

Our reference: **FOI19/64**

Dear 

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by ACT Health Directorate (AHD) on 8 October and rescope on 21 October 2019.

This application requested access to:

- *“Briefings prepared for the former Minister for Health and Wellbeing, the Minister for Health and the Minister for Mental Health related to the proposed legalisation of cannabis from 1 November 2018 until the current day.*
- *ACT Health's contribution to the whole of government submission to the ACT Health, Ageing and Community Services committee inquiry into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill and related correspondence.*
- *Correspondence with Canberra Health Services and other relevant ACT government directorates and agencies related to the legalisation of cannabis dated from 1 November 2018.*
- *Other relevant correspondence related to the proposed legalisation of cannabis including with Michael Pettersson, the Australian Medical Association and other organisations from 1 November 2018.”*

I am an Information Officer appointed by the Director-General of AHD under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. AHD was required to provide a decision on your access application by **Monday 18 November 2019**.

I have identified 18 documents holding the information within scope of your access application. These are outlined in the schedule of documents included at Attachment A to this decision letter.

Decisions

I have decided to:

- grant full access to 17 documents; and
- refuse access to 1 document.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as Attachment B to this letter.



In reaching my access decision, I have taken the following into account:

- The FOI Act;
- The contents of the documents that fall within the scope of your request;
- The *Human Rights Act 2004*.

Full Access

I have decided to grant access in full to 17 documents relevant to your request.

Refuse Access

I have decided not to grant access to 1 document at reference 5. The information contained in this document is comprised of Cabinet information and I therefore considered contrary to the public interest to release, under Schedule 1, 1.6 (1) Cabinet Information.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, AHD maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in ACT Health's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: ACTFOI@ombudsman.gov.au.

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>



ACT Health

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely

A handwritten signature in cursive script that reads "Alan Philp".

Alan Philp
Executive Group Manager
Preventive and Population Health Division

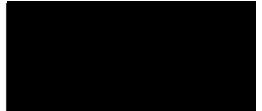
18 November 2019

FREEDOM OF INFORMATION SCHEDULE OF DOCUMENTS

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

APPLICANT NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	FILE NUMBER
	<ol style="list-style-type: none"> 1. <i>Briefings prepared for the former Minister for Health and Wellbeing, the Minister for Health and the Minister for Mental Health related to the proposed legalisation of cannabis from 1 November 2018 until the current day.</i> 2. <i>ACT Health's contribution to the whole of government submission to the ACT Health, Ageing and Community Services committee inquiry into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill and related correspondence.</i> 3. <i>Correspondence with Canberra Health Services and other relevant ACT government directorates and agencies related to the legalisation of cannabis dated from 1 November 2018.</i> 4. <i>Other relevant correspondence related to the proposed legalisation of cannabis including with Michael Pettersson, the Australian Medical Association and other organisations from 1 November 2018.</i> 	<p>FOI19/64</p>

Ref Number	Page Number	Description	Date	Status Decision	Factor	Open Access release status
1.	1-3	Question Time Brief – Cannabis Legislation	19/11/2018	Full release		Yes
2.	4-9	Ministerial Brief – Legislation of the personal use of cannabis	26/11/2018	Full release		Yes
3.	10-14	Question Time Brief- Cannabis Legislation	27/11/2018	Full release		Yes
4.	15-16	Advisory Note- Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018	27/11/2018	Full release		Yes
5.	17-28	DRAFT – Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018	2018	Not for release	Schedule 1, 1.6 Cabinet Information	No
6.	29	Letter- from Minister for Health and Wellbeing to Attorney-General	15/01/2019	Full release		Yes
7.	30-33	Ministerial Brief- Cannabis and Mental Health	2/2/2019	Full release		Yes
8.	34- 37	Letter- from Chief Minister to Chair of the Standing Committee on Health, Ageing and Community Services	18/03/2019	Full release		Yes
9.	38- 46	Ministerial Brief- Access to medicinal cannabis in the ACT with attachments: Talking points and Caveat Brief	30/04/2019	Full release		Yes
10.	47- 49	Question Time Brief – Government position on Drugs of Dependence) Personal Cannabis Use) Amendment Bill	1/05/2019	Full release		Yes
11.	50-53	Minute- Inquiry by the Standing Committee on Health, Ageing and Community Services into the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 – Committee Hearing	7/05/2019	Full release		Yes
12.	54-55	Legislative Assembly - Inquiry into Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018	12/05/2019	Full release		Yes
13.	56-57	Advisory Note- Question on notice no.2381 Prescription Medicinal Cannabis	14/05/2019	Full release		Yes

14.	58	Letter- from Chief Minister to Chair of the Standing Committee on Health, Ageing and Community Services- Correction to the Hansard record of 8 May	6/06/2019	Full release		Yes
15.	59-60	Advisory Note- ACT Medical Cannabis scheme	27/09/2019	Full release		Yes
16.	61	Letter- from Minister for Health Greg Hunt MP to ACT Chief Minister	9/10/2019	Full release		Yes
17.	62-64	Question Time Brief- Government Position on Drugs of Dependence (Personal Cannabis Use) Amendment Bill	N/A	Full release		Yes
18.	65-66	Issue: Cannabis Legislation	N/A	Full release		Yes
Total Number of Documents						

cleared -
EA
19/11/20



QUESTION TIME BRIEF

GBC18/580

Portfolio/s Health & Wellbeing

ISSUE: CANNABIS LEGALISATION

Talking points:

- Issues relating to cannabis diversion are the subject of considerable ongoing debate.
- Any amendments to legislation regarding cannabis possession and cultivation, must be carefully considered, and take into account the best available evidence around the net effect of personal use on public health, implications related to adverse health effects
- Consistent with the *National Drug Strategy 2017-2026*, the ACT Government is developing the *ACT Drug Strategy Action Plan 2018-2021*. Both the National Drug Strategy and the Drug Strategy Action Plan are underpinned by the three pillars of harm minimisation: demand reduction, supply reduction and harm reduction.
- The Drug Strategy Action Plan is due to be finalised by the end of 2018.

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Key Issues:

Harms of cannabis

- Cannabis use is highly correlated with use of alcohol, tobacco and other illicit drugs, all of which have potential adverse health effects.
- The evidence associating regular cannabis use with specific long-term health conditions and adverse effects is of variable quality.
- There is sufficient evidence, however, to indicate that cannabis is a risk factor for some chronic health effects and conditions.
- Cannabis use has been associated with substantial adverse health effects, some of which have been determined with a high level of confidence.
- Most studies report adverse effects from:
 - o Short-term cannabis use, for example, impaired short-term memory and motor coordination, altered judgment and, in high doses, paranoia and psychosis.

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 Information Officer name:
 Contact Officer name: Emily Harper Ext: 52245
 Lead Directorate: Health
 TRIM Ref: GBC18/580



QUESTION TIME BRIEF

- o Long-term or heavy cannabis use, for example, addiction, altered brain development, symptoms of chronic bronchitis and increased risk of chronic psychosis disorders, including schizophrenia, in persons with a predisposition to such disorders.
- Cannabis, like other drugs of abuse, can result in addiction. During intoxication, cannabis can interfere with cognitive function (e.g. memory and perception of time) and motor function (e.g. coordination), and these effects can have detrimental consequences (e.g. motor-vehicle accidents).
- Repeated cannabis use during adolescence may result in long-lasting changes in brain function that can jeopardise educational, professional, and social achievements.
- However, criminal penalties for personal cannabis use can add to the potential health and other risks to which cannabis users are exposed. A balance is required.
- No other Australian State or Territory has legalised the personal use of cannabis. All jurisdictions allow cautions to be given (subject to differing conditions), at the discretion of police, for minor offences relating to personal possession or use. These programs are similar to the Simple Cannabis Offence Notice program operating in the Australian Capital Territory.
- On 9 May 2018, Senator David Leyonhjelm introduced "The Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018". The Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 14 September 2018.
- The Bill, if passed, would remove Commonwealth barriers to the legalisation, regulation and taxation of cannabis. As such the passage of this bill would allow any State or Territory Government to legalise and regulate cannabis for recreational, medicinal, industrial and other purposes.
- The Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 14 September 2018. The Committee recommended against the Bill. A second reading debate was held in the Senate on 15 October 2018. The debate was interrupted but did not have much support.

International

- The United Nations (UN) is launching its first ever review of marijuana's classification under international drug treaties. This is scheduled for November 2018.

Medicinal use

- Since 1 November 2016 some cannabis products have been able to be prescribed by doctors for medicinal use in Australia, including the ACT.

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 Lead Directorate: Health

TRIM Ref: GBC18/580



QUESTION TIME BRIEF

- In order to prescribe cannabis as a controlled medicine, doctors should obtain authority from the ACT Chief Health Officer under the same process which currently applies for other controlled medicines such as opiates and amphetamines.
- Only registered medical practitioners can apply for an authority to prescribe a controlled medicine for one of their patients.

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 TRIM Ref: GBC18/580



MINISTERIAL BRIEF

ACT Health Directorate

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To: Minister for Health and Wellbeing Tracking No.: MIN18/1948

Date: 23 November 2018

From: Michael De'Ath, Director-General

Subject: Legalisation of the personal use of cannabis

Critical Date: **23 November 2018**

Critical Reason: To comply with an urgent request from the Minister's office

- DG .../.../...

Purpose

To provide you with:

- information in relation to the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018, which is expected to be tabled in the ACT Legislative Assembly in the sitting week commencing 27 November 2018; and
- talking points on the legalisation of cannabis.

Recommendation

That you note the information contained in this brief.

Noted / Please Discuss

Meegan Fitzharris MLA *[Signature]* 26/11/18

Minister's Office Feedback

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Background

1. In September 2018, Michael Pettersson MLA, circulated an exposure draft of the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 (the Bill). The Bill outlines proposed amendments to the *Drugs of Dependence Act 1989* in relation to the personal possession of cannabis.
2. Key changes proposed by the Bill include:
 - Possession of cannabis will not be an offence if the person is over 18 years of age and possesses less than 50g of cannabis.
 - Cannabis is to be removed from the definition of 'prohibited substance' and a new section specifically for cannabis created.
 - Cultivation of one to four cannabis plants to be permitted (subject to certain conditions – for example, artificial cultivation will not be permitted).
 - The smoking of cannabis in public places or within 20 metres of children will be expressly prohibited.
3. Currently the ACT utilises the Simple Cannabis Offence Notice (SCON) scheme in relation to possession of cannabis. The SCON allows for a person to be issued a penalty order fine if they possess up to 50 grams of dried cannabis, OR one or two cannabis plants (excluding all hydroponically or artificially cultivated cannabis plants) where it is deemed by police to be for personal use only.
4. The exposure draft of the Bill opened for public consultation on 19 September 2018 and closed on 22 November 2018.
5. The Bill is expected to be tabled in the ACT Legislative Assembly in the sitting week commencing 27 November 2018.

