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**Review of the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019*
(Cannabis Act) 2019 pursuant to the *Drugs of Dependence (Personal Cannabis Use)*
Amendment ACT 2019**

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ACT
Government
Health

Review of the operation of the Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019

August 2024

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Executive summary

This document provides the statutory review of the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (Cannabis Act), which came into effect in the Australian Capital Territory (ACT) on 31 January 2020. The Cannabis Act amended the *Drugs of Dependence Act 1989* (DoD Act) to remove criminal penalties for possession and cultivation of small amounts of cannabis for personal use by adults.

The ACT Health Directorate conducted the review on behalf of the Minister for Population Health, Emma Davidson MLA, as per the legislative requirements under the Cannabis Act.

The review aimed to:

- Review the operation of the reforms under the Cannabis Act
- Identify whether the reforms are operating as intended
- Identify impacts of the reforms on the community and the criminal justice system.

In 2018, the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (Cannabis Bill), was introduced to the Legislative Assembly as a Private Member's Bill by Michael Pettersson MLA. The Cannabis Bill was intended to decriminalise possession and cultivation of small amounts of cannabis for personal use to further reduce criminal justice system involvement for people who use cannabis and treat cannabis use as a health issue.

The ACT Government supported the Cannabis Bill with amendments that added further safeguards and protections for the community, particularly around limits on the cultivation of cannabis and restricting access to cannabis by children. The amended Cannabis Act was passed by the ACT Legislative Assembly on 25 September 2019 and came into effect on 31 January 2020.

The scope of the review focused on the operation of the Cannabis Act and the impacts of its implementation on the community and criminal justice system. A mixed-methods approach was taken to collect both quantitative and qualitative data. A range of quantitative secondary data were collected from existing data sources and publications. Qualitative interviews were conducted with key stakeholders who were selected from organisations responsible for administering the reforms and organisations that advocate for people who use cannabis.

Key findings from the analysis of existing quantitative data include:

- Rates of cannabis use have largely remained stable
- People in the ACT continue to be less likely to have recently used cannabis than the national average
- Charges laid for cannabis offences and diversions have continued to decline to very low levels, reflecting a significant change in policing practices in line with the intent of the Cannabis Act
- No increase in charges laid for trafficking or cultivation offences since the commencement of the Cannabis Act
- There does not appear to have been any substantial increases or decreases in cannabis-related presentations to ambulances and hospital admissions

- The secondary data are inconclusive on any impact on treatment seeking for cannabis
- No evident changes in the price and availability of cannabis.

Interviews with key stakeholders suggested that the reforms under the Cannabis Act have been positively received and are achieving positive impacts for people who use cannabis. The key stakeholders raised a number of aspects of the reforms that are operating well, such as supporting people to seek help and clear public communication. The reforms were reported to be working well alongside other harm reduction and diversion programs.

The key stakeholders identified several issues with the operation of the reforms which are detailed in the report. The main issues identified included legal ambiguity for police, concerns around black market cannabis supply, issues created by the quantitative limits and prohibition on hydroponic or artificial cultivation, and the lack of legal mechanisms for accessing seeds or cuttings. In some cases, these represented issues inherent to the legislation that need to be managed, and in other cases they presented opportunities for future refinement or improvement of the legislation. However, the key stakeholders interviewed reported that these issues did not necessarily warrant reopening the debate around cannabis policy at the present time given the significant recent drug policy changes in the ACT.

The key stakeholders reported several largely positive impacts of the Cannabis Act including a reduction in stigma and discrimination, increasing willingness to seek support for cannabis use, and improved relationships between people who use cannabis and the police.

Given the focus of the review on the operation and impacts of the reforms, and the limited consultation with key stakeholders, this report does not make specific cannabis policy recommendations, but provides the findings of the review for further consideration.

On the basis of the evidence presented, the review concludes that the Cannabis Act appears to be operating as intended, with limited unintended consequences. Several of the issues identified in the review may warrant further consideration at an appropriate time; however, any policy changes would require more extensive consultation and consideration than was possible in this review. The review did not identify any reasons for the reforms under the Cannabis Act not to continue.

Introduction

The *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* (Cannabis Act) came into effect on 31 January 2020. The Cannabis Act amended the *Drugs of Dependence Act 1989* (DoD Act) to remove criminal penalties for possession and cultivation of small amounts of cannabis for personal use by adults. The reforms to decriminalise personal possession and cultivation of cannabis were the first of their kind in Australia.

Under the Cannabis Act, the relevant Minister is required to review the operation of the amendments made by the Cannabis Act as soon as practicable after the end of their third year of operation and to present a report of the review to the Legislative Assembly within six months after the day the review was started.

The ACT Health Directorate conducted this review on behalf of the Minister for Population Health, the Hon Emma Davidson MLA.

Aims of the review

The review aims to:

- Review the operation of the reforms under the Cannabis Act
- Identify whether the reforms are operating as intended
- Identify impacts of the reforms on the community and the criminal justice system.

Note on language

‘Decriminalisation’ refers to the removal of criminal penalties for a criminal offence.

Decriminalisation can be applied in practice (where a criminal penalty may be applied but police and courts can use their discretion in enforcing the law) or in law (where criminal penalties are removed and discretion does not apply). The Cannabis Act implemented decriminalisation in the law by removing criminal penalties from the legislation.

‘Legalisation’ refers to the removal of criminal offences in the law, such that something is no longer a criminal offence and supply of substances is regulated. Cannabis was not legalised in the ACT under the Cannabis Act as criminal offences were retained even though criminal penalties were removed for small quantities of cannabis.

‘Diversion’ refers to programs that divert people who use drugs away from the criminal justice system, and in some cases into education and treatment. Diversion is different to decriminalisation because criminal offences and penalties remain, but discretion is used to divert people away from criminal justice responses.

Background

The ACT has long been a leader amongst Australian jurisdictions in drug diversion programs. Drug diversion programs aim to keep people apprehended for alcohol and other drug-related offences out of the criminal justice system and in some cases divert them into the health system for education, assessment and treatment. ACT diversion initiatives include the Illicit Drug Diversion program, Youth and Adult Alcohol Diversion programs, Court Alcohol and Drug Assessment Service, Drug and Alcohol Sentencing List, and most recently the introduction in 2023 of a Simple Drug Offence Notice for possession of small amounts of some illicit drugs.

Cannabis decriminalisation and diversion in the ACT

In 1992, the ACT became the second Australian jurisdiction to introduce a civil penalty for possession of small amounts of cannabis. The reforms introduced a Simple Cannabis Offence Notice (SCON) which allowed people to be issued a \$100 fine instead of a criminal conviction for possession of small amounts of cannabis (less than 25g initially, later amended to less than 50g) and cultivation of up to five cannabis plants (later amended to not more than 2 non-hydroponic plants). The SCON scheme applied to people of all ages, including those under 18 years of age. While the SCON scheme allowed for decriminalisation of cannabis, in practice issuing a SCON was not required in law and was subject to police discretion, where criminal penalties could still be applied.

In 2010, a directive was issued for police to utilise the Illicit Drug Diversion Program over issuing a SCON for relevant cannabis offences due to concerns over non-payment of civil penalties under the SCON.¹ The Illicit Drug Diversion Program involves police diverting people apprehended for possession of small amounts of illicit and illicitly-used drugs to the Police and Court Drug Diversion Service at Canberra Health Services for assessment, education and/or treatment. No conviction is recorded on their criminal record if they are compliant. The program is available for people apprehended for possession of illicit drugs, including cannabis, and is available for minors.

The ACT's drug diversion initiatives were evaluated in 2013 by the National Drug and Alcohol Research Centre, funded by the ACT Government, including the SCON scheme. The evaluation found that the SCON scheme was operating well, with some issues in terms of non-payment of fines and police resistance to the scheme. The evaluation recommended that the scheme be maintained with some changes to the way payments were handled and communication with police to better inform officers about the scheme.²

According to the 2016 National Drug Strategy Household Survey (the most current at the time the reforms were being considered), 74 per cent of people over the age of 14 did not support the possession of cannabis being a criminal offence (in the most recent National Drug Strategy Household Survey in 2022-23, this rose to 80.2 per cent of people surveyed said cannabis possession should not be a criminal offence).³ 47 per cent of Australians reported they would prefer either "a caution, warning or no action" for cannabis possession. The survey also found most Australians supported the use of cannabis for medicinal purposes and there was increasing support for cannabis legalisation. Cannabis use was prevalent in the ACT, with 8.4 per cent of people in the ACT in 2016 reporting using cannabis in the previous 12 months.⁴ ACT Government research referred to by

Mr Petterson in his speech on the Cannabis Bill found that 54 per cent of people surveyed in the ACT supported legalising cannabis for personal use and only 27 per cent were opposed.⁵

Medicinal cannabis

The ACT Medicinal Cannabis Scheme was established in 2016 to provide safe and legal access to high quality medicinal cannabis for therapeutic use by prescription. The ACT scheme was implemented following the decision of the Therapeutic Goods Administration to list medicinal cannabis as a controlled drug (Schedule 8) in the Poison Standard. Medicinal cannabis products are regulated prescription pharmaceutical formulations that are intended to meet high standards for manufacturing quality to ensure patient safety.

Although medicinal cannabis products largely differ from botanical cannabis used for recreational or non-prescribed medicinal purposes (that is, cannabis decriminalised by the Cannabis Act), a broad range of medicinal cannabis products have become available in recent years. This includes products containing THC and herbal cannabis.⁶ Medicinal prescription of cannabis products, including products containing THC, has grown rapidly across Australia as restrictions on prescribing have been loosened in 2018, with particular growth in 2021 and 2022.⁷

Medicinal cannabis schemes in the ACT and other parts of Australia were initially the subject of individual clinical review and approval and subsequently simplified to facilitate greater access for patients.

While medicinal cannabis is not in scope of this review, these changes provide relevant contextual information for considering cannabis use, supply and attitudes around the time of the introduction of the Cannabis Act and has likely had an impact on some of the data that were considered as part of this review.

The 2020 reforms

In 2018, the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 (Cannabis Bill) was brought forward to the Legislative Assembly as a Private Member's Bill.

When introducing the Cannabis Bill, Michael Pettersson MLA, provided the initial policy intent behind the Cannabis Bill, namely:

- Treating excessive cannabis use as a health issue rather than a criminal justice issue (to reduce stigma and the negative impacts of the criminal justice system, encourage help-seeking and reduce use of limited police resources on these offences).
- Allowing people with chronic health issues and pain who did not meet the criteria for accessing medicinal cannabis to use cannabis without fear of criminal repercussions.
- Aligning with community attitudes and some international jurisdictions.
- Reducing Canberrans' interactions with organised crime by allowing cultivation.
- Ensuring alignment with the ACT's harm minimisation approach to drugs.
- Continuing to restrict sale, supply, growing larger quantities of cannabis and consumption of cannabis by minors.
- Protecting the health and safety of the wider community.

The Cannabis Bill was referred to the Standing Committee on Health, Ageing and Community Services (the Committee) for an inquiry. The Committee received 36 written submissions and heard evidence over four public hearings. It tabled a final report (and dissenting report) in June 2018, making 16 recommendations which supported the intent of the Bill, including proposing further amendments.⁸

The ACT Government supported the Cannabis Bill with amendments based on the Committee's recommendations, which added further safeguards and community protections, particularly around limits on the number of plants that could be cultivated and where they could be grown, and to restrict the storage and smoking of cannabis near children. The ACT Government supported the intent for the Cannabis Bill to reduce the stigma associated with cannabis use that could encourage people to seek medical or other help with their cannabis use and create better opportunities to connect people with services and supports.

