“I work with people every day who are trying to manage their dependencies and get their lives back on track. Stigma and shame are big issues, and battling drug use convictions serves only to alienate people further. If we are a society which believes in giving people a fair go, if we believe in saving lives, we must do something differently”

Dr Marianne Jauncey, Medical Director, Uniting Medically Supervised Injecting Centre

‘Then Jesus said to them, “I ask you, which is lawful on the Sabbath: to do good or to do evil, to save life or to destroy it?”’ Luke 6:9
The Uniting Church Synod of NSW and the ACT.

The Uniting Church was the first church to be created in and of Australia. We are the third largest Christian denomination in this nation. You’ll find us in Australia’s largest cities and most remote towns. We are also the largest non-government provider of community services in Australia through our main community services arm, UnitingCare, and also through parish missions and other congregationally based community programs.

Our structure

We operate through a series of inter-related councils — local churches, regional presbyteries, state synods, and the national Assembly. Each council has its distinct tasks, and each council recognises the limits of its responsibilities in relation to other councils. We all work together and make decisions by consensus in each area of the Church’s life for the benefit of all.

The Synod of NSW and the ACT is the council which has responsibility for oversight, direction and administration of the Church’s worship, witness and service in the state of New South Wales and the Australian Capital Territory (ACT). The Synod works to strengthen the faith, life and mission of the around 600 Uniting Church congregations and 14 presbyteries (the district councils) within NSW and the ACT. Each week around 30,000 people attend worship services and actively participate in some way in the wider mission and service of the Church.

The Synod of NSW and the ACT has sought and received the approval of the Synod of Victoria and Tasmania in making this submission.

Our social concern

Our Synod theme is: Uniting for the common good. This is not surprising, since its inception the Uniting Church has upheld a commitment to social involvement as an integral part of its life and work.

A Christian responsibility to society has always been regarded as fundamental to the mission of the Church. In the Uniting Church our response to the Christian Gospel will continue to involve us in social and national affairs. (Statement to the Nation, 1977)

This commitment, though imperfectly expressed, has been evident in acts of compassion and service, as well as through speaking out against injustice and wrong. The Uniting Church does this work in its own right and also in cooperation with other people and organisations of goodwill.

Our interest in drug law reform

Our Synod has a long standing interest in the impact of drug use and the impact of drug laws. This stems from both our professional community services and the experience and concerns of our church members. In 2001 the Uniting Church, through UnitingCare NSW. ACT established the first Medically Supervised Injecting Centre (MSIC) in the southern hemisphere, located at Kings Cross in Sydney. Despite initial strident opposition and calls for

Uniting Church, Synod of NSW and ACT. Submission to Inquiry into Drug Law Reform, March 2017.
its closure, the MSIC has repeatedly demonstrated its capacity to save lives and produce other social benefits. Before that time, and arising out of deep concern and personal experience of the harm caused by prevailing laws, members of our Canberra Region Presbytery helped form Family and Friends of Drug Law Reform (FFDLR). This group has worked for more than twenty years to secure changes to the way individuals using illicit drugs are seen and treated. Their fundamental concern is to keep people safe and reduce the harm of illicit drug use. They consider that reconceiving personal drug use as a health issue rather than a crime is a crucial change required to achieve that goal.

In late 2015 these streams of concern within the church (professional services and grass root members) combined in a presentation to the Synod’s Social Justice Forum (SJF), a group which establishes priority issues for action. Marion McConnell and Bill Bush spoke compellingly of the personal impacts of drug policies on behalf of FFDLR and the Canberra Region Presbytery. Dr Marianne Jauncey, Medical Director of the MSIC, articulated the insights gleaned from more than fifteen years’ experience and rigorous evaluation of that service. The SJF was persuaded by their arguments and resolved to bring a resolution to the next Synod meeting. A paper, “Reducing the harm of illicit drugs: Supporting a better way” was prepared to provide background information and argue the case for change.