Issues

6. In 2016, cannabis was the most commonly used illicit drug in Australia. Over one third of Australians (35 percent, approximately 6.9 million) aged 14 years and over had used cannabis at least once in their lifetime, and 10.4 percent had used cannabis in the last 12 months.
7. In the year ending 30 June 2017, the ACT had 768 arrests for illicit drug offences. Fifty percent of all arrests were for cannabis possession. Of these, 84 percent were classified as cannabis consumers and just 16 percent were cannabis suppliers.
8. Some 25 percent of the cannabis consumer arrests were occasions in which people were issued with a SCON. In the remaining 75 percent of cases the consumers were charged with a cannabis offence and would have had to appear before a court to answer the charge.

Harms of cannabis

9. Cannabis use is highly correlated with use of alcohol, tobacco and other illicit drugs, all of which have potential adverse health effects.
10. The evidence associating regular cannabis use with specific long-term health conditions and adverse effects is of variable quality. However, the daily use of cannabis over years and decades appears to produce persistent impairments in

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memory and cognition, especially when cannabis use begins in adolescence (World Health Organization 2016).

11. There is sufficient evidence to indicate that cannabis use is a risk factor for some chronic health effects and conditions such as chronic bronchitis and cardiovascular disease (World Health Organization 2016).
12. Most studies report adverse effects from:
 - Short-term cannabis use (e.g. impaired short-term memory and motor coordination, altered judgment and, in high doses, paranoia and psychosis).
 - Long-term or heavy cannabis use (e.g. addiction, altered brain development, symptoms of chronic bronchitis and increased risk of chronic psychosis disorders, including schizophrenia, in persons with a predisposition to such disorders).
13. Cannabis, like other drugs of abuse, can result in addiction. During intoxication, cannabis can interfere with cognitive function (e.g. memory and perception of time) and motor function (e.g. coordination), and these effects can have detrimental consequences (e.g. motor-vehicle accidents).
14. Repeated cannabis use during adolescence may result in long-lasting changes in brain function that can jeopardise educational, professional, and social achievements.
15. Notwithstanding the potential harms that can arise from cannabis use, based on current use patterns, alcohol abuse and tobacco still pose much greater harms to individual and public health in Australia than cannabis. Illicit drug use overall (e.g. cannabis, cocaine, heroin and amphetamine-type stimulants) contribute 1.8 percent to the total disease burden in Australia in 2016. This compares to nine percent of the total burden attributable to tobacco use and 5.1 percent attributable to alcohol use.
16. Criminal penalties for personal cannabis use can add to the potential health and other risks to which cannabis users are exposed. This is particularly the case for younger, more 'casual' users, who may be subject to having a criminal record (with flow-on impacts on employment and economic prospects) arising from what is frequently considered to be a relatively low-level offence by many community members. A balance is required.

National

17. No other Australian State or Territory has legalised the personal use of cannabis. All jurisdictions allow cautions to be given (subject to differing conditions), at the discretion of police, for minor offences relating to personal possession or use. These programs are broadly similar to the SCON scheme operating in the ACT.
18. On 9 May 2018, Senator David Leyonhjelm introduced Criminal Code and Other Legislation (Removing Commonwealth Restrictions on Cannabis) Amendment Bill 2018 (the Commonwealth Bill).
19. The Commonwealth Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 14 September 2018.
20. The Commonwealth Bill, if passed, would remove Commonwealth barriers to the legalisation, regulation and taxation of cannabis. As such the passage of the

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Commonwealth Bill would allow any State or Territory Government to legalise and regulate cannabis for recreational, medicinal, industrial and other purposes.

21. The Committee recommended against the Commonwealth Bill. A second reading debate was held in the Senate on 15 October 2018. The debate was interrupted but there did not appear to be much support for the Commonwealth Bill.

International

22. The United Nations is launching its first ever review of marijuana's classification under international drug treaties. This is scheduled for November 2018. Results may affect the Single Convention on Narcotic Drugs of 1961 which aims to combat drug abuse by coordinated international action.

Legislation

23. If the Bill were to be passed, it is likely that changes would be required to the following legislation:
- *Drugs of Dependence Act 1989* (responsibility of the Minister for Health and Wellbeing).
 - *Medicines, Poisons and Therapeutic Goods Act 2008* (responsibility of the Minister for Health and Wellbeing).
 - *Criminal Code 2002* (responsibility of the Attorney-General).
 - A number of other Notifiable and Disallowable Instruments and Subordinate Laws may also be affected.

Financial Implications

24. There are no financial implications in relation to this brief.

Consultation

Internal

25. The Pharmaceutical Services Section of the Health Protection Service were consulted in the development of this brief.

Cross Directorate

26. The Health Directorate will continue to work with relevant Directorates, in particular the Justice and Community Safety Directorate, to provide further advice to Government prior to the Debate of the Bill which is anticipated to take place in early 2019.

External

27. Nil response.

Work Health and Safety

28. Nil response.

Benefits/Sensitivities

29. In assessing different legislative and policy approaches to the regulation of cannabis use, the Australian Medical Association-ACT notes that primary consideration should be given to the impact of such approaches on the health and well-being of cannabis

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users.

30. Importantly, the Bill does not propose legalising the personal use of cannabis for those under 18 years of age. This approach is strongly supported by evidence, with greater harms associated with cannabis use seen in adolescence.
31. Community tolerance has increased for cannabis use, with higher proportions of people supporting legalisation and a lower proportion supporting penalties for sale and supply (Australian Institute of Health and Welfare, 2016).
32. At present, there are significant justice and policing resources invested in enforcing the law as it currently stands. Were the Bill to be adopted, there is the potential that these resources could be redirected or 'freed-up' to focus on suppliers and other offences more in line with community expectation.
33. There is evidence emerging following recent moves to legalise cannabis in several international jurisdictions. This evidence is of variable quality but will be assessed and evaluated to inform the development of further advice to Government.
34. The Health Directorate will work with relevant stakeholders in developing further advice for consideration of Government prior to the Debating of the Bill.

Communications, media and engagement implications

35. Issues relating to alcohol and drugs broadly – and cannabis specifically – continue to generate significant media interest. Talking points on the legalisation of cannabis are provided at Attachment A.

Signatory Name:	Leonie McGregor, Deputy Director-General, Health Systems, Policy and Research	Phone:	x52439
Action Officer:	Emily Harper, Director, Preventive and Population Health	Phone:	x78634

Attachments

Attachment	Title
Attachment A	Talking Points – Legalisation of Cannabis

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Attachment ATalking Points on the Legalisation of Cannabis

- Issues relating to cannabis use are the subject of considerable ongoing debate.
- Any amendments to legislation regarding cannabis possession and cultivation must be carefully considered and take into account the best available evidence around the effect on public health.
- Consistent with the *National Drug Strategy 2017-2026*, the ACT Government is developing the *ACT Drug Strategy Action Plan 2018-2021*. Both the National Drug Strategy and the Drug Strategy Action Plan are underpinned by the three pillars of harm minimisation: demand reduction, supply reduction and harm reduction.
- The ACT Government remains committed to harm minimisation and evidence-based policy.
- Cannabis use is highly correlated with use of alcohol, tobacco and other illicit drugs, all of which have potential adverse health effects.
- There is sufficient evidence to indicate that cannabis is a risk factor for some chronic health and conditions.
- Although harm can arise from cannabis use, alcohol abuse and tobacco use contribute more to the burden of disease in Australia.
- Criminal penalties for personal cannabis use can add to the potential health and other risks to which cannabis users are exposed. A balanced approach is required.
- Any changes to legislation and policy in relation to personal use of cannabis should be made with consideration of the impact on public health.
- We will continue to monitor the different legislative and policy approaches to cannabis operating in overseas jurisdictions to assess their health and harm-related impacts.
- There is more work required to assess the impacts of legalisation of cannabis for personal use and I look forward to working with my colleagues in other portfolios on this important issue.



CORRESPONDENCE COVER SHEET

Correspondent:

Record Number: **GBC18/821**

Date Due:

**Topic: Assembly - Minister for Health and Wellbeing - ACT Health Directorate (AHD)
- Question Time Briefs (QTB) - November 2018**

Action
Required:

No

Brief to D-G

No

Draft Response

Action by Group

No

Advice

No

Ministerial Response

 Assignee: Bills, Kate since 20/11/2018 at 8:03 AM

Comments for Cover Sheet:

CORRESPONDENCE CLEARANCE

Subject: **Assembly - Minister for Health and Wellbeing - ACT Health Directorate (AHD) - Question Time Briefs (QTB) - November 2018**

Number: **GBC18/821**

Date Due:

Director-General - ACT Health: Date:


Deputy Director-General - Corporate Services: Date:

Deputy Director-General - Health Systems, Policy and Research: Date:

Chief Health Officer: Date:

Co-ordinator-General - Mental Health and Wellbeing: Date:

Professional Leads: Date:

Contextually Correct <input checked="" type="checkbox"/>	Grammatically Correct <input checked="" type="checkbox"/>	Spell Checked <input checked="" type="checkbox"/>
Position: <u>Director</u>	Area name: <u>PHU</u>	
Signature: 		Date: <u>27/11/18</u>

Director - Area name: Date:

Senior Manager -Area name: Date:

Manager -Area name: Date:

Communications - ACT Health Directorate: Date:

Ministerial and Government Services - ACT Health Directorate: Date:

Other: Date:

QUESTION TIME BRIEF

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Portfolio/s Health & Wellbeing

ISSUE: CANNABIS LEGALISATION

Talking points:

- Issues relating to cannabis ~~diversion use~~ are the subject of considerable ~~ongoing~~ debate.
- Any amendments to legislation regarding cannabis possession and cultivation must be carefully considered, and take into account the best available evidence around the net effect of personal use on public health.
- Consistent with the *National Drug Strategy 2017-2026*, the ACT Government is developing the *ACT Drug Strategy Action Plan 2018-2021*, with finalisation expected by the end of 2018. Both the National Drug Strategy and the Drug Strategy Action Plan are underpinned by the three pillars of harm minimisation: demand reduction, supply reduction and harm reduction.
- ~~The Drug Strategy Action Plan is due to be finalised by the end of 2018.~~ There is more work required to assess the impacts of legalisation of cannabis for personal use and I look forward to working with my colleagues in other portfolios, in particular Justice and Community Safety Directorate, on this important issue.
- We will continue to monitor the different legislative and policy approaches to recreational cannabis operating in overseas jurisdictions to assess their health and harm-related impacts.

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Key Issues:

Harms of cannabis

- Cannabis use is highly correlated with use of alcohol, tobacco and other illicit drugs, all of which have potential adverse health effects.
- The evidence associating regular cannabis use with specific long-term health conditions and adverse effects is of variable quality. However, the daily use of cannabis over years

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 Cleared by: Deputy Director-General Ext: 52439
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 Lead Directorate: Health

TRIM Ref: GBC18/58219

QUESTION TIME BRIEF

and decades appears to produce persistent impairments in memory and cognition, especially when cannabis use begins in adolescence (World Health Organization 2016).