The Cannabis Bill also aligned with the ACT Government's *ACT Drug Strategy Action Plan 2018-2021*, which articulated the Government's policy intent to continue to reduce the harms of drugs including cannabis, through increasing diversion from the criminal justice system.

What reforms were made to the DoD Act?

The Cannabis Act amended the DoD Act in 2020 to:

- Remove criminal penalties for the possession of up to 50g of dried cannabis or up to 150g of cannabis that has been harvested and not dried ('wet' cannabis) for adults in the ACT
- Remove criminal penalties for the cultivation of one or two cannabis plants for adults in the ACT, with a limit of four cannabis plants per premises
- Prohibit cannabis cultivation at a place other than where the person lives and in an area accessible to members of the public
- Retain prohibition of the artificial cultivation of cannabis including hydroponic cultivation or using an artificial light or heat source
- Prohibit the storage of harvested cannabis within reach of children
- Prohibit smoking cannabis in a public place
- Prohibit exposing a child to smoke or vapour from cannabis use
- Retain the 'simple cannabis offence' for cannabis offences that were not decriminalised under the reforms
- Require the Minister to publish guidance material to inform the community about the legal and health implications of the amendments
- Require the Minister to review the operation of the amendments after their third year of operation and present a report to the Legislative Assembly within 6 months of the review's commencement.

The Cannabis Act was passed with amendments and the changes to the DoD Act listed above came into effect on 31 January 2020.

The Cannabis Act also included consequential amendments to the *Criminal Code 2002 (ACT)* and the *Medicines, Poisons and Therapeutic Goods Act 2008 (ACT)* to support the application of the Cannabis Act.

What are the implications of the reforms?

The Cannabis Act reformed the DoD Act in various ways to help reduce stigma, encourage help-seeking and reduce use of limited police resources on offences relating to personal cannabis use, whilst continuing to prioritise the health and safety of the broader ACT community.

The removal of selected criminal penalties only related to adults over 18 years of age in the ACT. For people aged under 18 years, it remained an offence subject to criminal penalties to grow, possess or use cannabis. However, minors could be given a \$100 fine via a SCON or be diverted via a referral to a harm reduction session under the pre-existing Illicit Drug Diversion Program. Following the subsequent reforms to the DoD Act, which came into effect on 28 October 2023 (2023 DoD Act amendments), this fine became a 'Simple Drug Offence Notice' (SDON) and the maximum penalty that could be applied in court for possession of small quantities of cannabis was a single penalty unit.

It remains illegal to sell, share or give cannabis as a gift to another person and for a person to drive with cannabis in their system. There also remains a degree of risk for individuals possessing and growing cannabis as a result of the interaction between Territory and Commonwealth law. Commonwealth law continues to prohibit cannabis possession and cultivation, including in the ACT, and this law can be enforced by police. The Government amendments to Cannabis Act sought to address incompatibilities with Commonwealth law by retaining criminal *offences* in the DoD Act for possession and cultivation of cannabis but removing criminal *penalties* for these offences for adults under prescribed limits.

Given changes to the legal framework for personal possession of cannabis of this kind had not been tried in Australia before the Cannabis Act, the ACT Government acknowledged at the time that there remained a degree of uncertainty and risk associated with the approach.

How has the ACT context changed since the reforms?

Since the Cannabis Act came into effect in 2020, the ACT has seen several significant changes with respect to drug policy and decriminalisation. Further amendments to the DoD Act commenced in October 2023, which aim to divert people who use drugs away from the criminal justice system and encourage them to access health services. These amendments mean that if a person is found with small quantity of certain drugs (such as ecstasy, LSD, methamphetamine or heroin), police may refer them to a health education and information session, or issue a SDON, which carries a \$100 fine. These amendments do not override the previous cannabis amendments or affect the provisions under the Cannabis Act, other than to replace the SCON with the SDON.

The COVID-19 pandemic caused significant disruptions in the lives of Canberrans over this period. Evidence suggests people's patterns of cannabis use across Australia changed during this period.⁹ The impacts of these events on the operation of the Cannabis Act were considered in this review.

The *ACT Drug Strategy Action Plan 2022-2026* reaffirms the ACT Government's commitment to reducing the harms associated with alcohol, tobacco and other drug use in the ACT, including through decriminalisation and diversion from the criminal justice system reflecting a health-based approach to drug use.¹⁰

Review approach

This review was conducted by the Alcohol, Tobacco and Other Drug Policy team in the ACT Health, with input from across government and key stakeholders. ACT Health was chosen to conduct the review as it was not heavily involved in the initial development of the Cannabis Act or the Government amendments, which was led by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD). The review draws on data provided to ACT Health by Canberra Health Services, ACT Policing and ACT Justice and Community Safety Directorate and published data from drug monitoring programs and independent research studies.

Scope

The scope of the review focused on the operation of the Cannabis Act (and the amendments it made to the DoD Act and other relevant legislation) and the impacts of its implementation on the community and the criminal justice system.

The review focused on the following areas:

- How the reforms are operating in practice (from the perspective of key stakeholders in ACT Policing, Canberra Health Services, the Alcohol, Tobacco and Other Drug treatment and support sector, and advocates for people who use drugs)
- Any impacts of the reforms on:
 - Cannabis use in the ACT
 - Cannabis offences in the ACT, including under Commonwealth law
 - Police diversions for cannabis possession
 - Presentations to health services for cannabis-related health issues
 - Presentations for treatment and support services for cannabis dependence and/or harm reduction
 - People who use cannabis in the ACT.
- Any unintended consequences of the reforms or their implementation.

The following areas were out of scope:

- Examination of cannabis policy change or appropriate drug possession laws for the ACT, which were considered in detail prior to the passing of the Cannabis Act
- Reconsideration of the recommendations of the 2018 Standing Committee inquiry into the Cannabis Bill
- Policy and legislation beyond the Cannabis Act and its amendments to the DoD Act and other relevant legislation
- The 2023 amendments to the DoD Act and implementation of the SDON, except where directly related to implementation of the Cannabis Act (these amendments will be subject to a separate evaluation)

- The operation of the Illicit Drug Diversion Program (ACT Policing) and Police and Court Drug Diversion Service (Canberra Health Services), except where directly related to implementation of the Cannabis Act
- The ACT Medicinal Cannabis Scheme, which is not governed by the DoD Act
- Drug driving laws, which are not governed by the DoD Act or within the scope of the Cannabis Act, and
- Impacts of the Cannabis Act on the mental health and wellbeing of people who use cannabis given data limitations and the range of factors that contribute to mental health issues.

Methods

The mixed-methods approach was taken to collect both broad quantitative data to assess any population-level impacts of the reforms, and in-depth qualitative data to assess how the reforms are operating in practice and any key impacts according to key local stakeholders.

Quantitative secondary data

A range of quantitative data were collected from existing data sources and publications (secondary data) to identify any changes since the commencement of the Cannabis Act. Data were requested from the data custodians where required. All data received were anonymous and contained no identifying details of individuals and are provided in this report in aggregate.

The following data were collected and are presented in the report:

- National Drug Strategy Household Survey (Australian Institute of Health and Welfare, AIHW)
- Ecstasy and Related Drugs Reporting System and Illicit Drugs Reporting System (National Drug and Alcohol Research Centre)
- Wastewater monitoring (Australian Criminal Intelligence Commission)
- Australian Secondary Students' Alcohol and Drug Survey (ACT Health)
- Cannabis offences and diversions (ACT Policing)
- Alcohol and Other Drug Treatment Services National Minimum Data Set (Australian Institute of Health and Welfare)
- Hospital presentations (Canberra Health Services)
- Ambulance callouts (National Ambulance Surveillance System via AIHW).

Where possible, comparisons to years before the commencement of the Cannabis Act are included, as well as trends since its commencement in 2020. It is important to note that changes in the data can be attributable to many factors, not only the impact of the Cannabis Act.

Where required, data with very low numbers (under 5 individuals/cases) are suppressed (not reported) to protect the privacy and avoid the potential risk of re-identification of individuals through the data's publication.

Data on drug driving are not included in the report. Transport Canberra and City Services (TCCS) has funded Swinburne University of Technology via the Road Safety Fund Community Grants program to

conduct research to investigate what impact cannabis decriminalisation has had on road safety in the ACT. The report is expected to be delivered to TCCS in early 2025.

Key stakeholder interviews

Qualitative interviews were conducted with key stakeholders to provide in-depth information on the operation of the Cannabis Act and its impacts. Key stakeholders were selected from organisations responsible for administering the reforms and organisations representing people who use cannabis and treatment and support services. Key stakeholders were selected for their knowledge and experience based on their role within a relevant organisation and understanding of broader stakeholders' views on the operation of the Cannabis Act.

The interviews were semi-structured and questions were tailored to suit the knowledge and experience of each interviewee. The interviews addressed the following core topics:

- How the reforms under the Cannabis Act are operating in practice.
- How the reforms were implemented and any issues that remain or have been addressed since commencement.
- Any changes or impacts for those implementing the reforms and/or the community that have been observed following the reforms.
- Intended and unintended consequences of the reforms.
- Whether the reforms should continue in their current form and/or any changes that could be considered to improve the outcomes of the reforms.

Key themes and other important points relevant to the review's aims are reflected in this report.

Seven representatives from across the following organisations were interviewed or provided a submission in place of an interview:

- ACT Policing
- Alcohol and Drug Service (ADS) Diversion Service in Canberra Health Services
- Alcohol Tobacco and Other Drug Association ACT (ATODA)
- Canberra Alliance for Harm Minimisation and Advocacy (CAHMA).

The individuals named in this report gave their consent to be referenced.

Limitations

There are several limitations of the review and the information contained in this report:

- The review only sought input from stakeholders on areas within the scope of the review.
- Secondary data analysis and key stakeholder interviews cannot capture all data that may be of relevance to the review's aims, however, they were selected to provide both a broad overview and in-depth information.
- Data are not readily available on all aspects of interest to the review and it was not possible to carry out complex statistical analyses.

- The time points at which secondary data were collected and reported did not always align with the timeframes of interest to the review, limiting the interpretation of the data for this purpose.
- Not all key stakeholders have been in their roles since the commencement of the Cannabis Act reforms so many have only partial experience across the time period of the review.
- Primary data collection from members of the community was not possible within the timeframe and scope of the review. This is partly addressed through including advocates for people who use drugs as key stakeholders interviewed.
- The COVID-19 pandemic and restrictions in the ACT occurred during the time period of the review, significantly impacting the community, drug use and law enforcement, which is reflected in the data collected.
- Further changes to the DoD Act to remove penalties for personal possession of small amounts of other illicit drugs came into effect during the period of the review, impacting interpretation of the data collected.

Findings

The findings are derived from interpretation of the quantitative secondary data available on cannabis in the ACT, and analysis of the information shared by key stakeholders from the interviews undertaken.

Quantitative data from existing data sources (secondary data) were analysed to identify any trends or changes since the commencement of the Cannabis Act in measures of cannabis use, cannabis offences and police diversions, health system presentations, rates of treatment and support for cannabis use, and cannabis markets. Detailed analysis of the secondary data is available in [Appendix A](#) (see separate document). This section provides a summary of the key findings identified in that analysis.

