of Australia’s *National Drug Strategy* of which the *Tasmanian Drug Strategy* is consistent. However, analysis of Australian governments expenditure on illicit drugs, found that nearly two-thirds (64 per cent) was directed to law enforcement, with 23 per cent spent on treatment, 10 per cent on

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

prevention, and just 2 per cent on harm reduction.² The focus on law enforcement has however had no impact on minimising the supply of illicit drugs.

The most recent report from the Australian Criminal Intelligence Commission notes that “despite the impact of COVID-19 restrictions on drug markets in the latter half of 2019-20, a number of new records were set”,³ including 38.5 tonnes of illicit drugs seized nationally and 166,321 national illicit drug arrests. The report also notes that over the last decade:⁴

- The number of national illicit drug seizures increased 74 per cent; and
- The weight of illicit drugs seized nationally increased 314 per cent; and
- The number of national illicit drug arrests increased 96 per cent.

In 2020/21 around 1100 Tasmanians were charged with drug-related offences⁵ in the Magistrates Court of Tasmania with more than 90 per cent of all arrests against people who were charged with use, possession or administering a drug for their own use.⁶ Whilst a review of Tasmania’s Supreme Court has found that there are around 120 sentences handed down each year for offenders with known problematic drug use.⁷

Recognition that we cannot arrest our way out of illegal drug use is already acknowledged in a number of diversion programs offered by the police and courts in Tasmania. Both Police Drug Diversion and Court Mandated Diversion are confirmation that -at least for some offenders- personal drug use should be treated as a health rather than a criminal justice issue.

Whilst there is anecdotal support for Police Drug Diversion from those employed in the alcohol and other drug sector, Court Mandated Diversion remains unduly restrictive with the program unavailable for alcohol abuse or offenders sentenced to more than two years imprisonment.

- ***Review existing treatment programs***

The draft Tasmanian Drug Strategy’s action to “review and support increasing access to alcohol and other drug treatment programs” is strongly supported. However, the best

² Alison Ritter, Ross McLeod and Marian Shanahan. *Monograph No. 24: Government drug policy expenditure in Australia – 2009/10* (National Drug and Alcohol Research Centre: Sydney June 2013).

³ Australian Criminal Intelligence Commission, *2019-20 Illicit Drug Data Report* at 1. As found at https://www.acic.gov.au/sites/default/files/2021-10/IDDR%202019-20_271021_Statistics.pdf (Accessed 21 June 2022).

⁴ Australian Criminal Intelligence Commission, *2019-20 Illicit Drug Data Report* at 2. As found at https://www.acic.gov.au/sites/default/files/2021-10/IDDR%202019-20_271021_Statistics.pdf (Accessed 21 June 2022).

⁵ In 2020/21 there were 1047 adults charged with drug offences and 52 juveniles charged with drug offences in the Magistrates Court of Tasmania: *Magistrates Court of Tasmania Annual Report 2020/21* at 42. As found at https://www.magistratescourt.tas.gov.au/_data/assets/pdf_file/0010/640729/Magistrates-Court-Annual-Report-2020-to-2021.pdf (Accessed 21 June 2022).

⁶ According to the Australian Criminal Intelligence Commission there were 2576 consumers and 279 providers who were arrested in Tasmania during 2019/20: Australian Criminal Intelligence Commission, *2019-20 Illicit Drug Data Report*, Table 25. As found at https://www.acic.gov.au/sites/default/files/2021-10/IDDR%202019-20_271021_Statistics.pdf (Accessed 21 June 2022).

⁷ *The case for a Health focused response to drug use in Tasmania’s Legal System* (July 2017) at 10.

way to ensure that the action is addressed, would be to explicitly list the reviews to be undertaken.

Recommendation

That a review of the Court Mandated Diversion program be explicitly included in the list of actions set out in the Tasmanian Drug Strategy

- Improve access to treatment programs

At the same time, it must be recognised that there is currently a significant under-investment in alcohol and other drug (AOD) treatment. A review of AOD treatment services in Australia commissioned by the Australian Government found that nationally, treatment places would need to double to meet demand.⁸ The review estimated that approximately 200,000 people receive AOD treatment in any one year in Australia, but that the unmet demand for AOD treatment was conservatively estimated to be up to 500,000 people over and above those in treatment in any one year.⁹ In Tasmania, a recent review found that 2,791 Tasmanians received treatment in 2018-19 but that an estimated 12,767 required treatment, leading the authors to conclude that “there is a significant number of Tasmanians who may need some form of AOD treatment who for a variety of reasons are not currently receiving treatment”.¹⁰

It is therefore unsurprising that the draft Tasmanian Drug Strategy recognises “a significant shortfall in the need for a range of treatment interventions ranging from assessment and brief interventions to specialist acute services”. We strongly support the Tasmanian Drug Strategy’s intention to “review and support increasing access to alcohol and other drug treatment programs”. However, a better goal would be to set targets.

Recommendation

That the Tasmanian Drug Strategy commit to at least doubling the number of people accessing alcohol and other drug treatment programs.

- Tasmanian Prison System

Targeting alcohol and other drug offenders is particularly important with recent research demonstrating that 46 per cent of detainees who had used drugs attributed their detention to alcohol and/or other drug use.¹¹ However, Tasmania’s Sentencing Advisory

⁸ Alison Ritter, Lynda Berends, Jenny Chalmers, Phil Hull, Kari Lancaster, Maria Gomez, *New Horizons: The review of alcohol and other drug treatment services in Australia* (Final Report: July 2014) at 13. As found at https://www.health.gov.au/sites/default/files/new-horizons-review-of-alcohol-and-other-drug-treatment-services_0.pdf (Accessed 21 June 2022).