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- There is sufficient evidence to indicate that cannabis use is a risk factor for some chronic health effects and conditions such as chronic bronchitis and cardiovascular disease.
- Cannabis, like other drugs of abuse, can result in addiction. During intoxication, cannabis can interfere with cognitive function (e.g. memory and perception of time) and motor function (e.g. coordination), and these effects can have detrimental consequences (e.g. motor-vehicle accidents).
- Notwithstanding the potential harms that can arise from cannabis use, based on current use patterns, alcohol abuse and tobacco still pose much greater harms to individual and public health in Australia than cannabis.
- At present, there are significant justice and policing resources invested in enforcing the law as it stands. Criminal penalties for what may be considered a low-level offence by many community members can have an adverse impact on users with criminal records - potentially impacting employment and economic prospects. A balance is required.
- No other Australian State or Territory has legalised the personal use of cannabis. All jurisdictions allow cautions to be given (subject to differing conditions), at the discretion of police, for minor offences relating to personal possession or use. These programs are similar to the Simple Cannabis Offence Notice program currently operating in the Australian Capital Territory.
- On 9 May 2018, Senator David Leyonhjelm introduced The Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018 (the Bill).
- The Bill, if passed, would remove Commonwealth barriers to the legalisation, regulation and taxation of cannabis by States and Territories. As such the passage of this bill would allow any State or Territory Government to legalise and regulate cannabis for recreational, medicinal, industrial and other purposes.
-
- The Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 14 September 2018. The Committee who recommended against the Bill. A The second reading debate was held in the Senate on 15 October 2018, was interrupted but there did not appear to be much support. The debate was interrupted but did not have much support.

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International

- The United Nations (UN) is launching has launched its first ever review of marijuana's classification under international drug treaties. This is scheduled for November 2018. A

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QUESTION TIME BRIEF

report on the review will be issued in December 2018 and members will be asked to vote on the report in March 2019.

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Consultation

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- Legalising cannabis for personal use will require cross government consultation and collaboration. ACT Health will continue to work with colleagues in Justice and Community Safety Directorate and ACT Policing, in particular, to develop further advice to Government prior to the Debate of the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018.

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Medicinal use

- ~~Since 1 November 2016 some cannabis products have been able to be prescribed by doctors for medicinal use in Australia, including the ACT.~~
- ~~In order to prescribe cannabis as a controlled medicine, doctors should obtain authority from the ACT Chief Health Officer under the same process which currently applies for other controlled medicines such as opiates and amphetamines.~~
- ~~Only registered medical practitioners can apply for an authority to prescribe a controlled medicine for one of their patients.~~

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 TRIM Ref: GBC18/58219



ADVISORY NOTE

Minister for Health and Wellbeing

TRIM Ref: GBC18/840	ACT Health advice – Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018
Critical Date	The Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 is expected to be introduced into the Legislative Assembly in the sitting week of 27 to 29 November 2018 .
Director-General	Michael De'Ath 27.11./2018

Minister's question/s:

Advice has been sought in regard to Mr Pettersson's Private Member's Bill - the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 (the Bill), and in particular ACT Health's advice in relation to proposed amendments to the *Medicines, Poisons and Therapeutic Goods Act 2008*.

ACT Health's response:

ACT Health's Preventative and Population Health branch have previously provided advice on the legalisation of cannabis and the Bill.

The Bill seeks to principally amend the *Drugs of Dependence Act 1989* (DODA), but also contains consequential amendments to the *Medicines, Poisons and Therapeutic Goods Act 2008* (the MPTGA) and the *Criminal Code 2002*. Under the current Administrative Arrangements declaration you, as Minister for Health and Wellbeing, have responsibility for the DODA and the MPTGA. The Attorney-General has responsibility for the *Criminal Code 2002*.

Clauses 5 to 9 of the Bill would amend the DODA. Key changes to DODA proposed by the Bill include:

- Possession of cannabis will not be an offence if the person is over 18 years of age and possesses less than 50g of cannabis.
- Cannabis is to be removed from the definition of 'prohibited substance' and a new section specifically for cannabis created.
- Cultivation of one to four cannabis plants to be permitted (subject to certain conditions – for example, artificial cultivation will not be permitted).
- The smoking of cannabis in public places or within 20 metres of children will be expressly prohibited.

Whilst the Bill amends the offences in the DODA for possessing prohibited substances and for possessing cannabis, important exclusions from these offences for persons authorised to possess

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them under the MPTGA have been retained in the Bill. This is particularly important for enabling persons to possess medicinal cannabis.

As such, the changes to DODA proposed by the Bill will not impact the legality of the manufacture, supply, possession or administration of medicinal cannabis.

There is an existing issue regarding the definition of 'cannabis' employed in the *Criminal Code 2002*, and the lack of exclusions in the offences in the *Criminal Code 2002* for persons authorised to be in possession of medicinal cannabis, which could potentially have a negative impact on medicinal cannabis. If the Bill is introduced this could be an opportunity to resolve these potential issues. As such if the Bill is introduced, consideration should be given to development of government amendments to be moved during debate which would address these potential issues. ACT Health intends to liaise with the Justice and Community Safety Directorate (JACS) on this matter.

The Bill also introduces into the DODA offences for smoking cannabis in a public place or near (within 20 metres) of a child. Whilst the appropriateness of the construction of these offences is a policy matter for JACS to comment upon, ACT Health does note that neither strict nor absolute liability has been applied to these offences or any elements of the offences. As such, a successful prosecution will require proving beyond reasonable doubt both the physical elements (the offending behaviour) and also the fault elements (intention, knowledge, recklessness or negligence) of the offence.

Noted / Please Discuss



Meegan Fitzharris MLA
Minister for Health and Wellbeing

28/11/2018

Signatory Name:	Leonie McGregor, Deputy Director-General Health Systems, Policy and Research	Phone:	5124 9180
Action Officer:	Dr Kerryn Coleman, Acting Chief Health Officer	Phone:	620 50883



Meegan Fitzharris MLA

Minister for Health and Wellbeing
 Minister for Higher Education
 Minister for Medical and Health Research
 Minister for Transport
 Minister for Vocational Education and Skills
 Member for Yerrabi

Mr Gordon Ramsay MLA
 Attorney-General
 Minister for the Arts and Cultural Events
 Minister for Building Quality Improvement
 Minister for Business and Regulatory Services
 Minister for Seniors and Veterans
 ACT Legislative Assembly
 London Circuit
 CANBERRA ACT 2601

Dear Minister Ramsay Gordon

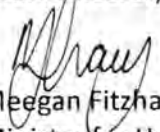
As you are aware, the ACT Health Directorate is coordinating the preparation of a Cabinet Submission to inform the Government Response to the Private Members Bill: *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill) which was introduced into the Legislative Assembly by Mr Michael Pettersson MLA in November 2018.

The Bill is currently scheduled for debate in the Assembly in the sitting week commencing 12 February 2019. The Government Response Cabinet Submission will be considered by Cabinet at the meeting of 5 February 2019 however I will be taking leave at this time.

In my absence, it would be appreciated if you could please sponsor the Cabinet Submission on my behalf. Should you agree to this arrangement, I will ensure that you and your office are fully briefed by ACT Health on the Submission prior to the Cabinet meeting.

Should you have any questions about this matter or wish to discuss further, please make contact with my office. Thank you for your consideration of this request.

Yours sincerely


 Meegan Fitzharris MLA
 Minister for Health and Wellbeing

15/1/19

ACT Legislative Assembly

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MINISTERIAL BRIEF

ACT Health Directorate

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To:	Minister for Mental Health	Tracking No.: GBC19/28
Date:	24 January 2019	
From:	Michael De'Ath, Director-General, ACT Health Directorate	
Subject:	Cannabis and Mental Health	
Critical Date:	29 January 2019	
Critical Reason:	Cabinet discussion on the upcoming Personal Cannabis Use Amendment Bill	

Purpose

To provide you with information on the effects and interactions of cannabis on mental health, in preparation for Cabinet discussion on the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018*.

Recommendations

That you:

1. Note the information contained in this brief

Noted / Please Discuss

Shane Rattenbury MLA

2/2/19

Minister's Office Feedback

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Background

1. In February 2019, the Legislative Assembly will debate the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill).
2. The Bill aims to amend criminal law to allow for the personal use and carrying of cannabis up to a limit of 50 grams, in addition to allowing individuals to cultivate up to four cannabis plants.
3. Mental Health Policy (MHP) was asked to provide input into a Cabinet Submission, on behalf of the ACT Health Directorate, regarding the Bill. The information in this briefing is a summary of MHP's input into this Submission, which also included input from Mental Health, Justice Health, Alcohol and Drug Services (MHJHADS), the Coordinator General for Mental Health and the Chief Psychiatrist.

Issues

4. In considering the Bill, it is important to understand the health issues associated with cannabis use. Most studies report adverse effects from:
 - a) Short-term cannabis use (e.g. impaired short-term memory and motor coordination, altered judgment and, in high doses, paranoia and psychosis).
 - b) Long-term or heavy cannabis use (e.g. addiction, altered brain development, symptoms of chronic bronchitis and increased risk of chronic psychosis disorders, including schizophrenia, in persons with a predisposition to such disorders).
5. Cannabis, like other drugs of abuse, can result in addiction. However, there are fewer treatment options for cannabis dependence than for alcohol or opiate dependence and limited research on the effectiveness of different treatment options. Some research suggests that people with mental illness are more vulnerable to addiction to cannabis.
6. The cognitive and behavioral effects of cannabis intoxication can either overshadow or be misinterpreted as symptoms of mental illness. It can therefore be difficult to assess, diagnose and treat the mental state of someone using cannabis. In addition, regular cannabis usage can disrupt typical disease management by decreasing, or interfering with, medication use and engagement in ongoing treatment.
7. It is difficult to establish causality between cannabis use and mental illnesses because of a range of confounding factors, such as alcohol use or pre-existing undiagnosed mental health issues. There is little evidence to suggest that cannabis use increases depression or suicide risk. However, epidemiological studies make a consistent case that early and/or heavy cannabis use is linked to a significantly increased risk of schizophrenia.
8. There is a common perception in people with mental illness that cannabis has therapeutic benefits in managing their symptoms, however the evidence suggests that there are more harmful effects of recreational cannabis use on mental illness, rather than therapeutic.

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9. Cannabis is used for a variety of conditions including chronic pain. Surveys of cannabis users in America have found that 70 percent or more believe that their cannabis usage results in moderate improvement in their symptoms, including anxiety for some patients.
10. The evidence base for the therapeutic effects and medical applications of cannabis is limited. To date, there is a lack of data to conclusively indicate the potential therapeutic benefits of cannabis or the potential harms associated with its use. Cannabis is a drug of many constituents with differential effects, which will be influenced by its preparation, its potency, the dose taken, and the frequency of use.
11. Nationally in 2016-17, 91.2 per cent of cannabis arrests were of consumers, as opposed to that of providers (Australian Criminal Intelligence Commission (ACIC), 2018). In addition to the impacts of cannabis usage on health the Australian Medical Association (AMA) notes that, while they do not condone recreational cannabis usage, criminal penalties for personal cannabis usage can add to the potential health and other risks to which cannabis users are exposed. Criminal convictions can negatively impact a person's employment and housing situations, which can lead to poor health, including poor mental health.
12. The AMA believes that, consistent with a principle of harm reduction, personal cannabis use should receive diversion strategies or civil penalties, such as court orders, rather than users entering the criminal justice system.