Key findings from the secondary data include:

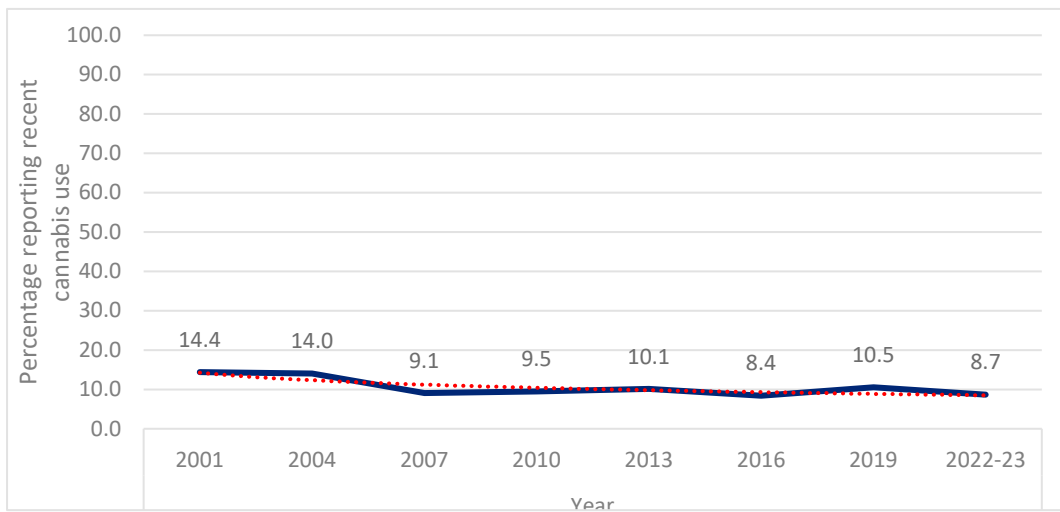
- Rates of cannabis use have largely remained stable.
- People in the ACT continue to be less likely to have recently used cannabis than the national average.
- Charges laid for cannabis offences and diversions have continued to decline to very low levels, reflecting a significant change in policing practices in line with the intent of the Cannabis Act.
- No increase in charges laid for trafficking or cultivation offences since the commencement of the Cannabis Act.
- There does not appear to have been any substantial increases or decreases in cannabis-related presentations to ambulances and hospital admissions.
- The secondary data are inconclusive on any impact on treatment seeking for cannabis.
- No evident changes in the price and availability of cannabis.

Cannabis use

According to available data, rates of cannabis use have largely remained stable, with no clear trends towards increasing or decreasing rates of cannabis use, since the commencement of the Cannabis Act. Cannabis use has fluctuated over time in the ACT and the fluctuations since 2020 have largely been within the range of variation seen in the recent years prior to 2020.

According to the National Drug Strategy Household Survey, in 2022–23, 8.7 per cent of people reported using cannabis in the previous 12 months, which is consistent with the rates of recent use since 2007 which have ranged between 8.4 per cent and 10.5 per cent (see Figure 1).

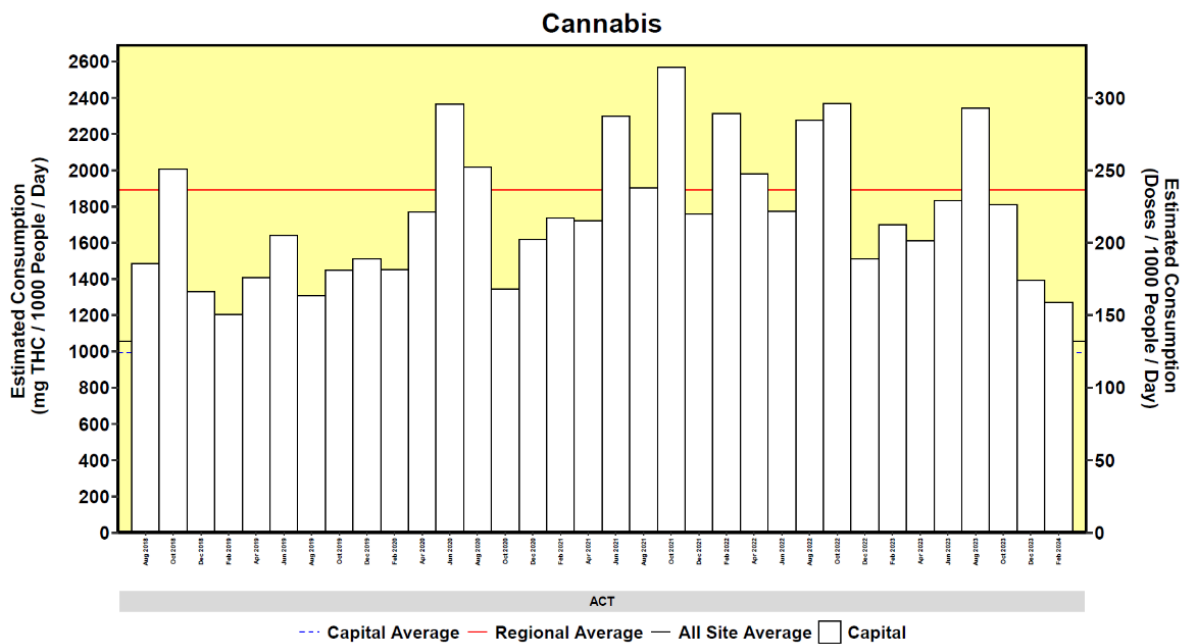
Figure 1: Percentage of people aged 14 years and older reporting recent (previous 12 months) cannabis use in the ACT (blue) and trend over time (red), 2001 to 2022–23



Note: Figure produced by ACT Health from data from the AIHW National Drug Strategy Household Survey. Note that these data are for people aged 14 years and older but the Cannabis Act reforms apply only to people over 18 years of age.

The National Wastewater Drug Monitoring Program data indicate that estimated cannabis (THC) consumption has fluctuated in the ACT. There was no increase in February 2020, immediately after decriminalisation came into effect at the end of January 2020. There were signs of an increase between April 2020 and October 2023 followed by a return to pre-2020 consumption levels in December 2023 and February 2024 (see Figure 2).¹¹ Consumption patterns are likely to have been influenced by COVID-19 restrictions and lockdowns in the ACT between April and June 2020 and August and October 2021. Given other measures do not indicate an increase in the number of people using cannabis over this period, it is possible that the increase in estimated cannabis consumption in the wastewater data reflects an increase in the volume of cannabis consumed rather than an increase in the number of people using cannabis. Research has estimated that 80 per cent of cannabis in Australia is consumed by 16 per cent of consumers.¹² The National Drug Strategy Household Survey 2022–23 indicated a nationwide increase in daily cannabis use from 14 per cent of people who use cannabis in 2019 to 18 per cent on 2022–23.¹³

Figure 2: Estimated cannabis consumption in mg THC and doses per 1000 people per day, ACT, August 2018 to February 2024¹⁴



Note: Figure reproduced from ACT longitudinal data figures report from Report 22 of the National Wastewater Drug Monitoring Program, copyright Australian Criminal Intelligence Commission, Canberra.

There is evidence that there was an increase in the frequency or volume of cannabis use by people who already used cannabis during the COVID-19 pandemic due to the impact of associated restrictions in 2020 and 2021 on people’s life circumstances and the price and availability of cannabis.¹⁵ It is also not possible to differentiate between prescribed and non-prescribed cannabis use in wastewater so this data includes doses of THC consumed under the Medicinal Cannabis Scheme which has seen a dramatic increase in prescribing, particularly since 2021.¹⁶ The increase in medicinal cannabis use in recent years complicates interpretation of wastewater testing results as wastewater testing cannot separate THC consumed via prescribed cannabis from non-prescribed consumption.

These two factors are likely to have contributed to the increase in estimated cannabis consumption in wastewater data between April 2020 and October 2023. In the two most recent testing periods for which data are available (December 2023 and February 2024) estimated cannabis consumption in the ACT declined to levels typical of the pre-pandemic 2018 and 2019 testing periods. Furthermore, a similar increase was observed in both national and New South Wales wastewater data over the 2020 and 2021 period indicating this change was not limited to the ACT.¹⁷ These factors indicate the changes seen in wastewater data are unlikely to be attributable solely to the changes brought about under the Cannabis Act.

Data from the Illicit Drug Reporting System (IDRS) indicate that, among adults who inject drugs in the ACT, rates of recent use of non-prescribed cannabis have gradually declined since 2000 but have remained relatively stable since the commencement of the Cannabis Act in 2020, sitting at some of the lowest levels recorded by the IDRS in the ACT.¹⁸ Among participants in the Ecstasy and Related Drugs Reporting System (EDRS), who regularly use ecstasy and/or other illicit stimulants, the rates of recent (past six month) use of non-prescribed cannabis and cannabinoids has remained relatively

stable over recent years with no clear increasing or decreasing trends since the commencement of the Cannabis Act.¹⁹

While laws regarding possession and use of cannabis by young people under 18 years of age were not changed by the Cannabis Act, data from the national Australian secondary school students alcohol and drug survey (ASSAD) indicate that there was not an increase in the number of school students (12-17 years of age) using cannabis following the Cannabis Act reforms, which is a positive indication that an increase in youth cannabis use has not been an unintended consequence of the reforms.

People in the ACT remain slightly less likely to have used cannabis recently than people in the rest of Australia. In 2022–23, 8.7 per cent of people surveyed in ACT had used cannabis in the previous 12 months compared with 11.5 per cent in Australia as a whole.²⁰ Estimates of cannabis consumption in the ACT are similar to levels of use in other small cities and nearby regional areas, consistent with data trends from prior to the reforms under the Cannabis Act.²¹

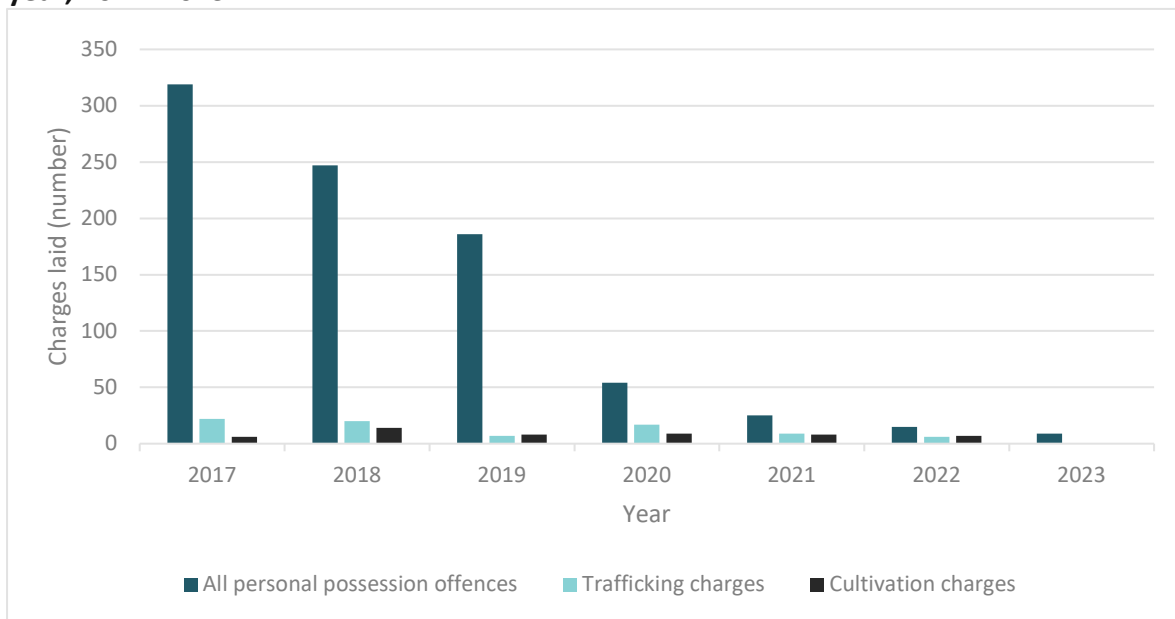
These data indicate that the legislative changes in the ACT appear not to have had a substantial impact on cannabis consumption to date.

