

Police Powers and Responsibilities and Other Legislation Amendment Bill 2023

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Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

09 March 2023

RE: Police Powers and Responsibilities and Other Legislation Amendment Bill 2023

Thank you for the opportunity for Harm Reduction Australia (HRA) to make a submission to the Legal Affairs and Safety Committee on the *Police Powers and Responsibilities and Other Legislation Amendment Bill 2023*.

HRA is a national organisation committed to reducing the health, social and economic harms potentially associated with drug use. HRA is a membership-based organisation that represents the views of its members who are primarily people working in the health, welfare, and law enforcement sectors, but also include concerned family members, people who use drugs, and other individuals wanting to advocate for the continuation and expansion of harm reduction policies in Australia.

The Board and members of HRA are people who understand the complexities of drug use and are advocating for the safest, most effective ways to protect the wellbeing of individuals, families and communities addressing drug use. HRA takes a non-judgmental approach to drug use within society and aims to ensure that drug policies and related legislation in Australia first and foremost do no harm and provide real benefit to Australian society through evidence-based, proportionate, and humane responses to drug use.

While we note the objective of the Bill is to promote efficiencies within the Queensland Police Service (QPS) and Queensland Fire & Emergency Services (QFES) through a wide range of operational and administrative amendments, our interest in the Bill primarily rests with the proposed amendments to the *Queensland Police Drug Diversion Program (PDDP)*. Specifically, HRA comments centre on the:

1. introduction of the '3-tier' drug diversion warning system and assessment program
2. expansion of the definition of minor drug offences and,
3. amendments to section 5 'Trafficking in dangerous drugs' of the *Drugs Misuse Act 1986*.

1. In regard to the **introduction of the ‘3 tier’ drug diversion warning system and assessment program** we would like to highlight the following issues:

- Queensland is the only jurisdiction in Australia where there are currently no options for police diversion in relation to a minor drug offence involving an illicit drug other than cannabis.
- To this extent, HRA cautiously welcomes the proposed reforms as a ‘first step’ in what we hope will be an ongoing process of reform. This qualified initial support, is due in large part to the capacity of the proposed reforms to contribute to a reduction in the numbers of people being prosecuted for simple use and possession charges in Queensland.
- Having said this, HRA does not believe that police diversion programs are the best way to address these matters due to the discretionary nature of the approach, and the ongoing potential for criminal charges if the individual is ineligible for diversion or if the requirements of the program are not met.
- In this regard, HRA strongly encourages the Queensland Government to consider more comprehensive reform to the current Queensland drug laws in the form of full decriminalisation (not merely expanded police discretion) in relation to small amounts of all drugs for personal use. Such reform is currently underway in the ACT jurisdiction and is increasingly being taken up in other international jurisdictions.
- In the absence of more comprehensive reform, HRA believes it is crucial to ensure the eligibility criteria for the proposed 3-tiered approach to drug diversion are amended to remove any unnecessary barriers to participation particularly for the most marginalised people who use drugs – that is, those who are mostly likely to come to police attention in relation to illicit drugs, and who arguably could benefit most from a less punitive approach.
- HRA therefore supports the need to change the existing eligibility criteria by removing the exclusion that applies to people with a prior conviction for an offence involving violence. Experience with drug courts in Australia, have shown that criteria such as these, often work to exacerbate intersectional discrimination and further disadvantage highly marginalised and vulnerable individuals in the community.
- Similarly, HRA supports the removal of a) requirements that a person make admissions in an electronically recorded police interview and, b) have not previously been offered drug diversion by a police officer, to be eligible for the PDDP. To our knowledge, such requirements are not required by police diversion programs in other states of Australia, and once again, will only further disadvantage some of the most marginalised people who use drugs and further exacerbate intersectional discriminations.

- In addition to the above amendments, HRA also believes that persons previously sentenced to serve a term of imprisonment for drug offences should be eligible for the proposed '3 tier' drug diversion warning system and assessment program as we do not believe that excluding people in this situation is consistent with a just and humane approach to drug use. Moreover, we believe that this serves to re-punish people for past offences where a term of imprisonment has already been served.
 - Finally, the Queensland Police Minister is on the public record as stating that the Bill aims to keep people who are often young out of the judicial system. HRA was very concerned, therefore, to see that the Bill seems to be proposing a greater degree of police discretion in relation to offering diversion to minors as compared to adults. Specifically, HRA is concerned that this could result in children being disadvantaged under the proposed reforms whereby children might still be charged with minor drug offences (even for a first offence) for which adults will receive a warning. HRA believes this is a serious inconsistency within the current Bill that needs to be address as a matter of urgency. We believe the Bill should be amended to make it mandatory for eligible children to be diverted by a warning or similar mechanism.
2. In regard to the **expansion of the definition of 'minor drug offence' to include different drug types and offences**, we would also like to highlight:
- HRA welcomes the expansion of the definition beyond the current definition, to include all dangerous drugs as defined by s 4 of the *Drugs Misuse Act 1986* and the unlawful possession of S4 and 8 medicines as defined under the *Medicines and Poisons Act 2019*.
 - HRA also welcomes expanded definition of 'minor drugs offence' to also include all offences relating to the possession of things used for the administration of all types of drugs, including needles & syringes.
 - According to the proposed Bill, however, to be a 'minor drugs offence' the 'quantity of a dangerous drug must be less than the prescribed quantity'. In this context, HRA wishes to highlight the significance of threshold quantities to the effectiveness of police diversion and wider decriminalisation approaches, and the importance of ensuring that threshold amounts are both appropriate and set in consultation with consumer organisations and other relevant experts with knowledge of drug consumption patterns in the community.
3. In regard to amendments to **section 5 'Trafficking in dangerous drugs' of the *Drugs Misuse Act 1986***, HRA would like to highlight the following:
- the reforms include a proposal to increase the maximum penalty for the offence of trafficking dangerous drugs from 25 years to life imprisonment. HRA opposes this increase in the maximum penalty and

remains extremely concerned about matters of proportionality in relation to Australian drug laws and non-drug related offences. We strongly advocate for this increase in the maximum penalty to be removed from the Bill.

Finally, HRA is a highly regarded organisation in relation to law enforcement and drug policy matters. This is in large part due to the significant expertise that resides within the HRA Board including:

- **Superintendent Frank Hansen APM**
<https://www.harmreductionaustralia.org.au/frank-hansen-2/>
- **Mr Greg Denham** – former police officer and President, Law Enforcement Against Prohibition (LEAP) Australia
<https://www.harmreductionaustralia.org.au/greg-denham-2/>
- **Professor Nick Crofts** – Director, Centre for Law Enforcement and Public Health (CLEPH), Honorary Professorial Fellow, Australian Institute of Police Management and Executive Director, Global Law Enforcement and Public Health Association (GLEPHA)
<https://www.harmreductionaustralia.org.au/nick-crofts/>

Given the above expertise, HRA would welcome the opportunity to speak to the Legal Affairs and Safety Committee on Law Enforcement at the scheduled public hearings related to this call for submissions.

Again, we would like to thank you for the opportunity to provide this submission. Please do not hesitate to contact us should you require any further information.

Yours sincerely
(via email)

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