Financial Implications

13. There are no immediate financial implications in the preparation of this brief or the Cabinet discussion of the Bill, however the progression of this Bill could have future financial implications. As noted above, cannabis legalisation may have effects on mental health, which may impact on future health expenditure, such as through the disruption of treatment of mental illness or increased risks of schizophrenia in the community.

ConsultationInternal

14. In the collation of this information, MHP consulted with the Office for Mental Health and Wellbeing and the Chief Psychiatrist.

Cross Directorate

15. In the collation of this information, MHP consulted with MHJHADS.

External

16. Nil response

Work Health and Safety

17. Nil response

Benefits/Sensitivities

18. In the context of public discussions regarding pill testing and drug safety, it is likely that discussion of this Bill will attract heightened public attention.

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19. Different benefits and harms of cannabis legalisation need to be considered in tandem with the impacts on mental health as outlined above.

Communications, media and engagement implications

20. The outcomes of the Cabinet and Legislative Assembly process for the Bill will likely attract media attention, particularly in the context of wider discussions in the public domain regarding pill-testing. As a result, cannabis legislation may highlight public concerns about the safety of cannabis.

Signatory Name:	Amber Shuhyta	Phone:	X49737
Action Officer:	Adam Brockway	Phone:	X49781

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Andrew Barr MLA

Chief Minister
 Treasurer
 Minister for Social Inclusion and Equality
 Minister for Tourism and Special Events
 Minister for Trade, Industry and Investment
 Member for Kurrajong

COPY

Ms Bec Cody MLA
 Chair
 Standing Committee on Health, Ageing and Community Services
 Legislative Assembly for the ACT
 GPO Box 1020
 CANBERRA ACT 2601

Dear Ms ^{Bec}Cody

Thank you for your letter of 27 February 2019 inviting the Government to provide an outline of intended amendments to the *Drugs of Dependence (Personal Cannabis) Amendment Bill 2018* that has been referred to the Standing Committee on Health, Ageing and Community Services for inquiry. The following information is provided for the information of the Committee.

The ACT Government's drug policy

The ACT Government's policy regarding the harms caused by alcohol, tobacco and other drugs is clearly articulated in the *ACT Drug Strategy Action Plan 2018-21* (the ACT Action Plan). The Action Plan, which aligns with the National Drugs Strategy, outlines a commitment to evidence based and practice informed responses to drug use that minimise harm in our community.

The Government has been clear that we do not condone nor encourage the recreational use of cannabis, which we know presents health risks. However, outright prohibition has clearly proven not to work as an effective strategy for dealing with drug use in our community. Despite currently being illegal, 8.4 per cent of Canberrans have reported using cannabis in the previous 12 months.¹

The ACT has a long history of taking progressive steps and trying new ideas to minimise the harm of drugs in our community. This includes being one of the first jurisdictions in Australia to decriminalise the personal possession of small amounts of cannabis. The Government intends to continue taking well considered steps to improve our drug laws, including supporting this Bill subject to appropriate amendments which are detailed later in this submission.

¹ Australian Institute of Health and Welfare's National Drug Strategy Household Survey (2016)
<https://www.aihw.gov.au/about-our-data/our-data-collections/national-drug-strategy-household-survey>

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Matters to be considered

As is to be expected with an issue as complex as this, the Government has identified a number of issues requiring further consideration before the Bill can be passed.

Even after the passage of this Bill, possessing and growing cannabis will carry a degree of risk arising from interaction between Territory and Commonwealth law. We believe the ACT is able and entitled to make our own laws on this matter. However, we would be the first jurisdiction in Australia to legislate in this way, and the interaction with existing Commonwealth law remains untested.

There is also uncertainty as to how a Commonwealth Government may react to the ACT passing this Bill and we cannot guarantee a Commonwealth Government would not intervene to prevent reforms – as has occurred in the past.

There are also a range of health implications to be considered. It is clear that some people experience adverse mental health effects from using cannabis, and that its use can become problematic over time. However, it must be noted that these health risks already exist for anyone who uses cannabis under current legislation.

Implementation of this Bill may be able to assist in addressing some of these health risks. For example, the stigma and risk of punishment associated with illegal drug use may mean that prohibition is preventing people from seeking medical or other types of help when it is needed. Legalising the personal use of small amounts of cannabis will create opportunities to better reach people who are already using the drug and connect them with the services or supports they need. The implications for justice outcomes are similarly complex. Currently, possessing small amounts of cannabis for personal use can bring people into contact with the justice system, with lasting and serious consequences. Moving from the decriminalisation to legalisation of small amounts of personal cannabis could avoid help individuals avoid these negative outcomes.

The Government also has a responsibility to focus our justice resource where they're needed the most: on disrupting serious and organized crime, protecting our community from individuals or groups who might wish to do us harm, helping women and children dealing with domestic and family violence. Legalisation means the ACT's police and court resources can be better focused in these areas where they are most needed.

There are also broader public safety effects to be considered. Under the current regime, the one-in-twelve Canberrans that use cannabis have no legal channel to obtain it. As a result, otherwise law-abiding individuals are required to interact with criminals in a way that exposes them to risks and may also increase the risk of further offending in our community.

By legalising the option for individuals to cultivate a small number of plants for their own use, there may be opportunities to reduce the market for illegal drugs – a market that would otherwise provide revenue to serious or organised criminals.

Proposed Government Amendments

In light of these and other issues, the Government intends to move a number of amendments to the Private Members Bill. We have instructed the Parliamentary Counsel's Office to draft Government amendments which would give effect to the following safeguards and improvements:

1. Personal plant limits

Whereas the Bill would allow an individual to possess four cannabis plants, the Government will move amendments to limit this to a maximum of two plants. This is consistent with the settings of the current Simple Cannabis Offence Notice scheme and is considered a reasonable limit for personal use.

2. Household plant limits

The Bill does not currently include a limit on the number of plants that would be allowable in any single dwelling. This gives rise to potential situations where sharehouses (or dwellings that otherwise have multiple residents) could effectively be used as larger scale 'grow houses'

The Government amendments will introduce a household limit of four cannabis plants, regardless of how many individuals are resident.

3. Restrictions on where cannabis can be grown

The Government will move amendments to restrict where personal cannabis plants can be grown. These amendments will address two separate issues.

First, cannabis plants will only be able to be legally cultivated on parts of residential property not generally accessible by the public. This would exclude cannabis being grown in areas such as front yards, verges or community gardens. This restriction is intended to minimise access to cannabis plants by persons other than the legal owner. This would also have the effect of prevent cannabis being legally cultivated on commercial or community property.

Second, cannabis plants would only be able to be legally cultivated by a person usually residing at that property. This is intended to establish a nexus of ownership for each cannabis plant.

4. Secure storage

Government amendments will require cannabis to be kept securely when not in an individual's possession in order to restrict access by children and young people or other vulnerable individuals.

5. Distinguish between fresh and dried cannabis

The Bill as drafted would legalise possession of 50 grams of cannabis, which is taken to refer to dry cannabis, in line with the settings of the Simple Cannabis Offence Notice Scheme. This creates a practical issue due to freshly harvested cannabis plant material weighing more before it is dried.

To reduce ambiguity in the Bill, the Government intends to move amendments that would distinguish between dry cannabis (i.e. cannabis ready to be used) and 'wet' cannabis (i.e. harvest plant material that has not yet been dried).

Dry cannabis would still be subject to the 50 gram limit as included in the Bill. The Government will move to include a separate limit of 150 grams for fresh (or 'wet') cannabis that would be applicable to cannabis that has been harvested but not yet dried. This limit has been selected primarily on the basis that it would limit individuals from potentially possessing amounts of dry and wet cannabis that would approach the threshold for a trafficable quantity.

6. Smoking near children

The Government supports the intention of the Bill's restrictions on smoking near children but considers there would be practical challenges to implementing this through the proposed 20 metre distance rule. For example, an individual legally smoking cannabis in their own open backyard could potentially be within 20 metres of a child in a neighbouring property without intending to be, or being aware this is the case.

To make this element more practical, the Government will move amendments to prohibit the smoking of cannabis near children through an offence involving a mental element rather than a distance based rule. That is, an individual will be deemed to have committed an offence if they *knowingly or intentionally* use cannabis in a way that exposes a person less than 18 years old to this.

Other matters

The Government acknowledges that legalisation of cannabis for personal use has not been tried in Australia before. Notwithstanding the above amendments, there remains a degree of uncertainty and risk associated with the proposed new approach. However, the ACT Government believes it is important to continue exploring new measures to reduce the harm from drugs in our community.

We will seek to collect relevant data to effectively evaluate the outcomes of legalisation, with a formal evaluation being conducted not more than two years after the date of the Bill's implementation. This will help inform decisions about any necessary further reform or amendments to the legislative framework created through this Bill.

Thank you again for your invitation to make a submission to this inquiry. We understand that these are reforms the Canberra community wants to see made, but also ones that must also be properly and carefully considered. The Government is now undertaking that work and will provide a detailed set of drafted amendments reflecting the points above to the Committee when these are available.

Yours sincerely



Andrew Barr MLA
Chief Minister

18 MAR 2019



MINISTERIAL BRIEF

ACT Health Directorate

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To: Minister for Health and Wellbeing

Tracking No.: MIN19/348

From: Michael De'Ath, Director-General

Subject: Access to medicinal cannabis in the ACT

Critical Date: Not applicable

Critical Reason: Not applicable

• DG

Purpose

To provide you with information about the ACT's medicinal cannabis scheme in light of a recent Canberra Weekly article.

Recommendations

That you:

1. Note the information contained in this brief; and

Noted / Please Discuss

2. Note the talking points at Attachment A.

Noted / Please Discuss

Meegan Fitzharris MLA

30/4/19

Minister's Office Feedback

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Background

1. The ACT Medicinal Cannabis Scheme was implemented on 21 November 2016, following the Therapeutic Goods Administration (TGA) decision to list medicinal cannabis as a controlled drug (schedule 8) in the Poisons Standard.
2. On 27 October 2017, the ACT Chief Health Officer notified changes to the Controlled Medicines Prescribing Standards to insert a new category, which allows ACT prescribers to apply for approval to prescribe medicinal cannabis by category and sets criteria for certain conditions where medicinal cannabis will be approved.
3. Prescribers may also apply for ACT approval to prescribe medicinal cannabis for other indications. These applications will be assessed on a case-by-case basis and may be referred to the Medicinal Cannabis Medical Advisory Panel (MCMAP) for advice.
4. On 7 March 2019, the Canberra Weekly published an article that was critical of the ACT medicinal cannabis scheme and that the scheme is not working effectively to support patients. Issues raised within the article include:
 - a. The Drugs of Dependence (Personal Cannabis Use) Amendment Bill that seeks to allow access to cannabis for personal use, and a proposal by the ACT Greens to allow people to possess greater quantities of 'medical cannabis';
 - b. concerns regarding multiple layers of approval through both the ACT Health Directorate (ACTHD) and the TGA;
 - c. concerns that a patient who is prescribed medicinal cannabis by a prescriber in NSW is legally unable to obtain supplies in the ACT using a valid NSW prescription; and
 - d. concerns about the Australian regulatory framework for accessing medicinal cannabis generally.