Cannabis offences and police diversions

The data on cannabis offences and police diversions reflect a significant change in the policing of cannabis offences, in accordance with the changes under the Cannabis Act.

Charges laid for cannabis offences were on a downward trend before the commencement of the Cannabis Act in 2020 and have continued to decline since then, as can be seen in Figure 3. Cannabis possession offences comprised most cannabis-related offences in all years. The small number of cannabis possession charges laid since 2020 mostly include charges for minors under the age of 18 years for whom possession of cannabis was not decriminalised and small numbers for possession of more than 50 grams of cannabis (see [Appendix A](#) for a breakdown of possession charges). There has been no increase in charges laid for trafficking or cultivation offences since the commencement of the Cannabis Act and charges for these offences continue to be laid in very low numbers (see Figure 3). Note that in Figure 3, trafficking and cultivation offences for 2023 have been removed from the figure as less than five charges were laid (see 'Methods' for information about data suppression).

Figure 3: Charges laid by ACT Policing relating to cannabis, by category of offence and year, 2017–2023.

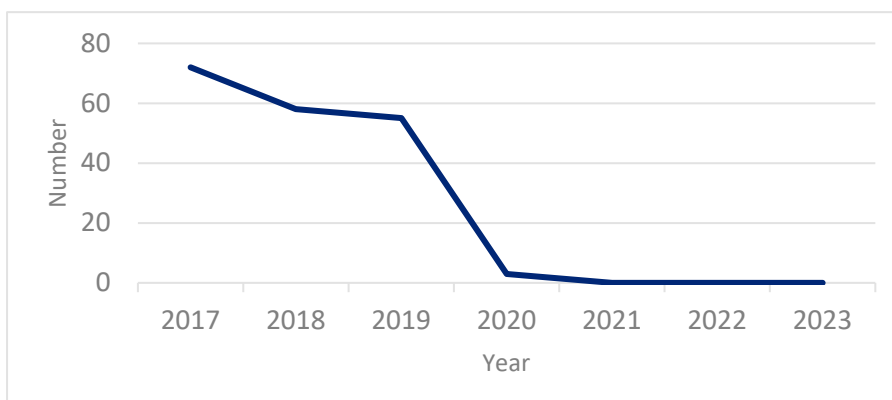


Note: Figure produced by ACT Health from data provided by ACT Policing. Data have been suppressed (removed from the figure) where less than five offences were recorded under a particular offence category.

Very small numbers of charges for cannabis possession, trafficking and cultivation have been laid under Commonwealth law since 2020 but as fewer than five charges have been laid per year, these data are not reported here. Very few charges have been laid for smoking cannabis near a child and supplying cannabis to a child since the introduction of these offences in 2020. No charges have been laid for smoking cannabis in public since the reforms came into effect.

Issuing of SCONs had been declining prior to 2020 and has fallen to very low levels in the years since 2020. SCONs have fallen to zero since 2021, and while the SDON replaced the SCON in October 2023, no SDONs were issued for cannabis in 2023 (see Figure 4).

Figure 4: Discharge of cannabis offences to Simple Cannabis Offence Notice (SCON), by year, 2017–2023

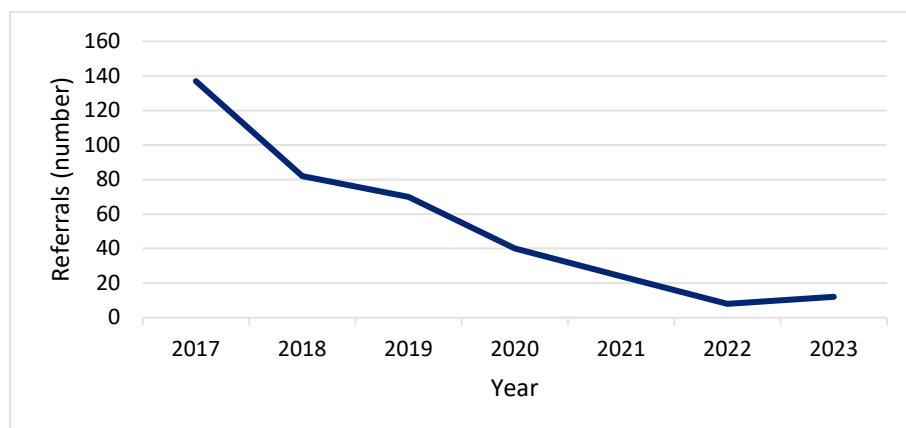


Note: Figure produced by ACT Health from data provided by ACT Policing.

Cannabis-related referrals to the Illicit Drug Diversion Program were on a downward trend since before the introduction of the Cannabis Act, as can be seen in Figure 5, and have continued to decline to very low levels in 2022 and 2023. Diversion referrals continue to be used for small numbers of people, including people under the age of 18 years, people who possess cannabis

beyond the allowable limits of the Cannabis Act, and people who self-refer after contact with the police.

Figure 5: Cannabis related drug diversion referrals by ACT Policing, by year, 2017–2023



Note: Figure produced by ACT Health from data provided by ACT Policing.

Cannabis seizures in the ACT declined significantly (down 39.3 per cent) between 2019–20 and 2020–21.²² See [Appendix A](#) for a comparison of seizures in the ACT to other states and territories during this period.

These data indicate that the legislative change had the intended effect of reducing the criminal justice system involvement of people who possess and cultivate small amounts of cannabis for personal use. No increase in trafficking and cultivation above the allowable limit is evident in the offence data since the commencement of the Cannabis Act indicating that the decriminalisation has not have a significant impact on the scale of these offences. Cannabis possession offences among minors have also decreased since 2020 and minors continue to be diverted into the Illicit Drug Diversion program in low numbers. Charges under Commonwealth law are laid on occasion for drug offences, however, in very low numbers. Overall, these data indicate a significant shift in policing of cannabis over time in accordance with the intent of the legislation.

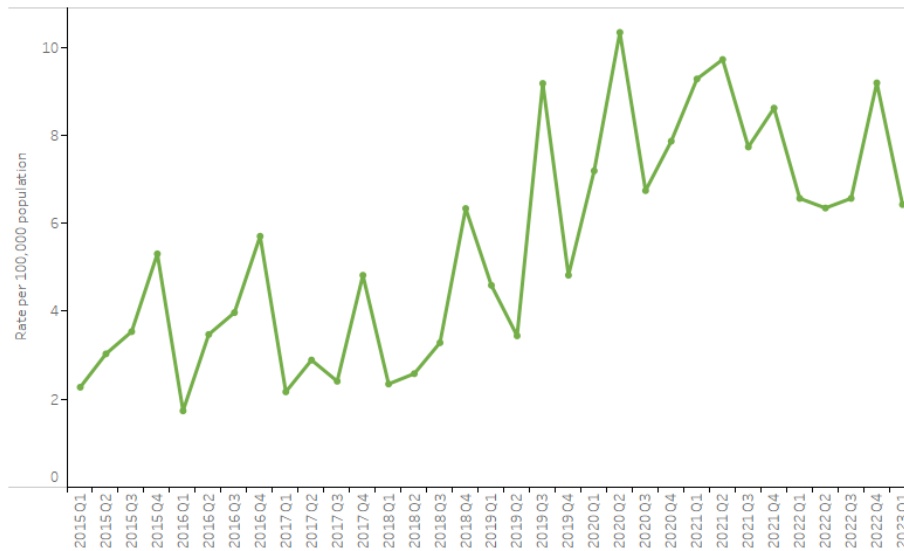
Health system presentations related to cannabis

The available data indicate that ambulance attendances and hospital admissions relating to cannabis and cannabinoidsⁱ have remained relatively stable since the commencement of the Cannabis Act in 2020.

As can be seen in Figure 6, ambulance attendances for cannabis in the ACT fluctuate over time, however, there was an increase in ambulance attendances between 2018 and 2020 and the rates plateaued between 2020 and the first quarter of 2023 without any evident sustained increase or decrease since the commencement of the Cannabis Act.

ⁱ Hospital data coding does not distinguish between cannabis and cannabinoids; the broader category of ‘cannabinoids’ is used in diagnostic coding which is reflected in the data. It is understood that most presentations are likely to be for cannabis rather than synthetic cannabinoids.

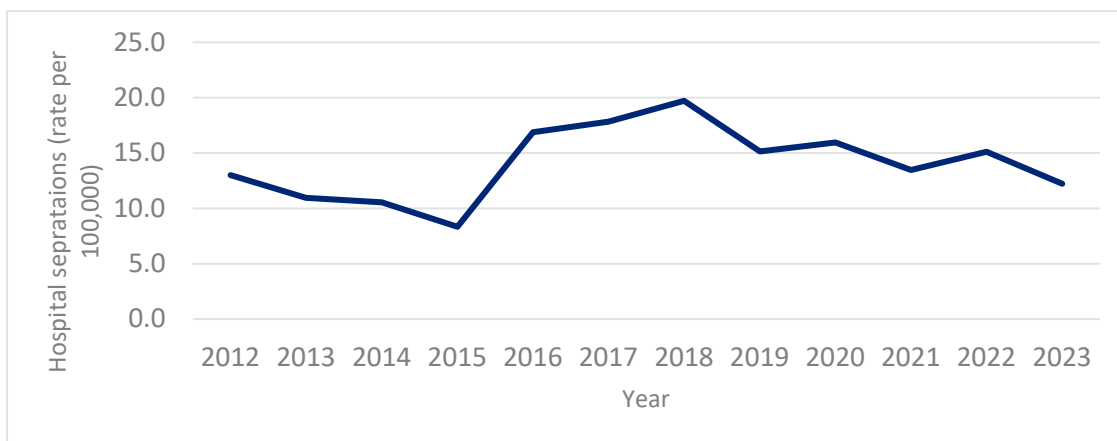
Figure 6: Ambulance attendances for cannabis in ACT, rate per 100,000 population, quarterly 2015–2023²³



Note: Figure reproduced from Australian Institute of Health and Welfare [website](#) on alcohol and other drug-related ambulance attendances from the National Ambulance Surveillance System, Monash University, Turning Point. Data are not available after Q1 2023 as there is a delay in coding the ambulance data to produce these reports and categorise the attendances based on drug type.

Hospital admissions (captured as ‘hospital separations’) for primary cannabinoid-related diagnoses have increased over time, however, the main increase occurred in between 2016 and 2018, prior to the introduction of the Cannabis Act reforms, and the number of admissions have been relatively consistent since 2019. There is no discernible impact of decriminalisation in 2020 and in 2023, cannabinoid-related admissions were at their lowest level since 2015 (see Figure 7).

Figure 7: Primary cannabinoid-related hospital separations at ACT public hospitals, rate per 100,000 persons.



Note: Figure by ACT Health. Data provided by Canberra Health Services.

Data on emergency department presentations are not included in the findings of this report as the data requires additional analysis that was out of scope for this review (see [Appendix A](#) for more information).

