

## **Inquiry into the Decriminalisation of Certain Public Offences, and Health and Welfare Responses**

**Submission No:** 14

**Submitted by:** The Queensland Network of Alcohol and Other Drugs (QNADA)

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**Submitter Comments:**

**Submitter Recommendations:**



22 August 2022

Community Support and Services Committee  
Parliament House  
George Street  
Brisbane QLD 4001

Dear Committee Members

Thank you for the opportunity to provide a submission to the *Inquiry into the decriminalisation of certain public offences, and health and welfare responses*. The Queensland Network of Alcohol and other Drugs (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have more than 56 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information and would welcome the opportunity to discuss any aspect of this submission with the Committee. Please don't hesitate to contact me at [REDACTED] or by calling [REDACTED].

Yours sincerely

Rebecca Lang

**CEO**



Submission to the *Inquiry into  
the Decriminalisation of  
certain public offences, and  
health and welfare responses*

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*August 2022*

## Summary

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its' content is informed by our regular engagement with member organisations providing treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

Our submission addresses the Terms of Reference for the *Inquiry into the decriminalisation of certain public offences, and health and welfare responses* (the Inquiry).

Given QNADA's role as the peak body for NGO AOD agencies in Queensland we have focused our response on addressing the following aspects of the Committee's Terms of Reference:

- a. changes to legislation and operational policing responses to decriminalise public intoxication offences in the *Summary Offences Act 2005*,
- b. the compatibility of proposed legislative amendments, and health and social welfare-based service delivery responses to public intoxication, with rights protected under the *Human Rights Act 2019*,
- c. the costs and benefits of responses to public intoxication in other Australian jurisdictions,
- d. the health and social welfare based responses to public intoxication and begging necessary to support legislative amendments, having regard to existing responses such as diversion services,
- e. the impacts of decriminalising public intoxication in rural and remote communities,
- f. the design of health and social welfare-based responses that are culturally safe and appropriate and informed by First Nations people, including Aboriginal and Torres Strait Islander health and legal services and representative bodies for seniors and people with a disability,
- g. the appropriateness of other police powers and offences to ensure community safety and public order arising from public intoxication, particularly in the context of events where there may be significant alcohol consumption, and
- h. how existing public messaging on the harm of AOD, including alcohol-related violence, can continue to be reinforced following the decriminalisation of public intoxication.

### Changes to legislation and operational policing responses

QNADA welcomes this Inquiry and highlights the need for immediate action. Queensland is the only state where the offence of public intoxication has not been abolished, which gives us the opportunity to build upon learnings from how these provisions have been implemented in different states and territories.<sup>1</sup>

We note that the Queensland Police Service (QPS) currently have the authority to detain and transport an intoxicated person to a hospital or a place of safety to receive treatment or care under section 378 of the *Police Powers and Responsibilities Act 2000*; as an alternative to detaining them in custody.

While detaining an intoxicated person in custody for a short time for their own safety or to protect others is not a 'preferred' option for the QPS and there has been a reduction in persons charged in a public place over the last four years, 1,256 people were still charged with this offence in 2020-21. As outlined in the QPS submission, First Nations people are disproportionately represented in these offences (47% of all people charged). These statistics also included 533 people who were charged in regions where a public intoxication response, including a diversion service, was operating. This suggests even where such services are available, police made a determination to detain that person in custody for a period of time.

Although there are no reasons provided as to what factors officers used to inform their decision-making in these instances, it does highlight the importance of not including *any* provision that allows officers the discretion to detain intoxicated persons in custody.

The only necessary response is one that prioritises the health and safety of the intoxicated person.

Amendments are also required to ensure that no action taken by officers would result in more punitive consequences than would be the case under current provisions, particularly given that the QPS has proposed that alternative offences may result in more serious penalties or have other impacts.