Issues*The Difference between medicinal cannabis products and recreational cannabis/cannabis for 'medicinal use'*

5. The term 'medicinal cannabis' is to be distinguished from recreational cannabis and raw botanical cannabis for medical use.
6. The term medicinal cannabis refers to cannabis that is intended for therapeutic use and is regulated as a prescription pharmaceutical formulation that must meet high standards of manufacturing quality. This ensures that medicinal cannabis is of an acceptable standard and is safe for people to take.
7. Medicinal cannabis does not include raw botanical plant material intended for smoking, as occurs with recreational use and even where it is used for medicinal purposes. Medicinal cannabis has a known concentration and different formulations available for different treatments.

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8. Debate surrounding the legalisation of recreational cannabis and raw botanical cannabis for medical use in the ACT is best kept separate from discussion around access to medicinal cannabis, as medicinal cannabis can already be supplied legally in the ACT.
9. The ACT medicinal cannabis scheme will continue to operate irrespective of whether personal use cannabis is legalised in the ACT.

Accessing the medicinal cannabis scheme in the ACT

10. Until recently, prescribers wishing to prescribe medicinal cannabis in the ACT needed to seek two separate approvals from the ACTHD and the TGA, respectively. From 25 February 2019, prescribers are able to seek both ACT and TGA approvals to prescribe medicinal cannabis concurrently via a single online form on the TGA's website.
11. The TGA and ACTHD will consider applications concurrently and once both have reached a decision on the application one response will be sent back to the prescriber by the TGA.
12. The Health Protection Service (HPS) has committed to a decision and response to the TGA within 48 hours, during business hours, about whether an application is approved, rejected, requires further information or referral to the MCMAP. Once approved by both parties, a prescriber can provide a prescription to their patient for medical cannabis.
13. The ACTHD is considering whether to defer clinical assessments of medicinal cannabis applications to the TGA. The TGA is developing its internal guidance and policy materials for conducting clinical assessments on applications and will provide to the ACTHD in due course. The ACTHD will continue to conduct full assessments of applications in the meantime, in accordance with the ACT Controlled Medicines Prescribing Standards.

Number of applications to prescribe medicinal cannabis

14. A total of 27 applications to prescribe medicinal cannabis products have been received by the ACTHD since 21 November 2016.
15. Twenty-two of those applications have been approved. Five applications are awaiting further information to be submitted to the ACTHD by the applicant. No applications that have been received by ACTHD have been refused.

The Australian regulatory framework for accessing medicinal cannabis.

16. The national framework for accessing medicinal cannabis is regulated by TGA and ACTHD does not have direct control for amending this framework.

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Interstate prescriptions

17. ACT pharmacies are unable to legally dispense controlled medicine prescriptions where the prescriber lacks an ACT approval, even if they have a valid NSW approved prescription.
18. This restriction is described in section 121 of the Medicines, Poisons and Therapeutic Goods Regulation 2008 (MPTG Regulation). This is in place to prevent unauthorised supplies of controlled medicines in the ACT and potential harm that may arise to patients from inappropriate prescribing or prescribing by multiple prescribers.
19. NSW controlled medicine approvals are not recognised under the MPTG Regulation. NSW has a very different approval framework to ACT; it does not require approval for many controlled medicines that require approval in the ACT, and NSW does not mandate reporting of controlled medicine supplies from pharmacies. Therefore approvals issued by the NSW Ministry of Health are issued in the absence of dispensing information, which poses a risk that drug seeking behaviours may not be identified through the approval process.
20. The establishment of a real time reporting feed to ACTHD to be connected in April 2019, which contains interstate dispensing data presents an opportunity to review the current restrictions in the MPTG Regulation in the future.
21. The HPS monitors supplies of all controlled medicines from pharmacies in the ACT. If medicinal cannabis was dispensed in the ACT with a NSW prescription, information may be sought from the NSW prescriber.
22. Prescribers in NSW are able to apply for ACT approval, which occurs routinely with all controlled medicines. The HPS is unable to contact the person named in the article to clarify options for having their prescription dispensed in the ACT. They have not approached the HPS directly and there are no current ACT approvals in place for them held by a prescriber.

Financial Implications

23. There are no financial implications in relation to this matter.

ConsultationInternal

24. Internal consultation was undertaken with Health Improvement Projects - Preventive and Population Health, who confirmed that the information in the brief related to the Drugs of Dependence (Personal Cannabis Use) Amendment Bill is accurate.

Cross Directorate

25. No cross directorate consultation was required in relation to this matter. Input from Canberra Health Services was not required in relation to this matter.

External

26. No external consultation was required in relation to this matter.

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Work Health and Safety

27. No work health and safety items have been identified in relation to this matter.

Benefits/Sensitivities

28. Since its implementation in 2017, the ACT medicinal cannabis scheme has provided safe and timely access to medicinal cannabis for ACT patients.
29. The ACT has further streamlined its medicinal cannabis scheme by adopting the TGA's single online form.
30. Patients from NSW wishing to have their medicine dispensed in the ACT should contact their interstate prescriber to arrange for an ACT approval.
31. The Canberra Weekly article contains comments by Associate Prof David Caldicott that were critical of the national regulatory framework. Associate Prof Caldicott is also a member of the ACT MCMAP. There are sensitivities between Associate Prof Caldicott and the TGA, on which you have been previously briefed at Attachment B.

Communications, media and engagement implications

32. The topic of medicinal cannabis has been in the media lately, particularly in the debate about the legalisation of cannabis for recreational use. Talking points on these topics has been provided for you at Attachment A.

Signatory Name: Dr Kerryn Coleman, A/g Chief Health Officer, Public Health, Protection and Regulation Phone: 5124 9442

Action Officer: Conrad Barr, Executive Branch Manager, Health Protection Service Phone: 5124 9262

Attachments

Attachment	Title
Attachment A	Talking points on the requested topics
Attachment B	Caveat brief Medicinal cannabis education event sensitivities MIN 19/923

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TALKING POINTS

SUBJECT: ACT Medicinal Cannabis Scheme

ISSUE: Canberra Weekly article critical of the ACT Medicinal Cannabis Scheme

Accessing medicinal cannabis in the ACT

- The ACT Government established the ACT Medicinal Cannabis Scheme in November 2016, to give people safe and legal access to high quality medicinal cannabis products for therapeutic purposes.
- From 25 February 2019, the ACT Government has adopted the Therapeutic Goods Administration's (TGA) online application pathway to further streamline access to medicinal cannabis for prescribers and their patients. This change means that prescribers are able to seek both ACT and TGA approvals to prescribe medicinal cannabis at the same time.
- The ACT's adoption of the single pathway for accessing medical cannabis re-affirms the ACT Government's commitment to allowing sick and dying patients timely and efficient access to medicinal cannabis products.

Interstate prescriptions

- The article makes some claims that a person with a valid NSW prescription for medicinal cannabis has been unable to obtain supplies in the ACT. Interstate prescriptions for medicinal cannabis can only be dispensed in the ACT if they have an ACT approval.
- This restriction is in place under ACT law to prevent potential harm arising to patients from unauthorised supplies of controlled medicines, such as inappropriate prescribing or drug seeking behaviours.
- Patients wishing to have interstate prescriptions dispensed in the ACT should contact their prescriber to seek an ACT approval. Further information about the ACT approval process is available on the ACT Health website www.health.act.gov.au.

The Difference between medicinal cannabis and recreational cannabis

- It is important that the debate surrounding the legalisation of recreational cannabis in the ACT is kept separate from discussion around medicinal cannabis.
- Medicinal cannabis is a pharmaceutical formulation that is prescribed for therapeutic use and must meet high standards of manufacturing quality. Medicinal cannabis has a known concentration and different formulations available for different treatments. This is to ensure it is safe for patients to use.
- Medicinal cannabis does not include raw botanical plant material that can be smoked, as occurs with recreational cannabis use and even if used for medical purposes.
- The Drugs of Dependence (Personal Cannabis Use) Amendment Bill is currently under consideration by Cabinet, which seeks to allow access to cannabis for personal use. The ACT medicinal cannabis scheme continues to operate irrespective of whether personal use cannabis is legalised in the ACT.

Number of applications to prescribe medicinal cannabis

- Since the implementation of the ACT medicinal cannabis scheme in 2016, a total of twenty seven applications to prescribe medicinal cannabis have been received by ACT Health.

- Twenty two of those applications have been approved to prescribe medicinal cannabis. Five applications are awaiting further information to be submitted to ACT Health by the applicant. The majority of all applications received have been processed by the HPS within two business days.
- No applications to supply medicinal cannabis that have been received by ACT Health have been refused.
- If patients wish to access medicinal cannabis in the ACT, they should discuss treatment options with their General Practitioner or contact the Pharmaceutical Services section of the ACT Health Protection Service on 02 5124 9442.
- Further information for ACT prescribers and their patients about medicinal cannabis is available on the ACT Health webpage: <https://www.health.act.gov.au/health-professionals/pharmaceutical-services/controlled-medicines/medical-cannabis>.

The Australian regulatory framework for accessing medicinal cannabis.

- The ACT acknowledges that the federal framework for accessing medicinal cannabis can be complicated. The ACT Government is committed to further reducing these complexities and will continue to work closely with the TGA to improve access to medicinal cannabis for ACT patients.

Background

1. On 7 March 2019, the Canberra Weekly published an article that was critical of the ACT medicinal cannabis scheme.
-

Dr Kerry Coleman
A/g Chief Health Officer
Public Health, Protection and Regulation

MINI 923



CAVEAT BRIEF

To: Meegan Fitzharris MLA, Minister for Health and Wellbeing 11/6/18

Through: Michael De'Ath, Interim Director-General, ACT Health

Subject: Medicinal cannabis education event sensitivities

B

Cleared by: Deputy Director-General, Population Health, Protection and Prevention

- The 2016 ACT Government election commitment to introduce an ACT medicinal cannabis scheme included funding for health practitioner training and associated materials.
- On Saturday 26 May 2018, ACT Health hosted the Australian Medicinal Cannabis Course for health professionals. The course was developed and presented by Associate Professor David Caldicott in association with Australian National University, who did so on a *pro bono* basis. Assoc Prof Caldicott is an appointed member of the ACT Medicinal Cannabis Medical Advisory Panel.
- The event was hosted in partnership with key stakeholders, including local branches of the Pharmacy Guild of Australia, Pharmaceutical Society of Australia, Society of Hospital Pharmacists of Australia, Royal Australian College of General Practitioners and the Capital Health Network.
- The course was hosted with the aim of providing clinicians with evidence based clinical education. This was in recognition that knowledge amongst health professionals on this emerging topic is lacking and that uptake of the ACT scheme so far has generally been poor.
- Overall the course would appear to have been very well received by the approximately 60 attendees, comprising of mainly general practitioners and pharmacists. A detailed course evaluation is currently being compiled.
- During the course, Assoc Prof Caldicott made some critical remarks about the Therapeutic Goods Administration (TGA)'s processes and the national regulatory framework. This prompted some concerns from a member of the audience, who said they worked for the TGA.
- On 30 May 2018, senior representatives of the TGA made comments in Commonwealth Senate estimates in response to questions from Senator Di Natale, with reference to the ACT course claiming that 'factual inaccuracies' were made by the course presenter and quoting David Caldicott by name. The TGA representatives stated they would be writing to the 'course co-ordinators' to correct the alleged inaccuracies.
- Since these statements were made, the TGA has been in direct email correspondence with Assoc Prof Caldicott to express its concerns about some of the course content and to rebut some of the advice. Assoc Prof Caldicott has responded forcefully, defending the accuracy of his course and calling for a public apology and retraction from the TGA about the Senate estimates statements.
- ACT Health has been in contact with both the TGA and Assoc Prof Caldicott to try to manage this sensitivity. ACT Health is aware Assoc Prof Caldicott has been in contact with Senator Di Natale, medicinal cannabis advocates, and sought legal opinion since the TGA comments were made.
- ACT Health is concerned about the potential for this matter to become a public dispute in coming weeks, and for the potential for damaged relationships between ACT and Commonwealth governments and agencies.
- To date, ACT Health has not received any feedback from attendees or partner stakeholder groups about this specific issue post event. The issue would appear to be confined to the TGA, Assoc Prof Caldicott and medicinal cannabis advocacy groups at this stage.