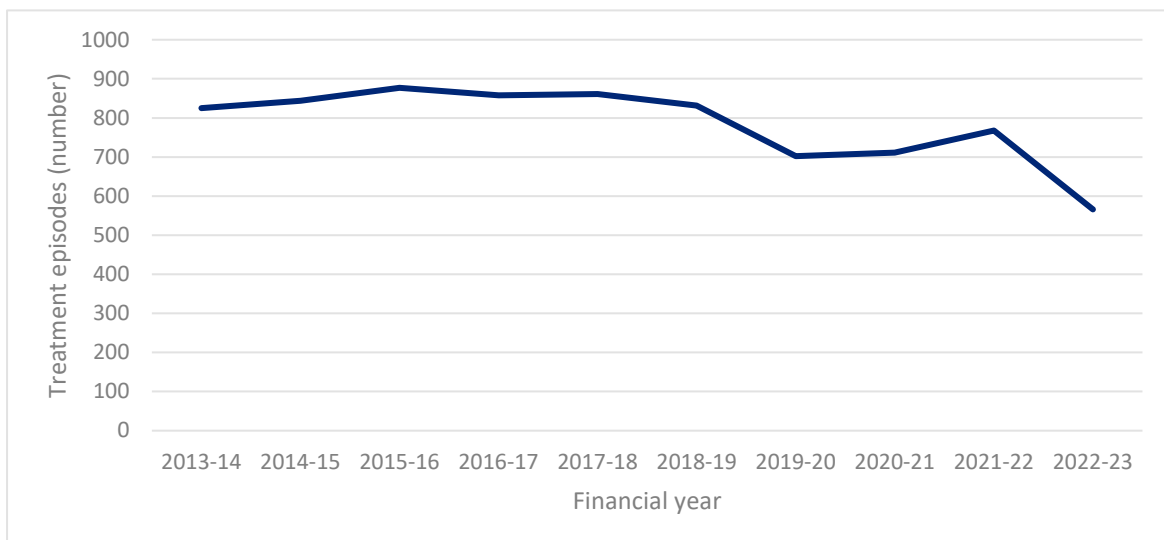
These data indicate that there have been no significant changes in ambulance attendances and hospital admissions for cannabis since the commencement of the Cannabis Act. It must be noted that there may be a variety of reasons for any changes in people presenting to health services

regarding their cannabis use, which could include a reduction in stigma and increased willingness to seek medical support following decriminalisation. Some presentations may also be related to substantial increases in prescribing of cannabis products under the Medicinal Cannabis Scheme in recent years.²⁴ These factors are not able to be distinguished in these data. Overall, however, these data support the conclusion that the commencement of the Cannabis Act has not directly resulted in any major increases or decreases in cannabis-related presentation to ambulances or hospitals to date.

Treatment and support for cannabis use

The impact of the COVID-19 pandemic on treatment episodes makes it difficult to draw any conclusions regarding the impact of the Cannabis Act on treatment episodes over this period. The pandemic led to a reduction in treatment delivered in 2020 and 2021 in the ACT and recovery of treatment services from COVID-related disruptions and staffing shortages has been gradual. As can be seen in Figure 8, there was a substantial decrease in treatment episodes for cannabis in 2019–20, a small recovery of episode numbers in 2021–22 and then another decline in 2022–23. This decline should be seen in the context of a decline in treatment numbers for all drugs in the ACT over this period. Treatment episode numbers for cannabis remain below pre-pandemic levels. Cannabis treatment episodes made up just under 10 per cent of total treatment episodes for a person’s own drug use in 2022–23 in the ACT, the proportion of which has been declining over at least the last decade.

Figure 8: Number of treatment episodes with cannabis as the primary drug of concern, ACT, by financial year, 2013–14 to 2022–23



Note: Figure created by ACT Health from ACT data from the Alcohol and Other Drug Treatment Services National Minimum Dataset.²⁵

Given the impact of COVID-19 on treatment since 2020, it is not possible to assess from this data whether decriminalisation had an impact on people’s willingness to seek treatment and support for cannabis use, however, this is commented on in the key stakeholder interviews below.

Cannabis markets

Data from the IDRS and EDRS do not indicate any impact on the price of cannabis following the changes under the Cannabis Act. The price of both 'bush' and 'hydroponic' cannabis, as defined in these datasets, has remained stable or within the usual range of fluctuation seen in previous years.²⁶ The data appear to indicate there has been an increase in cannabis availability in 2022 and 2023 following a decline in 2020 and 2021 likely due to the COVID-19 pandemic, however, historically cannabis availability figures have fluctuated considerably and there is no clear trend since 2020.²⁷

According to the National Drug Strategy Household Survey, in 2022–23 in the ACT there was a substantial reduction in people reporting sourcing cannabis from a friend compared to 2019 (48 per cent in 2022-23, down from 68 per cent in 2019). There was no increase in the proportion of people sourcing cannabis from a dealer (18.8 per cent in 2022-23, compared to 18.3 per cent in 2019).²⁸ There may have been an increase in people sourcing cannabis from a relative or partner and in people growing their own cannabis, however, the AIHW reported that these figures have a high relative standard error and should be interpreted with caution. People in the ACT were more likely than the national average to have grown their own cannabis.²⁹ This appears to reflect a change in practices of sourcing and growing cannabis following the commencement of the Cannabis Act among those surveyed.

Key stakeholder interviews

This section provides a summary of the key themes that arose in the interviews with key stakeholders that were conducted for the review who were asked about the operation of the reforms under the Cannabis Act. The section is divided into four subsections regarding: what has worked well, changes over time, identified issues, and observed impacts of the reform.

What has worked well?

Key stakeholders identified a range of aspects of the Cannabis Act that have worked well, including:

- supporting people to seek help without fear of criminalisation
- respect for the intent of the reforms from people who use cannabis
- providing legal certainty for consumers
- public communication regarding the reforms
- police practice and governance
- the continuation of police diversion referrals for cannabis
- health and harm reduction messaging in ACT illicit drug policy, and
- the fears expressed during the public debate not being realised.

Supporting people to seek help without fear of criminalisation

Anita Mills (CEO, ATODA) said that ATODA was “very supportive of the reforms” given the intent and impact of the reforms to support people to seek help around their drug use without concerns about interacting with the criminal justice system.

“We are very supportive of the reforms [...at ATODA] we do not believe that drug use should ever be criminalised, and that people who are using drugs and want to seek help and treatment around, their drug use should be able to do so without having any concerns in terms of interacting with the criminal justice system, and that they should be able to access treatment and care in a well-resourced sector [...] These particular reforms around cannabis in the ACT very much supported that [...] We think that it overall has been successful.” – Ms Mills, ATODA.

Help seeking is discussed further in the section below on the impacts of the reforms.

Respect for the intent of the reforms

Chris Gough (Executive Director, CAHMA) noted that the Cannabis Act had been a positive change from the perspective of the community of people who use cannabis, particularly due to the impacts outlined later in the report. He noted that people who use cannabis are proud of the reforms and the changes that have been seen in the wider community as a result of the reforms.

“From the community’s perspective, it’s been excellent. It’s been a really worthwhile piece of legislative change [...] The community has embraced this legislation. They’re really proud of it. They’re really proud to have a Government and a community that’s been so accepting and, you know, it’s a really precious thing.” – Mr Gough, CAHMA.

People who use cannabis embracing the intent of the legislation, being that the reforms were intended to apply to personal use rather than allow supply, has been a key positive aspect according to Mr Gough.

“At the beginning [...] there was the voicing of potential issues from stakeholders around things like people using the laws as a loophole to deal and things like that and I know there were one or two cases [...] but certainly anecdotally from the community, we haven’t seen that. We’ve seen people really respecting the intent of the legislation and understanding that it’s actually just about providing [...] yourself with cannabis [...] I’m really proud of the community for taking that stance and not turning it into a joke. They’ve done the opposite; they’ve really embraced it.” – Mr Gough, CAHMA.

See further regarding potential impacts on cannabis supply under the ‘What issues were identified’ section below.

Legal certainty for consumers

A major benefit of the Cannabis Act identified by Mr Gough was the legal certainty the legislation has provided to people who use cannabis.

“The big one for our community is that there is no police discretion involved in this legislation and that just is a very clear kind of statement to the community [...] there’s no chance that if you have a bad interaction with police that you will end up in the criminal justice system. It’s very black and white in that regard, in terms of that you’re allowed to possess this amount. That is the critical part of this legislation.” – Mr Gough, CAHMA.

Public communications

Regarding public communication, Mr Gough stated that this had gone well, in part due to the simplicity of what is allowable under the Cannabis Act reforms.

“I think [the public communication has] gone really well. I think people understand the laws [...] The cannabis legislation reforms were really just so pragmatic and simple: “two plants, 50 grams”, you know. I think it was well messaged too and I haven’t heard that there’s been any confusion within the community really [...] I think the communication’s been quite clear.” – Mr Gough, CAHMA.

Anke van der Sterren (Deputy CEO, ATODA) noted that ATODA had not heard about any issues with people misunderstanding the legislation and that the public communication around the changes appeared to have been adequate.

Police practice, governance and education

From the perspective of the ACT Policing representatives interviewed, while some issues were identified (see below), the changes under the Cannabis Act had “become standard practice for police now”.

“It’s widely accepted that ACT Policing is taking a harm minimisation approach and that these [cannabis issues] should be dealt with as health matters where possible [...] Generally it’s going pretty well from our perspective.” – ACT Policing representatives.

ACT Policing noted that the reforms had led to less administrative burden on the police as a result of no longer needing to engage when people are in possession of a small amount of cannabis.

They noted that ongoing education is required to ensure the Cannabis Act reforms are dealt with as intended by police, given the constantly changing workforce and different levels of familiarity with cannabis matters between members of ACT Policing depending on their duties and experience.

“It's an ongoing education piece for our workforce because we're constantly having new constables join the ranks [...] As you'd expect, they have a really broad range of things to attend to each day [...For] our more experienced members who [...] work in the city [...] they're probably more familiar with it and have really good processes in place and knowing how to deal with these incidents. But for the patrol members who are working in a more suburban environment, they might not come across it very often, so then they have to go search out the governance [documents] to understand how best to process those matters. And our team tries to provide support and education in relation to those.” – ACT Policing representatives.

ACT Policing representatives stated the organisation has put in place a range of governance processes and documents to support their members, including:

- Information on the ACT Policing intranet for investigators with advice on how to undertake the relevant processes
- Internal Standard Operating Procedures providing guidance for members on key processes to follow to manage alcohol and drug diversions, and
- A Memorandum of Understanding with ACT Health and Canberra Health Services.

Continuation of cannabis diversion referrals

Both ACT Policing and ADS Diversion Service representatives noted that cannabis diversion referrals from police to alcohol and other drug support services were still operating well alongside the Cannabis Act reforms.

ACT Policing representatives highlighted that the diversion pathway continues to be utilised for cases in which people may benefit from a referral, wish to voluntarily take up a referral, or are above the allowable personal possession limit of cannabis under the DoD Act.

“Because we are taking a harm minimisation approach and because we're in the business of wanting to support people in the community, when we're interacting with them for whatever reason, even if someone has a small amount of cannabis but still identifies that they have a substance abuse issue, we can make referrals for them to support services [...] The person might opt to actually get some assistance as well. And then if people are found with the quantities [of cannabis] that are above the allowable amount, then sending them to Canberra Health Services for the Illicit Drug Diversion.” – ACT Policing representatives.

Representatives of the ADS Diversion Service at Canberra Health Services noted that their diversion service continued to operate in the same way following the commencement of the Cannabis Act

reforms, and they have ongoing communication with ACT Policing to discuss any concerns and review referrals and compliance.

“There have been no modifications to the processing of referrals or Drug Diversion assessments since the [cannabis] reforms. Business operations have continued without interruption [...] This provided a seamless service based on the same process [...] Thus far, no significant issues have arisen. Regular communication and close collaboration with the Policing team have proven effective in addressing any potential gaps.” – Representatives of ADS Diversion Service.