⁹ Alison Ritter, Lynda Berends, Jenny Chalmers, Phil Hull, Kari Lancaster, Maria Gomez, *New Horizons: The review of alcohol and other drug treatment services in Australia* (Final Report: July 2014) at 13. As found at https://www.health.gov.au/sites/default/files/new-horizons-review-of-alcohol-and-other-drug-treatment-services_0.pdf (Accessed 21 June 2022).

¹⁰ Department of Health, *Reform Agenda for the Alcohol and Other Drugs Sector in Tasmania* (November 2020) at 11-12. Also see Siggins Miller, ‘A single Tasmanian alcohol and other drugs (AD) service system framework’ (Final Report: August 2017) at 5.

¹¹ Australian Institute of Criminology, *Drug use among police detainees 2020* (AIC Statistical Report 35) at 2. As found at https://www.aic.gov.au/sites/default/files/2021-06/sr35_drug_use_monitoring_in_australia-2020.pdf (Accessed 24 September 2021).

Council found in 2017 that treatment programs were lacking with “demand for treatment programs is outstripping the ability of Corrective Services to deliver programs”.¹²

In 2018, the Custodial Inspector of Tasmania’s *Report into Care and Wellbeing* found:

- There are two Alcohol and Drug Counsellors in the Tasmanian Prison Service for over 600 prisoners;
- There is a waiting list of over 100 prisoners for alcohol and other drug support, which has remained steady since October 2015;
- There is inadequate physical resourcing with not enough rooms available for treatment and programs;
- There are large numbers of prisoners being released back into the community without ever receiving any alcohol and other drug treatment or support;
- There is no alcohol and other drug ‘residential’ treatment unit for women prisoners and no plans to establish one.

The Custodial Inspector concluded that “the reality is there are a number of prisoners that enter custody and request support for alcohol and drug related issues but cannot access it due to staffing limitations”.¹³

The lack of treatment programs in the Tasmanian Prison Service is a concern. We strongly recommend that the draft Tasmanian Drug Strategy commit to a residential alcohol and other drug program within the prison system.

Recommendation

That the Tasmanian Drug Strategy commit to a residential alcohol and other drug program within the prison system

We also note that the Aboriginal and Torres Strait Islander imprisonment rate is currently more than five times the non-Indigenous imprisonment rate and has increased by 97 per cent since 2010, compared to 7 per cent for non-Indigenous people.¹⁴ We therefore recommend that the Tasmanian Drug Strategy recognise the need for culturally appropriate AOD treatment and support.

Recommendation

That the Tasmanian Drug Strategy commit to culturally appropriate alcohol and other drug treatment and support

¹² Sentencing Advisory Council, *Mandatory Treatment for Alcohol and Drug Affected Offenders* (Research Paper No. 2: September 2017) at 20. As found at https://www.sentencingcouncil.tas.gov.au/_data/assets/pdf_file/0016/400147/SAC-Research-Paper-No.-2-Mandatory-treatment-for-alcohol-and-drug-affected-offenders.pdf (Accessed 24 September 2021).

¹³ Custodial Inspector of Tasmania, *Inspection of Adult Custodial Services in Tasmania 2017 - Care and Wellbeing Inspection Report* (October 2018) at 106.

¹⁴ Justice Reform Initiative, *Jailing is Failing* (April 2021) at 1. As found at https://d3n8a8pro7vhm.cloudfront.net/justicereforminitiative/pages/249/attachments/original/1619164039/JRI_Tasmania_report_FINAL.pdf?1619164039 (Accessed 27 June 2022).

- **Persons at risk of homelessness**

The draft Tasmanian Drug Strategy notes that Housing Tasmania will be a key partner agency. Community Housing Providers now comprise around 50 per cent of all social housing in Tasmania. We strongly recommend that the Tasmanian Drug Strategy note that Housing Tasmania and community housing providers will both be key partner agencies.

- **Decriminalisation**

We strongly recommend the adoption of the Portuguese model where the decriminalisation of small quantities of all drugs became law in 2001. Analysis of the effect of the reforms has been that whilst there has been a small increase in reported illicit drug use among adults this has been offset by reduced drug abuse among adolescents and problematic drug users. Moreover, significant resources have been able to be re-allocated to drug treatment with concomitant reductions in HIV infections, drug-related deaths and addiction.¹⁵


Dr Paul Blacklow an economist at the University of Tasmania estimated in 2017 that the cost of illicit drug use in Tasmania was \$301.73M and that the cost, if Tasmania adopted the Portuguese decriminalisation model would be \$273.6M, a financial saving of \$28.13M.¹⁶

Summary

Whilst harm minimisation is the underlying concept of the Tasmanian Drug Strategy, the focus continues to be on law enforcement. At the same time, thousands of Tasmanians are missing out on the treatment they need. We strongly believe that an evidence-based approach is required, with Portugal's decriminalisation model best able to meet the Tasmanian Government's aim "to prevent the health, economic and social costs and harmful effects of alcohol, tobacco and other drug use in Tasmania".

In the event that the Tasmanian Drug Strategy is unable to adopt a decriminalisation model we strongly recommend that specific reviews are formalised, and targets are explicitly set out including significant increases in the number of Tasmanians able to access treatment.

Yours faithfully,



Benedict Bartl

Policy Officer

Community Legal Centres Tasmania

¹⁵ C Hughes and A Stevens, 'What we can learn from the Portuguese decriminalisation of illicit drugs?' (2010) 50 *British Journal of Criminology* 999.

¹⁶ *The case for a Health focused response to drug use in Tasmania's Legal System* at 27.