- The ACT Chief Health Officer had briefly met with senior representatives of the TGA at a workshop on 1 June 2018. At that meeting he requested formal advice of any ongoing TGA concerns and undertook to make these known, without prejudice, to course participants.
- To date, no such advice has been received from TGA.

Media points

- The ACT Government has introduced a medicinal cannabis scheme in the ACT.
- As part of the implementation of the scheme, ACT Health is committed to ensuring that health practitioners learn about the scheme and have evidence-based information on the benefits of medicinal cannabis.
- In May, ACT Health hosted the Australian Medicinal Cannabis Course for health professionals. The course was well attended by local general practitioners and pharmacists.
- Assoc Prof Caldicott in association with Australian National University, presented at course. Dr Caldicott is a respected specialist and academic in this area.
- We also recognise the role and regulatory responsibilities of the TGA for issues pertaining to medicinal cannabis and ACT Health has a good working relationship with the TGA.
- The ACT Government will continue to be proactive in this area of education and will ensure local health practitioners have all the information they need to successfully utilise medicinal cannabis in the ACT.

[For noting: if asked about the controversy between the TGA and Assoc Prof Caldicott, do not engage. The statement should remain simple:

ACT Health did not endorse the content of the course. ACT Health will not comment on that matter, that's for the TGA and Assoc Prof Caldicott].

- Further information about the respective ACT and Commonwealth medicinal cannabis schemes may be accessed via the ACT Health and TGA websites at www.health.act.gov.au and www.tga.gov.au.

Contact Officer: Conrad Barr, Executive Director Health Protection Service
Contact Number: 6205 4402
Date: 5 June 2018



QUESTION TIME BRIEF

Portfolio/s: Chief Minister ~~Minister~~, Health & Wellbeing, Attorney-General,
Police & Emergency Services

ISSUE: Government Position on Drugs of Dependence (Personal Cannabis Use) Amendment Bill

Talking points:

- The Government takes a clear harm minimisation approach to drug use in our community.
- We do not condone personal use of cannabis and ~~and~~ we know that ~~there recreational use of cannabis may have health effects are health~~ risks for individuals that do use it. However, we also acknowledge the simple reality that it's happening in Canberra.
- We want to provide an appropriate scheme for those individuals who are already using cannabis and will continue to do so, acknowledging that outright prohibition can bring people into contact with the justice system unnecessarily and prevent people seeking help when they need it.
- The ACT has decriminalised personal use of small amounts of cannabis for some time, and the Private Members Bill is largely consistent with the scheme already in place.
- The Government supports the Private Members Bill in principle, but notes this is a complex issue that requires proper consideration and debate.
- The Government has indicated we will move a number of amendments to improve the Bill. This includes limiting the number of legal plants to two per person and introducing a household limit; distinguishing between 'wet' and 'dry' cannabis; and adding restrictions intended to prevent children and young people coming into contact with cannabis.
- The Government has provided advice on our amendments to the inquiry being undertaken by the Standing Committee on Health, Ageing and Community Services.

Key Information

- We want to put these measures in place to move focus away from small personal users of cannabis so that police efforts can go where they are really needed.

Cleared as complete and accurate:	1 May 2019	
Cleared by:	Director	Ext: 58507
Contact Officer Name:	Andrew Mehrton	Ext: 58507
Lead Directorate:	Chief Minister, Treasury and Economic Development	

TRIM Ref: CM2018/4211



QUESTION TIME BRIEF

- We know there is still some uncertainty about how these changes will unfold given the complex legal environment. In supporting these changes, we will monitor and review their impacts over the coming years and undertake a formal evaluation.
- Our amendments will aim to address implementation challenges with the bill as it stands, and support ACT Policing to clearly distinguish between small-scale, individual cannabis users and those involved in more serious or organised crime.
- Whilst no other Australian jurisdiction has legalised the personal use of cannabis, national and ACT surveys show community support for the decriminalisation and/or legalisation of cannabis for personal use.

Background Information – may not be suitable for public disclosure

- Under current ACT legislation, the *Drugs of Dependence Act 1989* (Drugs Act), it is an offence to possess cannabis or to cultivate cannabis plants, including in small quantities for personal use.
- The Drugs Act also allows for the use of a Simple Cannabis Offence Notice (SCON) as an alternative to an arrest for the possession of cannabis, if the offence is possession of cannabis weighing no more than 50 grams or possession of no more than two cannabis plants. A SCON is effectively a \$100 fine which, if paid within 60 days, and avoids a criminal conviction being recorded for the offender.
- On 28 November 2018, Michael Pettersson MLA introduced the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill) into the ACT Legislative Assembly.
- The Bill proposes to legalise the personal cultivation, possession and use of small amounts of cannabis for persons aged 18 or older; possession and use of up to 50 grams of cannabis and cultivation of up to four cannabis plants.
- For persons under 18 years of age it would remain an offence to possess cannabis or cannabis plants and SCONs would continue to be available for use by police.
- The Bill includes other minor elements such as new offences for smoking cannabis in public places or near children; and consequential amendments to the *Criminal Code 2002* (ACT) and the *Medicines, Poisons and Therapeutic Goods Act 2008*.
- The legalisation of cannabis for personal use in the ACT is best kept separate from the legislation that regulates access to medicinal cannabis.
- Medicinal cannabis refers to cannabis products that are regulated as prescription pharmaceutical formulations with known ingredients and their concentrations that meet high standards of manufacturing quality. This differs to raw botanical cannabis that is intended to be smoked or consumed for recreational or perceived medical purposes.
- Under the ACT Medicinal Cannabis Scheme, an application from a prescriber to prescribe medicinal cannabis to a patient is assessed by the Therapeutic Goods

Cleared as complete and accurate:	1 May 2019	
Cleared by:	Director	Ext: 58507
Contact Officer Name:	Andrew Mehrton	Ext: 58507
Lead Directorate:	Chief Minister, Treasury and Economic Development	

TRIM Ref: CM2018/4211



QUESTION TIME BRIEF

Administration (TGA) under ~~against~~ the requirements of the Therapeutic Goods Act 1989. ACT Health, separately, evaluates the application and ~~against the requirements~~ of the ACT Controlled Medicines Prescribing Standards made under the Medicines, Poisons and Therapeutic Goods Act 2008.

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- *The ACT medicinal cannabis scheme will continue to operate irrespective of whether personal use of cannabis is legalised in the ACT.*
- *The Private Members Bill has been referred to a Standing Committee inquiry. The Government has made submissions outlining amendments it intends to make to the Private Members Bill. The inquiry is due to report in June 2019.*

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Cleared as complete and accurate:	1 May 2019	
Cleared by:	Director	Ext: 58507
Contact Officer Name:	Andrew Mehrton	Ext: 58507
Lead Directorate:	Chief Minister, Treasury and Economic Development	

TRIM Ref: CM2018/4211



SUBJECT: Inquiry by the Standing Committee on Health, Ageing and Community Services into the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* — Committee Hearing

To: Leonie McGregor, Deputy Director-General, Health Systems, Policy and Research

CC: Dr Dinesh Arya, Chief Medical Officer
Dr Kerryn Coleman, A/g Chief Health Officer

Through: Erica Nixon, A/g Executive Branch Manager, Preventive and Population Health

From: Marc Emerson, A/g Director, Health Improvement Projects

Date: 7 May 2019

Purpose

To brief you on the status of the Inquiry into the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill) in advance of the hearing of the Standing Committee on Health, Ageing and Community Services (the Committee) scheduled for Wednesday 8 May 2019.

To provide you with information on cannabis-related health issues that may be of assistance in responding to questions from the Committee.

Background

In November 2018, Labor MLA Michael Pettersson tabled a Private Members Bill that would legalise personal possession, cultivation and non-medical ('recreational') use of cannabis in the ACT for people 18 years and older.

The Bill proposes amendments to the *Drugs of Dependence Act 1989* and consequential amendments to the *Criminal Code (ACT) 2002*.

The *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill) was introduced into the ACT Legislative Assembly on 20 February 2019. The Assembly passed a motion to refer the Bill to the Committee for inquiry and report by 6 June 2019.

If passed, the Bill will result in the ACT becoming the first Australian State or Territory to legalise personal, non-medical use of cannabis.

Under current ACT legislation the cultivation, possession and self-administration of cannabis are criminal offences.

ACT Policing has discretion to divert cannabis offenders out of the criminal justice system using an on-the-spot fine (Simple Cannabis Offence Notice — SCON). Alternatively, offenders can be diverted to receive drug education or counselling (Illicit Drug Diversion — IDD).

Key changes proposed in the Bill as originally tabled are:

- Cannabis is to be removed from the definition of a 'prohibited substance';
- Possession of less than 50g of cannabis would not be an offence if the person is 18 or older;
- Cultivation of one to four cannabis plants to be permitted, subject to certain conditions, for example, artificial cultivation would not be permitted;
- The smoking of cannabis in public places or within 20 metres of children would be expressly prohibited (knowingly or not).

The Bill retains the offence for a young person to possess less than 50mg of cannabis (clause 6, new section 171AA) with a maximum penalty of 1 penalty unit (\$150). As the Bill proposes that the existing SCON scheme should be repealed, it will be important to allow police to impose an infringement notice to young people to divert them from the criminal justice system.

This would be achieved through a new regulation under the *Magistrates Court Act 1930*. Noting the availability of other diversionary options, an infringement notice amount of \$25 would allow police to issue an infringement without imposing financial hardship on young people who will generally have less capacity to pay a higher amount.

While the ACT Government supports the Bill in-principle, the following amendments were outlined in the Government's submission provided to the Committee:

- Amend cultivation limits from four to two plants per person and introduce a household limit of four plants;
- Increase restrictions on where cannabis can be grown;
- Require secure storage of cannabis to restrict children's access;
- Introduce weight distinctions for fresh and dried cannabis;
- Require that a person was knowingly intending to smoke cannabis near children in order to commit an offence.

The Chief Minister, Treasury and Economic Development Directorate (CMTEDD) is working with the Parliamentary Counsel's Office to draft the above amendments. It is anticipated that CMTEDD will bring the amendments back to Cabinet for approval in early July 2019.