Health and harm reduction messaging in ACT drug policy

Ms Mills (ATODA) noted that the reforms under the Cannabis Act fit well within the overall alcohol and other drug (AOD) policy landscape in the ACT. This, in turn, reinforces the health-focused government messaging regarding drug use.

“Overall, when you when you look at the system in the ACT from a harm reduction point of view, there are a lot of really positive things happening. From ATODA's point of view, it [the reforms] all feeds into the ecosystem of AOD treatment and harm reduction [...] If I look at the ACT compared to other jurisdictions in Australia, which is part of this conversation as well, we're doing extremely well. And importantly, all of these different initiatives help people think about their own drug use, and it encourages help seeking behaviour for people who think that they might need some help [...] All of these measures really do filter down to that individual mindset where it's not a criminal activity, it's a health issue. And so we get the opportunity to really reinforce all of that positive messaging around harm reduction in the ACT.” – Ms Mills, ATODA.

Ms van der Sterren (ATODA) reiterated that the cannabis reforms were “a really important part of the journey that we are undertaking in the ACT” noting the ACT’s “incredible history of this sort of harm reduction” that is “really positive for our community” and was a source of pride.

Fears not realised

Ms Mills (ATODA) proposed that the evidence since the reforms showed that the fears expressed during the public debate on the reforms did not come to pass.

“At the time when reforms like this are coming in and there's a lot of public debate and discourse around it, including amplified voices of those who don't support [the reforms], what we really look to keep our eye on in the immediate aftermath of the implementation is: are all those fears being realised? And certainly with the cannabis reforms they weren't [...] I think the stats speak for themselves around cannabis use in the ACT. There hasn't been a huge spike [...] We use less cannabis in the ACT than nationally.” – Ms Mills, ATODA.

What has changed over time?

The key stakeholders were asked to reflect on what, if anything, had changed over time in the operation of the Cannabis Act since its commencement, and in particular during the COVID-19 pandemic and since the commencement of the 2023 DoD Act amendments. Key stakeholders noted

that it had taken time for the community to adjust to the reforms and the COVID-19 pandemic and 2023 DoD Act amendments did have some minor impacts upon the operation of the Cannabis Act.

Time to adjust

Mr Gough noted that it took some time for the community of people who use cannabis to adjust to the reforms under the Cannabis Act.

“It took the first year or so for people to really wrap their heads around what the limits of the law was [...] My sense is that the community [...] kind of went ‘Oh wow, this is amazing. I feel free and I feel able to make choice and I feel empowered and I feel agency over my decisions and, you know, I don’t feel criminalised’. And then as they kind of worked their way through the first year, they’re like, ‘Oh, this is a bit weird, how do I deal with this plant that I’m going to cut down and then it gets dry and I’m only allowed 50 [grams]’, you know. And then as time went on, they kind of got used to it and realised that it was just a pragmatic solution in a criminalised system [...] And so I think people really embraced it. They realise that it’s not perfect but [...] it’s a really meaningful step.” – Mr Gough, CAHMA.

COVID-19

ACT Policing did not note any significant changes during the COVID-19 pandemic other than that they had less contact with people who use cannabis and less ability to engage with people during this period due to people primarily being in their homes.

Representatives of the ADS Diversion Service noted that the COVID-19 pandemic led to reduced cannabis diversion referrals, despite the service transitioning to telephone assessments for improved accessibility during the pandemic.

Mr Gough stated that COVID-19 quarantine and isolation restrictions highlighted the lack of a legal mechanism to supply people with cannabis despite it being decriminalised to possess in small quantities.

“In the quarantine services [services supporting individuals in quarantine] there was a little bit of a grey area emerged where people were allowed to have [possess small amounts of] cannabis legally [...] but there was no mechanism for them to get cannabis [...] They would have had to have broken quarantine and gone and sourced the cannabis [...] It did really allow a little conversation there around the fact that there’s no mechanism for the regulated sale of cannabis, and that kind of lack of the legal structure to facilitate those people [receiving cannabis].” - Mr Gough, CAHMA.

No ongoing issues with the operation of the Cannabis Act as a result of the pandemic were identified by key stakeholders.

2023 DoD Act amendments

The key stakeholders reflected on what, if anything, had changed in the operation of the Cannabis Act reforms since the subsequent amendments to the DoD Act to introduce a Simple Drug Offence Notice for personal possession of small amounts of some illicit drugs, which came into effect in October 2023.

The representatives of ACT Policing noted that having two sets of legislative change within a short space of time required a lot of “new learning” for police in how to deal with drugs in the community. It also required messaging to both police and the public about the differences between the Cannabis Act reforms and the subsequent DoD Act amendments which related to a broader range of drugs and contained different provisions.

“With the introduction of the new laws [2023 DoD Act amendments] things have changed. We're operating in a different environment now. So watching one bit [of legislation] introduced [the Cannabis Act], settling with that, and then [...] having to understand a new set of laws and what that means for them [...it's] new learning on how we are to be resolving these matters. I think it's also been an education piece for the public too [...] With the introduction of the new [DoD Act amendments], people perceived that the laws in relation to cannabis were changing again, that they were being included in the small amounts that were allowable under the new [DoD Act amendments...] whereas they were staying pretty much the same.” – ACT Policing representatives.

Mr Gough also stated that the main change since the 2023 DoD Act amendments had been the need to reassure the community that cannabis was unaffected.

“It was three years [after the cannabis reforms] and so I think the [cannabis] legislation was bedded down. The only real thing that we had to message around that was just messaging that the cannabis legislation change remained, because there were some people who were worried that actually [...] cannabis would be included in that kind of police discretionary fine system. So we tried to make that very clear that no, no, cannabis was unaffected.” – Mr Gough, CAHMA.

What issues were identified with the operation of the reforms?

Key stakeholders raised a number of issues with the operation of the reforms. In some cases these represented issues inherent to the legislation that needed to be managed, and in other cases they were opportunities for future refinement or improvement of the legislation. The issues raised included:

- legal ambiguity between ACT and Commonwealth laws
- concerns about organised crime
- quantitative limits and restrictions on hydroponic and artificial cultivation
- access to seeds or cuttings
- interaction with other legislation
- procedural issues with corrections, and
- impacts for people under 18 years of age.

Some interviewees also reflected on whether now is the right time to consider any changes to the legislation.

Legal ambiguity between ACT and Commonwealth laws

Under the Commonwealth *Criminal Code 1995*, possession and cultivation of any amount of cannabis is illegal and incurs a penalty of up to two years imprisonment. All Australian police officers, including ACT Policing, can enforce Commonwealth criminal law and officers cannot be directed to utilise particular offences. Representatives of ACT Policing referred to the issues raised in their submissions³⁰ to the two Legislative Assembly inquiries into the Drugs of Dependence Amendment Bills of 2018 and 2021ⁱⁱ regarding ongoing legal ambiguity for police between the ACT and Commonwealth legislation. The ACT Policing representatives noted that they have been managing this through internal governance and guidance for their members, however, the legal ambiguity remains.

“The concerns we’ve raised regarding the legal ambiguity is probably the most significant challenge that we would continue to note as being an issue for our members. To a large extent, as we’ve mentioned in our [submission to the Inquiry into the DoD Amendment Bill 2021³¹], we have been able to adopt internal governance to encourage our police to defer to using ACT law [...] While it’s been decriminalised in the ACT, under Commonwealth law it’s still an offence [to possess cannabis...] Due to the independent Office of the Constable, officers still can’t be directed whether or not to utilise particular offences. So that tension still does exist for our members.” – ACT Policing representatives.

As noted in the secondary data analysis above, there have only been very small numbers of drug possession offences charged under Commonwealth law, fewer than five per year, since 2020.

Organised crime

ACT Policing representatives reiterated concerns raised in their submissions³² to the two Legislative Assembly inquiries that the Cannabis Act reforms could be and have been used by people supplying cannabis to avoid police engagement.

“Our primary concern is the linkage with organised crime and the creation of a fertile environment in Canberra [for organised crime]. As we’ve outlined in our 2021 submissions, [we have] some concerns that drug traffickers are supplying cannabis, using their knowledge of the new cannabis framework to enable trafficking [...In our submission³³] we’ve included a case study that’s quite pertinent, which outlines a case where police tried to engage with someone who was suspected of selling cannabis, but they knew the amounts that they could carry so we couldn’t actually engage any further with that. So, I think the criminals are becoming more acute to what the laws are. That makes it more challenging for our members to be able to engage there.” – ACT Policing representatives.

As noted above (‘What has worked well’ section), this sentiment was not reflected by Mr Gough in relation to cannabis supply amongst the community of people who use cannabis, although Mr Gough was not commenting directly on organised crime.

ⁱⁱ The Inquiry into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 by the Standing Committee on Health, Ageing and Community Services, and the Inquiry into the Drugs of Dependence (Personal Use) Amendment Bill 2021 by the Select Committee of the Legislative Assembly.

Quantitative limits

Mr Gough raised that the quantitative limits in place under the Cannabis Act (50 grams of dry cannabis, 150 grams of wet cannabis, two plants per person and four per household) did not reflect the seasonality of growing cannabis. He indicated this was presenting issues for people growing cannabis for their personal use, as their harvest on a single occasion could exceed the legal amount, or a smaller harvest would be insufficient for the remainder of the year.

“[Growing cannabis] is seasonal [...] The way the plant works, it’s actually quite difficult for people to stay within those 150 grams wet, 50 grams dry, two plants [limits]. Because what tends to happen is that the plant will just go from not flowering, and then [...] the plant will just flower in its entirety and then will die after that because it’s an annual. And so that does make it tricky for the community. You tend to get quite a bit [of harvested cannabis...] And then if you throw it all out or you shred it and you’re making sure that you’re absolutely legal [within the limits...] you might have cannabis for a month or two and then that’s it.” – Mr Gough, CAHMA.

Mr Gough said that this “boom and then bust” cycle related to the biology of the plant means that people “can’t just keep taking 50 grams of flower off a plant over the year” and in some cases this was leading people to have continuing contact with the black market to get a supply of cannabis once their own cannabis had run out, with the accompanying issues of criminalisation and an unregulated cannabis supply of unknown quality.

“Because of those restrictions [quantitative limits], it means that for the majority of the year people are having to still access cannabis from the black market, and so that again is kind of drawing people back into that criminalisation.” – Mr Gough, CAHMA.

Possible ways to address this issue Mr Gough proposed were:

- Allowing a growers’ club in which people could join a closed group to share supply (referencing Cannabis Social Clubs described in ATODA’s submission to the inquiry on the Cannabis Bill³⁴)
- Explore a government-regulated cannabis market
- Allow growing cannabis hydroponically and using an artificial light and heat source so that people can grow indoors and year-round; or
- Allow people to grow two plants and utilise the cannabis from those two plants for the remainder of the year, even it was over the current quantitative limits for wet and dry cannabis.

Recent research into personal cultivation of cannabis in the ACT conducted by UNSW researchers reflected the issues raised by Mr Gough. The research found that people growing cannabis reported that when the right environment was provided, plants could grow well, leading to issues with staying within the law when harvesting, conspicuousness of plants, and safe disposal of excess cannabis.³⁵

Prohibition of artificial cultivation

Mr Gough stated that the restrictions on artificial cultivation prevented people from growing cannabis indoors and reflected out-dated notions of the difference between indoor- and outdoor-grown cannabis. He stated that allowing people to grow cannabis using hydroponic or artificial methods that enable growing indoors could address the issue raised above with the quantitative limits.