### Health and social welfare based responses

As highlighted in the report by the Expert Reference Group on Decriminalising Public Drunkenness (2020) in Victoria, approaches to the decriminalisation of public intoxication in other states and territories have '*largely failed to eliminate the incarceration of people who are intoxicated.*' The Expert Reference Group found that '*the absence of adequately resourced health-based responses has had the*

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<sup>1</sup> Expert Reference Group on Decriminalising Public Drunkenness (2020) Seeing the Clear Light of Day: Report to the Victorian Attorney-General

*unintended consequence of perpetuating, and in some instances exacerbating, major issues relating to the overuse of detention and safety and wellbeing of people who are detained.'*

As outlined in further detail within the Department of Communities, Housing and Digital Economy's brief to the Committee, public intoxication responses currently exist in some areas of Queensland to support people who are at risk of being taken into police custody as a result of intoxication in public spaces, or who are already in custody for intoxication related offences. The current approach includes a spectrum of responses encompassing cell visitor services, community patrols, diversion centres, managing public intoxication services, and reducing demand services. Significantly, services are only available in Brisbane, Caboolture/Sunshine Coast, Cairns, Mackay, Mount Isa, Palm Island, Rockhampton and Townsville; and not all service types are available in each area.

QPS data also shows that in five of the top ten areas where people were charged for public intoxication during 2020-21, diversion centres were not available. This included the Gold Coast (347 persons), Sunshine Coast (163 persons), North Brisbane (85 persons), Mackay (47 persons), and Darling Downs (28 persons). With the proposed decriminalisation of public intoxication offences there is a clear need to expand services in other sites in Queensland, and to ensure that all sites have the appropriate mix of service types.

Although the service model differs, consideration should also be given to how these services interlink with the 15 Safe Night Precinct Support Services in Queensland<sup>2</sup> to ensure there are appropriate learnings shared. Effective responses in this area require dedicated funding, proactive planning and partnerships, defined roles and responsibilities, and a focus on harm reduction.

Options that prefer the transportation of intoxicated persons to emergency departments are also not recommended unless access to acute medical care is required. This is because it is not an environment that is intended to provide a place of safety or assistance for people who are acutely intoxicated who are not experiencing a medical emergency.

This is where diversion centres are a useful system response.

While only a relatively small proportion of people who use AOD experience problematic use, there is an insufficient supply of treatment and harm reduction services in Queensland. The recent *Inquiry into the opportunities to improve mental health outcomes for Queenslanders* (2022) highlighted the need for further investment in mental health and AOD services which includes increased funding and the implementation of agreed accountability mechanisms<sup>3</sup>. Any findings and recommendations pertaining

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<sup>2</sup> Currently located at Airlie Beach, Brisbane CBD, Brisbane Inner West, Broadbeach, Bundaberg, Cairns, Fortitude Valley, Gladstone, Ipswich, Mackay, Rockhampton, Sunshine Coast, Surfers Paradise, Toowoomba and Townsville.

<sup>3</sup> For example see recommendations 1, 2, 37, 38, 39, 41 and 42 of the final report of the Mental Health Select Committee.

to the health and social welfare-based responses to public intoxication should be careful to take into account the findings and recommendations of this report. Diversion services should also be better linked with the broader AOD treatment and harm reduction sector to ensure appropriate alignment with evidence based frameworks.

#### Public messaging on the harm of AOD

The vast majority of people who use substances do not experience problematic use and never come into contact with any services because of their use. Many of the identified ‘harms’ associated with AOD use, such as law enforcement costs and engagement with the criminal justice and child protection system are also related to the current policy response to AOD use as opposed to the use in and of itself.

It is important that any public messaging on AOD related harms following the decriminalisation of public intoxication, including alcohol-related violence, is informed by best practice.

As outlined in further detail within the current Mindframe guidelines, *‘inaccurate and alarmist portrayals of AOD in the media can lead to the stigmatisation and marginalisation of people impacted by alcohol and other drugs and their families.’*<sup>4</sup> This can have a detrimental impact on help seeking, and negatively affects the way services respond where such help is sought.

Messaging that relies on scare tactics that exaggerate or misrepresent the harms of AOD use is also not effective, and in some circumstances can have the opposite effect. As such, is important that any messaging:

- shows a balanced perspective of the potential physical, emotional and social effects of AOD use,
- describes AOD use effects in a way that accurately reflects the interaction between the substance being used, the characteristics of the person and the environment within which the substance is being used, and
- there is differentiation between experimental, occasional, problematic and dependent use, while also acknowledging that harm can potentially occur across the spectrum of use<sup>5</sup>.

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<sup>4</sup> [Communicating about alcohol and other drugs - Mindframe](#)

<sup>5</sup> Davis, C., Francis, C., Mason, C. and Phillips, J. (2018). A Best Practice Guide to Policy, Prevention and Planning for Alcohol and Other Drugs in Schools. Brisbane: Dovetail.