ACT Health Directorate was initially the lead Directorate for the Bill. However, in recognition of the whole-of-government implications of the proposed changes responsibility was transferred to CMTEDD.

The Chief Minister is due to appear before the Committee on Wednesday 8 May 2019 as Government lead on the Bill. In addition to yourself, the Chief Health Officer, Chief Medical Officer and A/g Executive Branch Manager, Preventive and Population Health will also be in attendance to support the Chief Minister at the hearing.

Issues

On 1 May 2019, ACT Health Directorate provided briefing notes on cannabis-related health matters to CMTEDD for use at the hearing. The notes were provided in Question and Answer format.

A slightly expanded version of these Questions and Answers with some additional explanatory information is included at Attachment A. These amended points provide further detail on the potential impacts on health services from those seeking treatment and to address questions related to the use of Cannabis as a 'gateway' drug.

Attachment A provides information on:

- Short- and long-term, physical and mental health issues related to cannabis consumption;
- Potential effects of the proposed Bill on cannabis consumption rates;
- Effects of secondhand cannabis smoke;
- The relationship between current smokefree tobacco legislation and the Bill.

Medicinal cannabis is not directly related to the current Bill. Provision of Medicinal Cannabis in the ACT is facilitated by the Controlled Medicine Prescribing Standards. The Bill proposes no amendments to these standards.

Benefits/Sensitivities

Differing views were expressed in submissions to the Committee by stakeholders from across medical, health research and alcohol and other drug sectors.

Health stakeholders that were broadly supportive of the Bill were Alcohol, Tobacco and Other Drugs Association ACT (ATODA); Canberra Alliance for Harm Minimisation and Advocacy (CAHMA); Families and Friends for Law Reform (ACT); the National Drug Research Institute (NDRI, Curtin University), Pennington Institute (a Victorian harm reduction organisation).

Health stakeholders that were broadly unsupportive were the Alcohol and Drug Foundation (ADF); Australian Government Department of Health; Australian Medical Association (AMA, ACT Branch); Drug Free Australia.

The ACT Government telephone survey in October 2018 included questions on cannabis legalisation, of those surveyed:

- 54 per cent supported legalisation of personal use of cannabis;
- 27 per cent opposed it; and
- 19 per cent of respondents were non-committal.

Potential health benefits of the legislation are:

- reduced stigma may encourage problematic cannabis users to come forward for medical advice and treatment;
- the proposed Government amendments requiring safe storage of cannabis may help protect children from accidental ingestion;
- research into the health aspects of cannabis use is likely to become easier;
- the Bill provides an opportunity to promote greater awareness of the health risks of cannabis consumption.

There is little to no evidence which suggests that the legal status of personal use, possession, and small-scale cultivation of cannabis has an impact on the usage of cannabis in the population.

Recommendation

That you note the information contained in this Minute and in Attachment A.

NOTED/PLEASE DISCUSS

.....
Leonie McGregor
Deputy Director-General,
Health Systems, Policy and Research
 May 2018

Name: Erica Nixon
 Title: A/g Executive Branch Manager
 Branch: Preventive and Population Health
 Division: Health Systems, Policy and Research

Date: 7 May 2019

Action Officer: Marc Emerson
 Unit: Health Improvement Projects
 Extension: 49716



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
BEC CODY MLA (CHAIR), VICKI DUNNE MLA (DEPUTY CHAIR), CAROLINE LE COUTEUR MLA

Inquiry into Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018

QUESTION ON NOTICE

Ms Le Couteur: To ask the Chief Minister

In relation to: The proposed government amendment on wet v dry and 50g limit

Does the Government's amendment to distinguish between wet and dry cannabis apply only to plant material that has been harvested? Is there a maximum weight that a person can have while still on the plant (i.e. would people have to limit the growth of their plants)? Does the 50g limit only apply to dried leaf or also seeds? What about oil? What about where people are using larger quantities of the wet/green plant for medicinal purposes?

In relation to supply issues

How can ACT residents legally access cannabis plants or seeds to start growing their own plants under this Bill?

Does the Government support models such as cannabis social clubs or seed dispensaries so that people don't have to use the black market to obtain cannabis seeds for cultivation? Would these kind of models count as a supply offence based on the legal advice you have received?

Why is the government proposing a 2 plant per person limit and 4 plants "per premises"?

How will the premise members be determined and will this mean that renters do not have the same rights as other residents of the ACT?

Why will the legislation not allow ACT residents to pool their resources and as a group cultivate plants at one location? The plants could be individually owned by ACT residents.

In relation to Commonwealth v ACT law

I understand that the Bill envisages that the new regime will start 30 days after the bill is passed. How does the government propose to solve the legal issues relating to Commonwealth jurisdiction in that time frame?

Does the government propose seeking assistance from the Commonwealth government to resolve the apparent conflict? If so do they think that the result of the 18 May 2019 will be relevant to any request?

Noting the evidence provided by ACT Policing that officers would be in a position where they would have to decide whether to enforce ACT law or Commonwealth law in relation to cannabis, how does the Government

propose to resolve this issue? How can ACT residents have confidence they will not be prosecuted for an offence if they possess small quantities of cannabis?

Does the Government support the establishment of an MOU with ACT Policing on how cannabis laws should be enforced in the ACT? Do you believe this mechanism would resolve the issue of the apparent conflict between Commonwealth and ACT law?

Can the government confirm that Simple Cannabis notices would no longer exist under this bill?

In relation to children

How will "out of reach of children" be defined and how will places where you can smoke be defined to protect children but still allow cannabis to be smoked for instance in apartment buildings?

What will be the situation of under 18 year olds, who I understand will not be permitted to possess cannabis under this bill, if they are found to have it?

In relation to the commencement of the bill

I understand that the Bill envisages that the new regime will start 30 days after the bill is passed. How does the government propose to educate the community in that time frame, in particular given the legal uncertainty?

What additional mental health resources, if any, is the government planning for the commencement of the bill?

Caroline Le Couteur 12/5/19





ADVISORY NOTE

Minister for Health and Wellbeing / Mental Health

TRIM Ref: GBC 19/153	Question on notice No. 2381 Prescription Medicinal Cannabis
Critical Date	Not applicable
Director-General	Michael De'Ath Director General, ACT Health Directorate : 13/5/2019

Minister's question/s:

Why the MCAG has not met for two years, and querying whether the Group needs to be wound up?

ACT Health's response:

The ACT's Medicinal Cannabis Scheme

The ACT Medicinal Cannabis Scheme (Scheme) was established in 2016 to provide patients with safe and legal access to high quality medicinal cannabis products in appropriate circumstances.

Implementation of the Scheme followed the decision by the Australian Government's Therapeutic Goods Administration to list medicinal cannabis as a controlled (Schedule 8) medicine in the Commonwealth Poisons Standard. The Poisons Standard consists of decisions regarding the classification of medicines and poisons into Schedules for inclusion in the relevant legislation of states and territories.

Medicinal cannabis products can be prescribed as a controlled medicine in the ACT for medicinal use, when they are either:

- Manufactured in Australia in accordance with the Australian Government Department of Health legislation.
- Imported in accordance with a valid customs import licence issued by the Australian Government Department of Health.

The Medicinal Cannabis Advisory Group

The Medicinal Cannabis Advisory Group (MCAG) is a non-statutory key advisory body that was established by Cabinet to provide advice to the ACT Government on economic, legal and social issues associated with the Scheme. Members of the MCAG are Ministerially appointed.

The inaugural meeting of the MCAG was held on 18 September 2017. While this meeting primarily focused on general business and housekeeping, other issues included GP training and public education.

It was intended to hold the second meeting of the MCAG in early 2018 however, despite requests to MCAG members to bring forward agenda items for consideration and discussion no agenda items were provided at that time or at any time following.

At present, there are no known concerns with the ACT's Scheme. The Chief Pharmacist reports the Scheme has been integrated into business as usual for the Health Protection Service.

UNCLASSIFIED

The MCAG Secretariat met with the Chair of the MCAG and the Chief Pharmacist in March 2019. It was determined at that meeting that ACT Health Directorate (ACTHD) would continue to ensure that appropriate education on medicinal cannabis for clinicians is made available. No other issues were raised that would require re-convening MCAG.

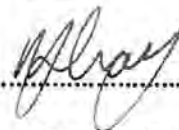
ACTHD will again request MCAG members to identify any issues that require consideration or discussion. Should MCAG members nominate agenda items or identify issues that support a further meeting, ACTHD will undertake the necessary arrangements to convene a meeting at the earliest possible opportunity.

Should there be no further work identified for the MCAG, it is proposed the committee is dissolved in July 2020 at the expiration of the current terms of appointment.

If MCAG is dissolved, any future community concerns with the Scheme would continue to be addressed through the normal processes of the Health Protection Service.

I agree with above approach.

Noted/ Please Discuss



.....
Meegan Fitzharris MLA
Minister for Health and Welbeing

18/5/2019

Signatory Name:	Leonie McGregor, Deputy Director General, Health Systems Policy and Research	Phone:	5124 9180
Action Officer:	Erica Nixon, A/g Executive Branch Manager, Preventive and Population Health	Phone:	5124 9441



Andrew Barr MLA

Chief Minister

Treasurer

Minister for Social Inclusion and Equality

Minister for Tourism and Special Events

Minister for Trade, Industry and Investment

Member for Kurrajong

Ms Bec Cody MLA
 Chair
 Standing Committee on Health, Ageing and Community Services
 Legislative Assembly for the ACT
 GPO Box 1020
 CANBERRA ACT 2601

COPY

Dear Ms ~~Cody~~ ^{Bec}

I am writing to formally request a correction to the Hansard record of the 8 May 2019 Inquiry into Drugs of Dependence (Personal Cannabis Use) Amendment Bill.

In relation to a question asked by Ms Le Couteur, at page 106 of the transcript, regarding how many people in the ACT seek assistance from our health facilities for cannabis use, I can advise officials did not provide complete information when indicating these statistics were not available. Further examination of health data indicates that in 2017-18, there were 861 closed treatment episodes in the ACT where cannabis was the main drug of concern. An episode is closed when:

- treatment is completed;
- there has been no further contact between the client and the treatment provider for three months; or
- treatment is ceased.

On that basis I request a correction to the Hansard record. Thank you for considering this request.

Yours sincerely


 Andrew Barr MLA
 Chief Minister

06 JUN 2019

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
 Phone +61 2 6205 0011 Fax +61 2 6205 0157 Email barr@act.gov.au



@ABarrMLA



AndrewBarrMLA



actchiefminister





ADVISORY NOTE

Minister for Health

TRIM Ref: MIN19/1114	ACT Medicinal Cannabis scheme
Critical Date	Not applicable
Director-General	Michael De'Ath /...../.....

Minister's question/s:

Please provide follow up advice regarding the ACT Medicinal Cannabis scheme following an ACT Health Directorate (ACTHD) briefing on 20 September 2019.

ACT Health's response:

The ACT Medicinal Cannabis scheme commenced on 21 November 2016, following the Therapeutic Goods Administration (TGA)'s decision to list medicinal cannabis as a schedule 8 (controlled) medicine in the Commonwealth Poisons Standard. The Poisons Standard is automatically adopted in the ACT under the *Medicines, Poisons and Therapeutic Goods Act 2008*.