“The restriction to only being allowed to grow cannabis outdoors has been problematic for the community simply because [...] the biology of the plant and also the temperature in Canberra means that you can only grow cannabis once a year [...] That would be solved from the community’s perspective if we were allowed to grow cannabis indoors. From the community’s perspective there really isn’t a difference between cannabis that’s grown outdoors and cannabis that’s grown indoors. The idea that in some way hydroponics is different in some way from growing outdoors is quite an old concept that’s been challenged [...] THC potency within cannabis is driven by the genetics, not the hydroponic growth mechanism [...] It’s a false distinction that comes out of the 1990s when we used to called it ‘hydro’ and ‘bush’, and there was a significant distinction that was based on genetics [which is no longer the case...] It’s not hydro and bush anymore.” – Mr Gough, CAHMA.

The ATODA representatives also noted that concerns had been raised with them regarding hydroponic cultivation not being allowed under the Cannabis Act reforms.

Mr Gough also noted that cannabis plants have been stolen from people’s properties. He proposed that allowing the methods that enable growing cannabis indoors, as is allowed in Canada for example, could address the theft of people’s cannabis plants and the risk of these plants getting into the hands of others, including young people.

The issues with not being able to grow cannabis indoors raised by Mr Gough were reflected in the aforementioned UNSW study on cannabis cultivation in the ACT which noted that the ACT climate made growing cannabis outdoors more challenging. The study proposed that being unable to use indoor growing methods did not reflect gardening practices for other plants, for which you may cultivate seedlings or manage poor environmental conditions by using heat lamps and/or growing indoors.³⁶ The study also noted that having to grow plants outdoors had led to instances of theft and concerns around stigma from neighbours and visitors. Some of these concerns led to people growing artificially indoors and thus contravening the law and losing legal protection.

Access to seeds or cuttings

Mr Gough noted that the Cannabis Act allowed people to cultivate cannabis but did not provide a legal mechanism for people to purchase seeds or cuttings to facilitate this.

“There has been some confusion around [...] how you are supposed to access seeds for cannabis. This idea that if you’ve got them, you can grow them [...] as opposed to thinking about a mechanism which could be put into legislation to allow a clear access pathway [...] Cuttings are another way that you could potentially look at allowing access for people to a genetic diversity of cannabis.” – Mr Gough, CAHMA.

Interaction with ACT sentencing legislation

Mr Gough raised an issue regarding the legal framework around community-based sentencing orders (e.g. good behaviour orders and parole) in ACT sentencing legislation being in his view inconsistent with the changes made by to the Drugs of Dependence Act by the Cannabis Act, with consequences for consumers.

“There are some cases where people are [...] on a community order and they aren’t able to use cannabis without a medicinal script [...] They’re undergoing urinalysis and if that

cannabis comes up then that's a breach and they potentially would be put back in gaol [...] There has been some messaging from the ACT Government around the difference between the Crimes Act and the Drugs of Dependence Act and saying [...why] you can't do it [...] The whole idea of these laws is to really take the burden and the weight of stigma and discrimination and criminalisation off individuals in the community, and [...] having these two competing legislations that really don't line up [...] is really putting back that weight on the community." – Mr Gough, CAHMA.

Mr Gough says this is also leading people on community-based sentencing orders to go to doctors seeking a script for medicinal cannabis when there is not a clear clinical need, in order to avoid them being in breach of their order, which is also putting prescribing clinicians in a difficult position.

The ATODA representatives also raised this issue noting that it was leading to "a particular population cohort who can still be penalised through the criminal justice system for using cannabis, even though it's decriminalised" (Ms Mills).

Procedural issues with corrections and possession of cannabis

ACT Policing identified an issue with storage of cannabis when someone is taken into the custody of ACT Corrective Services for other offences and their personal property includes a permissible quantity of cannabis. ACT Corrective Services do not want to store cannabis within the person's property, which has created procedural difficulties for ACT Policing. ACT Policing is currently managing this by retaining the cannabis and requiring people to apply through the Magistrate to have their cannabis returned upon release from custody.

People under 18 years of age

Mr Gough raised concern that the Cannabis Act reforms did not apply to young people under the age of 18 years, but indicated the reforms may still have increased willingness for minors to seek help.

"The law only applies to adults [...] We're still to some extent criminalising our youth, which isn't good. We have had several youth, people under the age of 18, coming into CAHMA with quite profound problems with their cannabis use and we've been able to reach out to appropriate specialist youth providers in the ACT to get those people the help they need. We never saw that before the change in legislation, or it was very, very rare." – Mr Gough, CAHMA.

ACT Policing noted the statistics showed there had been a small number of offences for smoking cannabis near a child and supply of cannabis to a child since the commencement of the Cannabis Act. They stated that these offence figures did not reflect the amount of work their members do to ensure that young people and children were not being exposed to cannabis as a result of decriminalisation for adults.

Other issues

Mr Gough raised that there is community concern regarding the presence/absence test for roadside drug testing rather than an impairment test, particularly for those using medicinal cannabis. However, this is out of scope for this review.

Do the issues raised reflect a desire to change the legislation?

No key stakeholders stated that the issues with the legislation should lead to repealing or significantly amending the legislation. Some key stakeholders declined to make an assessment on whether the legislation should continue in its current form, seeing their role as being to implement policy and legislation as determined by Government.

Mr Gough provided a caveat for the feedback on the issues with the legislation he raised in the interview, stating that these should be seen as potential future improvements rather than criticisms of the current legislation.

“I really want to make it very clear here that [issues raised by the community are] in the future context [...] I don't want these to in any way detract from how amazing the legislation has been for the community [...] It would be a disaster if these [reforms] were rewound. I think they absolutely need to continue in their current form [...The community] really need this change to be cemented in place and to go on as is. And you know, of course, if you, if we wanted to improve the legislation, we could.” – Mr Gough, CAHMA.

However, Mr Gough stated that he was unsure if now was the right time to consider changes to the cannabis legislation, given the 2023 DoD Act amendments.

“I don't know if now is the right time [to pursue changes to the cannabis legislation]. I actually get the sense that today, now, isn't the right time. I think we probably want to see what happens with the Drugs of Dependence Act that we've changed last year [...] From my perspective, thinking strategically about this space, my advice to Government would be to maintain this legislation as is and maybe to review it again in three or five years, or something like that.” – Mr Gough, CAHMA.

Ms Mills (ATODA) noted that ATODA did not see a need at present to amend the reforms on the basis of feedback they had received to date.

“We very much support the reforms in their current form [...] We haven't actually heard anything that needs to be tweaked or improved in terms of implementation. But we wouldn't want to see them [the reforms] go. I think it's been a success.” – Ms Mills, ATODA.

Ms Mills also noted that ATODA did not think it was helpful to continue to publicly debate the reforms as the debate itself could be harmful for people who use drugs.

“Because [the Cannabis Act] just continued as we probably imagined that it would, and that's a good outcome for us, [it's] not something that we really need to publicly debate [...] When these reforms are on the table and all the public debate fires up [...] some of that debate and the things that get said can actually be really harmful to people who use drugs or who are seeking treatment and support. And they really reinforce all of those negative stigmas around drug use behaviours. So that's actually something that does create harm at the time. And of course, we welcome public debate [...] but I would like to highlight [...] it's actually quite harmful when all of those debates play out publicly.” – Ms Mills, ATODA.

Ms van der Sterren (ATODA) cautioned against being “hasty” in proposing changes to cannabis policy and said there was a need to move forward carefully and “in small steps” to test policy positions, look at the evidence, monitor any changes and ensure adequate resourcing for affected services, to avoid ending up with a model that is not suitable. She noted that “I think we’re doing that well so far” and did not want to see that put at risk.

What impacts have the reforms had?

The interviewees reported a range of impacts of the cannabis reforms, including a reduction in stigma and discrimination, increased willingness to seek support, improved community relationships with the police, a decrease in referrals for cannabis diversion, and allowing a community to develop around cannabis cultivation. While these were mostly seen as positive impacts, a reduction in referrals for cannabis diversion was seen to be a potentially negative outcome as this service may have benefited those who would otherwise have been referred.

Stigma and discrimination

Mr Gough stated that one of the most significant impacts of the cannabis reforms was on people’s experiences of reduced stigma and discrimination for cannabis use.

“One of the goals [of the legislation] from CAHMA’s perspective was to reduce the criminalisation and the stigma and discrimination around people who use cannabis, and I believe that the reforms have had a really profound effect on the stigma people feel for using cannabis.” – Mr Gough, CAHMA.

Mr Gough reflected that people who use cannabis in Canberra have “got used to not being stigmatised and criminalised because of using cannabis” and don’t necessarily “realise how much of a difference the legislation [has] made until they set foot in [another jurisdiction]” and feel the sense of being criminalised.

Willingness to seek support

Mr Gough reported that CAHMA saw a fourfold increase in people coming in to receive information and support for cannabis use immediately following the commencement of the Cannabis Act which has been sustained over time. Mr Gough attributed this to a reduction in stigma and discrimination rather than an increase in cannabis use.

“It’s [the legislative changes] made a profound difference in the stigma and discrimination that we see within the community and I think that is having an effect on people seeking treatment or feeling, if they are having issues with their cannabis use, feeling like they’re able to come and talk about that” – Mr Gough, CAHMA.

Enabling people to talk openly about cannabis use was key to this willingness to seek support for cannabis use, according to Mr Gough.

“I do recognise that for some people cannabis is a very serious health issue that they struggle with. But I think for those people, and I think for the majority of people, who don’t have that problematic relationship [with cannabis] and are just now able to utilise cannabis and to think about their health and wellbeing, if they’re using too much and to cut down, without having this overlay of criminality. It’s really allowed people to have those open and

frank discussions with us [CAHMA] around their cannabis use [...] It has a profound effect on a person's agency and empowerment to be able to change that behaviour, talk about it, talk about it without stigma, change the behaviour [...] seek support if you need to. I mean, it's just been a night and day change [...]

We don't get a lot of people coming to us for cannabis treatment but we have a lot of conversations about cannabis, generally speaking, with people coming into the drop in centre and that's been really positive [...] We certainly haven't seen an increase [in cannabis use...] Where we've seen changes is in terms of people's education and information-seeking around cannabis; really informing themselves and informing their families." – Mr Gough, CAHMA.

Ms van der Sterren noted that ATODA checked in periodically with their member services about how the cannabis reforms were going. They had received anecdotal feedback that people were "more forthcoming about their cannabis use and more forthcoming about seeking assistance", including seeking information and education through services regarding cannabis.

Representatives of the ADS Diversion Service also noted that one positive impact of the reforms for the community was that "Individuals who use cannabis recreationally may feel less stigmatised and more comfortable seeking help or support if needed for their cannabis use."

Community interactions with police

Mr Gough said the Cannabis Act reforms were improving the relationship between people who use cannabis and the police, partly due to the changes to the law (e.g. removal of police discretion noted above) and partly due to the "measured", "supportive" and "even handed" response of the police following the reforms.

"The attitudes of the police officers has been fantastic and they really have run with the intent of the legislation [...] I've heard of several examples where people have, it's actually facilitated police and people who use drugs, people who use cannabis, actually having a collegial relationship [...] So there's been a number of occasions where we've seen [...] police assuring the community that they're not interested in that [the cannabis plants you're growing] and that they understand the intent of the legislation. And so that has had a really profound effect on people who use cannabis and their ability to feel protected and serviced by the police force." – Mr Gough, CAHMA.

This approach of the police is reflected in quotes from the ACT Policing representatives above regarding efforts taken to communicate that ACT Policing's support harm minimisation and supporting the community to get support where this is indicated.

Decrease in police cannabis diversion referrals

As seen in the secondary data above, representatives of ADS Diversion Service noted that since the commencement of the Cannabis Act in 2020 there has been a notable decrease in the number of police cannabis diversion referrals received under the Illicit Drug Diversion program. While this is to be expected given the reforms, they noted that this could mean that some people who need support are not accessing the service.

“There is a potential risk of overlooking individuals who would have traditionally sought our support prior to [the] amendment. Cannabis may serve as a gateway drug for certain individuals, although on occasions while referrals were made for ‘cannabis only’ it has been observed that some individuals concurrently utilise other substances, warranting our attention and assistance in addressing their broader substance use concerns [...] This reduces our opportunity to assess and address concerns related to cannabis use among individuals who may require assistance.” – Representatives of ADS Diversion Service.

Allowing a community to develop

Mr Gough noted that the Cannabis Act reforms had allowed a community to develop in which people could freely share knowledge about cannabis and its cultivation.

“One of the beauties of this legislation is that it has allowed community to develop around people growing cannabis and actually understanding the science behind cannabis [...] It’s brought it out of the shadows and it’s allowed people to understand what they’re doing in terms of growing and in terms of consuming cannabis.” – Mr Gough, CAHMA.

As can be seen in the material presented above, the key stakeholders identified a range of aspects that are going well with the cannabis reforms as well as a number of issues that may warrant further consideration at an appropriate time. They also mentioned various impacts of the legislation on people who use cannabis, their willingness to seek support and a change in their relationships with police.

Conclusion

Key findings

- The Cannabis Act appears to have not had a substantial impact on cannabis consumption in the ACT. Indications of an increase in frequency and volume of cannabis use by existing consumers are likely due in large part to factors other than the Cannabis Act.
- The legislative change had the intended effect of reducing criminal justice system involvement for people who possess and cultivate small amounts of cannabis for personal use. A significant change in policing practices in line with the intent of the legislation was evident.
- There has been no increase in charges laid for trafficking or cultivation offences since the commencement of the Cannabis Act and no substantial changes in the price and availability of cannabis.
- The Cannabis Act does not appear to have directly resulted in any major increases or decreases in cannabis-related presentations to ambulances or hospitals.
- While it cannot be determined from the quantitative data whether the Cannabis Act had any impact on treatment seeking for cannabis use, the interviewees suggested there had been an impact on people's willingness to seek support with cannabis use.
- Interviews with key stakeholders highlighted that the reforms under the Cannabis Act appear to have been positively received, are operating well and are achieving positive impacts for people who use cannabis.
- Key stakeholders identified several issues with the operation of the reforms and while some of these may warrant further consideration, interviewees reported these did not necessarily warrant reopening the debate around cannabis policy at the present time, particularly given the significant recent drug policy changes in the ACT.
- Several largely positive impacts of the Cannabis Act were identified, including a reported reduction in stigma and discrimination, increasing willingness to seek support for cannabis use, and improved relationships between people who use cannabis and the police.
- The review concludes that the Cannabis Act appears to be operating as intended, with limited unintended consequences. The review did not identify any reasons for the reforms under the Cannabis Act to not continue.

Conclusions

The aims of this review were to review the operation of the reforms under the Cannabis Act after three years of operation, identify whether the reforms are operating as intended, identify any impacts of the reforms on the community and the criminal justice system, and present a report on the findings of the review. Given the focus of the review on the operation and impacts of the reforms, and the limited consultation with key stakeholders, this report does not make specific cannabis policy recommendations but provides the findings of the review for further consideration.

Cannabis use offence and health system data

The secondary data analysed as part of this review indicate that the Cannabis Act has not had a substantial impact on cannabis consumption in the ACT to date. Rates of cannabis use in the ACT have largely remained stable since the commencement of the Cannabis Act in January 2020. There is

no evidence to date of an increase in the number of people using cannabis as a result of the Cannabis Act.

There are some indications that there may have been an increase in the frequency and volume of cannabis consumed by people who already used cannabis over this period, however, this was likely due in large part to events which also occurred over this period including evident changes in cannabis use patterns during the COVID-19 pandemic and an increase in prescribing of medicinal cannabis products containing THC. The most recent wastewater data from December 2023 and February 2024 indicate a decline in estimated cannabis consumption and a return to typical pre-pandemic levels seen in 2018 and 2019. People in the ACT remain less likely to have used cannabis recently than the national average.

The data analysed indicate that the legislative change had the intended effect of reducing the criminal justice system involvement of people who possess and cultivate small amounts of cannabis for personal use. Charges laid for cannabis offences and police diversion referrals have dropped to very low levels, reflecting a significant change in policing practices in line with the intent of the legislation. Very few charges have been laid for smoking cannabis near a child and supplying cannabis to a child since the introduction of these offences in 2020. No charges have been laid for smoking cannabis in public since the Cannabis Act came into effect.

There has been no increase in charges laid for trafficking or cultivation offences since the commencement of the Cannabis Act, indicating that the decriminalisation has not had a significant impact to date on large-scale or commercial cannabis cultivation or supply that was not decriminalised under the reforms.

Despite police having the power to charge people with cannabis possession and cultivation offences under Commonwealth law, police governance materials recommending use of the ACT offences appears to have been effective in encouraging policing in line with the intent of the legislation. Only very small numbers of offences have been charged under Commonwealth law since 2020.

The commencement of the Cannabis Act does not appear to have directly resulted in any major increases or decreases in cannabis-related presentations to ambulances or hospital admissions to date.

While decriminalisation is intended to increase people's willingness to seek out help and support from both health services and drug treatment and support services, the secondary data do not clearly show whether this impact was achieved, in part due to changes in drug treatment seeking and provision as a result of the COVID-19 pandemic over this period. Despite these data, key stakeholders indicated that this has been a key benefit of the legislation and it is possible that the more informal conversations regarding cannabis have increased but are not captured in the data relating to treatment seeking for cannabis as the primary drug of concern.

There were no evident changes in the price and availability of cannabis following the Cannabis Act, however, some changes in how cannabis is sourced, including people being more likely to grow their own cannabis, are evident in the ACT. This provides an indication that while people are sourcing cannabis differently, there have not been substantial changes to the black-market supply of cannabis as a result of the Cannabis Act.

Feedback from stakeholder interviews

Interviews with key stakeholders highlighted that the reforms under the Cannabis Act appear to have been positively received, are operating well and are achieving positive impacts for people who use cannabis.

The Cannabis Act was reported by key stakeholders to have supported people to seek help without the fear of criminalisation, garnered respect for the intent of the legislation amongst people who use cannabis and provided legal certainty for the community through the removal of police discretion in decriminalisation. Public communication and police practice and governance were reported to be working well, alongside the continuation of a mechanism for police referrals to the diversion program for cannabis. The reforms under the Cannabis Act were reported to be operating well alongside other harm reduction and diversion programs and supporting the ACT Government's policy agenda and messaging regarding treating cannabis use as a health issue. The feared changes that were expressed during public debate as likely to result from the Cannabis Act have largely not been seen in practice, as is reflected in the secondary data analysed as part of this review.

Key stakeholders noted that it took time for the community to adjust to the reforms and the COVID-19 pandemic and 2023 DoD Act amendments had some minor impacts upon the operation of the Cannabis Act, however, these impacts appear to have been temporary and the Cannabis Act is now well established.

Several issues with the operation of the reforms were identified by the key stakeholders interviewed. Some issues raised, such as the ongoing legal ambiguity between ACT and Commonwealth laws and concerns around organised crime, are inherent to the decriminalisation of cannabis under the current national legal framework and the ongoing operation of a cannabis black market. These issues are unlikely to be able to be addressed through further amendments to the DoD Act. These issues, and others such as the procedural issues with storage of cannabis as part of personal property when someone is in custody, appear to be being effectively managed through agreed processes, governance arrangements, and guidance to ACT Policing and other parties such as ACT Corrections.

The issues raised regarding the quantitative limits for cannabis and plants, the restrictions on artificial cultivation, and there being no legal mechanism for access to seeds or cuttings, may warrant further consideration. This may be addressed with further legislative changes if this was supported based on more extensive consultation than was possible for this review. These issues reflect aspects of cannabis cultivation that are challenging to effectively regulate given the nature of growing cannabis plants in the ACT's particular climate.

Consideration of these issues must balance the needs of people growing cannabis for their personal use with the need to avoid creating unintended consequences that are not in line with the intent of decriminalisation and harm minimisation. This balance was considered when the Cannabis Bill was debated, as part of the Standing Committee Inquiry into the Cannabis Bill, and when the current legislation was passed. Despite this previous consideration, this review indicates that these concerns remain and pose challenges for people seeking to stay within the bounds of the law and outside of the black market and criminal justice system and may warrant further consideration.

The issue raised about the penalisation of people on community-based sentencing orders or parole for cannabis use related to perceived inconsistencies between the intent of the cannabis decriminalisation and ACT sentencing legislation may warrant further consideration. While community-based sentencing orders and parole orders can place limits on substance use regardless of its legal status (including alcohol), the effect of this is that, in some cases, people who are involved in the criminal justice system for other issues may be further penalised as a result of cannabis use.

The changes under the Cannabis Act did not apply to people under 18 years, and secondary data provides positive indications that decriminalisation for adults had not led to an increase in cannabis use by minors. It was noted by key stakeholders that cannabis possession and cultivation continues to be criminalised for minors, leading to ongoing contact with the justice system. However, charges laid for possession offences among minors have decreased since 2020 and minors continue to be diverted into the Illicit Drug Diversion program in low numbers. Key stakeholders noted positive indications that the decriminalisation for adults may have increased willingness for minors to seek support with cannabis use. Efforts to ensure the decriminalisation for adults is not having negative unintended consequences for minors in terms of increasing access to cannabis must continue.

It should be noted that several key stakeholders questioned whether reopening the debate regarding cannabis legislation and policy was worthwhile given the existing support for the legislation and whether now was the appropriate time for this given the suite of drug policy changes that have taken place in the ACT in recent years. The 2023 DoD Act amendments, which decriminalised possession of small quantities of ten other illicit drugs, will be subject to a formal evaluation and the findings of the present review into cannabis decriminalisation should be considered within the context of the recommendations of that evaluation and the drug policy landscape and priorities in the ACT.

The impacts of the Cannabis Act reported by key stakeholders are largely positive and reflect the intent of the legislation. A reduction in stigma and discrimination, increased willingness to seek support for cannabis use, and improved relationships between people who use cannabis and the police are positive outcomes of this legislation. These proposed impacts are based on what was reported by key stakeholders, and it should be noted that these are challenging to measure and data are not captured on these in existing largescale data sets, which makes these impacts difficult to corroborate. These impacts are likely not universal for all people who use cannabis and the effects of stigma are likely to remain for many who use cannabis in the ACT. Stigma and discrimination regarding cannabis must continue to be addressed in the community despite the progress made by these reforms.

Similarly, while a reduction in police referrals for cannabis to diversion services is expected and appropriate under the legislation, the diversion service and other support services are still available for people who use cannabis, and people experiencing issues with their cannabis use should continue to be supported to seek help and treatment as appropriate. The feedback received as part of this review indicate that the Cannabis Act has gone some way to facilitating the open conversations regarding cannabis use that are required for people to access support.

In conclusion, this review found the Cannabis Act is operating as intended, with limited unintended consequences. While some issues have been identified for further consideration at an appropriate time, this review has not identified any reasons for the Cannabis Act not to continue.

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Acknowledgment of Country

We acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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