Under the ACT scheme, prescribers are able to apply to the Chief Health Officer for approval to prescribe medicinal cannabis for their patient, as occurs with other controlled medicines. Prescribers also need to seek approval from the TGA.

Applications will be routinely approved by ACTHD for multiple sclerosis, nausea and vomiting related to cancer chemotherapy, pain or anxiety in palliative care and paediatric epilepsy, in accordance with the ACT Controlled Medicine Prescribing Standards. Applications for other conditions (such as chronic pain) will be considered on a case by case basis and may be referred to the ACT Medicinal Cannabis Medical Advisory Panel (MCMAP) for advice.

The term medicinal cannabis refers to cannabis that is intended for therapeutic use and is regulated as a prescription pharmaceutical formulation that must meet high standards of manufacturing quality. This ensures that medicinal cannabis is of an acceptable standard with known ingredients and their concentrations and is safe for people to take. This differs from raw botanical cannabis that is consumed or smoked for recreational or perceived medical purposes.

Cannabis may only be prescribed in the ACT where its use has been approved under Commonwealth and ACT laws. Possession and supply of all other cannabis, whether for medicinal or recreational use, remains illegal in the ACT.

The Drugs of Dependence (Personal Cannabis Use) Amendment Bill (Bill) seeks to enable access to raw botanical cannabis for personal use.

UNCLASSIFIED

Debate surrounding the legalisation of raw botanical cannabis for personal use is best kept separate from discussion around access to medicinal cannabis. The ACT medicinal cannabis scheme will continue to operate irrespective of whether personal use cannabis is legalised.

Uptake of the ACT scheme has been low so far. A total of 82 applications have been received by ACTHD since the scheme was introduced in 2016 to 20 September 2019. All of these have been approved or are awaiting further information. No applications have been refused.

Low uptake is likely due to a number of known barriers to treatment including cost of product to consumer (not listed on the Pharmaceutical Benefit Scheme (PBS)) and prescriber knowledge and confidence in this emerging area. ACTHD hosted clinical training in 2018 and is working with local experts and stakeholders to host another session in 2019.

ACTHD acknowledges the passage of the Bill may serve to further reduce demand on the ACT medicinal cannabis scheme, as people may opt to use raw botanical cannabis for medical purposes over pharmaceutical grade formulations.

ACTHD adopted a consolidated online application form developed by the TGA in February 2019 to streamline the application process for prescribers, and as agreed by COAG Health Council in 2018. ACTHD is considering whether to defer clinical assessment of applications to the TGA. You will be briefed separately on this matter in 2019.

Two non-statutory committees have been established to provide advice to ACT Government on medicinal cannabis matters. The MCMAP provides clinical advice to ACTHD on prescriber applications and prescribing policy. The Medicinal Cannabis Advisory Group (MCAG) provides advice on broader non-clinical, economic, legal and social issues related to medicinal cannabis in the ACT.

Noted / Please Discuss

RSS

Rachel Stephen-Smith MLA
Minister for Health

27/9/19

Signatory Name:	Kylie Jonasson, Deputy Director-General Health Systems, Policy and Research	Phone: 5124 9786
Action Officer:	Dr Kerryn Coleman, A/g Chief Health Officer, Public Health, Protection and Regulation	Phone: 5124 9442



The Hon Greg Hunt MP
Minister for Health
Minister Assisting the Prime Minister for the
Public Service and Cabinet

Ref No: MC19-016211

9 October 2019

Mr Andrew Barr MLA
Chief Minister of the Australian Capital Territory
GPO Box 1020
CANBERRA ACT 2601

Dear Chief Minister

I write to you in regards to the recent legislation passed by the ACT Legislative Assembly that will legalise the personal use of cannabis for recreational purposes.

I have serious concerns the ACT's legislation will result in further health harms and exacerbate mental health issues, particularly for those who have a family history of mental health disorders.

I note that both the Australian Medical Association and the Royal Australian College of Surgeons have also expressed concerns over the legislation, with the latter calling for it to be reversed.

Cannabis is the most commonly used illegal drug in Australia. While many Australians may view cannabis use as harmless, almost a quarter of Australia's drug and alcohol treatment services are provided to people identifying cannabis as their principal drug of concern.

The evidence base regarding adverse health effects linked to cannabis use has broadened considerably since the gradual decriminalisation or legalisation in certain countries. There is an expansive body of work analysing the adverse physiological and mental health effects of recreational cannabis use, which I attach for your information. The literature demonstrates the strong links between recreational cannabis use and adverse mental health outcomes.

I call on you to explain whether the ACT Government considered the international evidence on the health effects of cannabis and to provide any evidence to the contrary. I look forward to your response.

Yours sincerely

A handwritten signature in black ink that reads 'Greg Hunt'.

Greg Hunt
Encl (2)



QUESTION TIME BRIEF

Portfolio/s: Chief Minister, Health & Wellbeing, Attorney-General, Police & Emergency Services

ISSUE: Government Position on Drugs of Dependence (Personal Cannabis Use) Amendment Bill

Talking points:

- The Government takes a clear harm minimisation approach to drug use in our community.
- We do not condone personal use of cannabis and we know there are health risks for individuals that do use it. However, we also acknowledge the simple reality that it's happening Canberra.
- We want to provide an appropriate scheme for those individuals who are already using cannabis and will continue to do so, acknowledging that outright prohibition can bring people into contact with the justice system unnecessarily and prevent people seeking help when they need it.
- The ACT has decriminalised personal use of small amounts of cannabis for some time, and the parameters of the Private Members Bill are largely consistent with the scheme already in place.
- The Government supports the Private Members Bill in principle, but notes this is a complex issue that requires proper consideration and debate.
- The Government has indicated it will move a number of amendments to improve the Bill. This includes limiting the number of legal plants to two per person and introducing a household limit; distinguishing between 'wet' and 'dry' cannabis; and adding restrictions intended to prevent children and young people coming into contact with cannabis.
- The Government will provide advice on its amendments to the inquiry being undertaken by the Standing Committee on Health, Ageing and Community Services.

Cleared as complete and accurate:

Cleared by:

Contact Officer Name:

Lead Directorate:

Director

Andrew Mehrton

Chief Minister, Treasury and
Economic Development

Ext: 58507

Ext: 58507



QUESTION TIME BRIEF

Key Information

- We want to put these measures in place to move focus away from small personal users of cannabis so that police efforts can go where they are really needed.
- We know there is still some uncertainty about how these changes will unfold given the complex legal environment. The government is supporting these changes as a trial and will monitor and review their impacts over the coming years.
- We want to think this through and take on board the feedback we receive, noting our approach in principle is to support cannabis reform. To that end, the Government has announced it will seek to make amendments to:
 - Retain a limit of two plants per person – in line with the current SCON regime – and introduce a further total household limit;
 - Provide more effective and implementable restrictions to ensure children are not exposed to cannabis smoke;
 - Ensure cannabis is securely stored in a way that is not accidentally accessible to children or other vulnerable people;
 - Restrict cannabis growing to enclosed, private residences where a clear nexus of ownership can be established;
 - Distinguish between wet and dry cannabis to reflect differences in weight at different stages of processing.
- These amendments will aim to address implementation challenges with the bill as it stands, and include clear definitions that will support ACT Policing to clearly distinguish between small-scale, individual cannabis users and those involved in more serious or organised crime.
- The Government also intends that the legislation include provision for a mandatory review to take place not more than two years after legalisation occurs, with the full impacts and effects of this change being evaluated at that point to guide further policy reform.
- Whilst no other Australian jurisdiction has legalised the personal use of cannabis, National and ACT surveys show community support for the decriminalisation and/or legalisation of cannabis for personal use.

Background Information – may not be suitable for public disclosure

- Under current ACT legislation, the *Drugs of Dependence Act 1989* (Drugs Act), it is an offence to possess cannabis or to cultivate cannabis plants, including in small quantities for personal use.
- The Drugs Act also allows for the use of a Simple Cannabis Offence Notice (SCON) as an alternative to an arrest for the possession of cannabis, if the offence is possession of cannabis weighing no more than 50 grams or possession of no more than two

Cleared as complete and accurate:

Cleared by:	Director	Ext: 58507
Contact Officer Name:	Andrew Mehrton	Ext: 58507
Lead Directorate:	Chief Minister, Treasury and Economic Development	



QUESTION TIME BRIEF

cannabis plants. A SCON is effectively a \$100 fine which, if paid within 60 days, and avoids a criminal conviction being recorded for the offender.

- On 28 November 2018, Michael Pettersson MLA introduced the *Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018* (the Bill) into the ACT Legislative Assembly.
- The Bill proposes to legalise the personal cultivation, possession and use of small amounts of cannabis for persons aged 18 or older; possession and use of up to 50 grams of cannabis and cultivation of up to four cannabis plants.
- For persons under 18 years of age it would remain an offence to possess cannabis or cannabis plants and SCONs would continue to be available for use by police.
- The Bill includes other minor elements such as new offences for smoking cannabis in public places or near children; and consequential amendments to the *Criminal Code 2002* (ACT) and the *Medicines, Poisons and Therapeutic Goods Act 2008*.

Cleared as complete and accurate:

Cleared by:

Contact Officer Name:

Lead Directorate:

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ISSUE: CANNABIS LEGALISATION**Talking points:**

- Issues relating to cannabis diversion are the subject of considerable ongoing debate.
- Any amendments to legislation regarding cannabis possession and cultivation, must be carefully considered, and take into account the best available evidence around implications related to adverse health effects
- Consistent with the National Drug Strategy 2017-2026, the ACT Government is developing the ACT Drug Strategy Action Plan 2018-2021. Both the National Drug Strategy and the Drug Strategy Action Plan are underpinned by the three pillars of harm minimisation: demand reduction, supply reduction and harm reduction.
- The Drug Strategy Action Plan is due to be finalised by the end of 2018.

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• **Key Issues:**Harms of cannabis

- Cannabis use has been associated with substantial adverse health effects, some of which have been determined with a high level of confidence.
- Most studies report adverse effects from:
 - Short-term cannabis use, for example, impaired short-term memory and motor coordination, altered judgment and, in high doses, paranoia and psychosis.
 - Long-term or heavy cannabis use, for example, addiction, altered brain development, symptoms of chronic bronchitis and increased risk of chronic psychosis disorders, including schizophrenia, in persons with a predisposition to such disorders.
- Cannabis, like other drugs of abuse, can result in addiction. During intoxication, cannabis can interfere with cognitive function (e.g. memory and perception of time) and motor function (e.g. coordination), and these effects can have

detrimental consequences (e.g. motor-vehicle accidents).

- Repeated cannabis use during adolescence may result in long-lasting changes in brain function that can jeopardise educational, professional, and social achievements.
- Medicinal use
- Since 1 November 2016 some cannabis products have been able to be prescribed by doctors for medicinal use in Australia, including the ACT.
- In order to prescribe cannabis as a controlled medicine, doctors should obtain authority from the ACT Chief Health Officer under the same process which currently applies for other controlled medicines such as opiates and amphetamines.
- Only registered medical practitioners can apply for an authority to prescribe a controlled medicine for one of their patients.