At the Synod meeting in April of 2016 around 350 participants discussed and then resolved to support the two proposals put before it. These proposals (42/16S) were that the Synod:

1. Actively supports and advocates for greater investment in demand reduction and harm reduction strategies to address illicit drug use
2. Actively supports and advocates for the expansion of decriminalisation for possession and personal use of small amounts of illicit drugs

The Synod recognised that drug law reform is a complex and contentious issue. They further resolved to inform and educate church members and their communities as to why the Synod has taken this position.

Clearly, the Synod resolution also calls on the church to speak out for change in our communities approach and government policy regarding the personal use of illicit drugs.

The background paper prepared for Synod contained this statement:

*The Synod laments that existing policies have shown themselves to be ineffective in reducing the availability of illicit drugs, particularly to young and vulnerable Australians, and that those policies are having unintended harmful consequences across society. The Synod calls on governments to foster an open dialogue to address this situation.*

It is in that spirit of open dialogue that we offer our submission to the Victorian Parliament’s Law Reform, Road and Community Safety Committee *Inquiry into Drug Law Reform*, and we thank the Committee for the opportunity to contribute.
Introduction- how this submission is arranged

This submission begins by describing patterns of illicit drug use as these provide important context to the discussion. It then outlines the main concerns our Synod has regarding current drug policies, including some theological reflection, and the alternative approaches we would like to see adopted. Finally, the submission makes four recommendations to the Inquiry and offers some concluding thoughts.

Patterns of Illicit Drug use

Illicit drug use and harm

There is no doubt that for some individuals and their families the consequences of illicit drug use can be devastating. Drug use can place intense pressures on families which strain and sometimes break relationships, causing great emotional distress in the process. Tragically, some people die from illicit drug use, and their families live with the loss and grief for the rest of their lives. While all drug use has potential to be harmful, thankfully, the evidence suggests most illicit drug use does not result in these severe harms.

Each year, about 2,800,000 Australians use illicit drugs and about 7,800,000 have done so at some time in their life. Most people who use illicit drugs do so infrequently. Only a small proportion uses them very frequently and/or in a way that carries substantial risks. This is a common pattern. The 2014 World Drug Report from the United Nations Office on Drugs and Crime’s (UNODC) found that globally, ‘problem drug users’, those who have developed dependence or a drug use disorder, represent about one in ten people who use illicit drugs.

Strong connections between harmful use, current disadvantage and childhood adversity

There are some groups however, who are more vulnerable to problematic drug use.

The 2010 Drugs in Australia report found that groups such as Aboriginal and Torres Strait Islanders, the unemployed, those living in remote and very remote areas and people who identified as gay or bisexual, had higher rates of illicit drug use and were more at risk of harm.

Clear patterns of disadvantage and social marginalisation exist among injecting drug users. Among the people who participated in the Australian IDRS survey in 2014, for example, 39% self-reported mental health issues and one third had been arrested in the past 12 months. Recent analysis conducted by the Medically Supervised Injecting Centre showed that among frequent attenders, 60% were in ‘unstable accommodation’, a third reported a psychotic illness, more than half reported a suicide attempt and the majority had significant, severe and multiple childhood traumas.

The longitudinal Adverse Childhood Experiences (ACE) Study has identified clear links between adverse childhood experiences and harmful drug use in later life. Analysis conducted in 2003 found that ‘adverse childhood events seem to account for one-half to two-thirds of serious problems with drug use’. A recent systematic literature review identified that among all the adverse experiences included in the ACE study, child abuse and family violence were most strongly associated with the depression and anxiety problems experienced by persons abusing drugs or alcohol.
Research has shed light on the mechanisms by which childhood adversity impacts on later drug use. 9 Children whose needs are predictably met and whose environment is both stimulating and safe will have a good foundation for healthy development and functioning. 10 On the other hand traumatic events (e.g. child abuse) and or chronic stress (e.g. poverty) can adversely impact neural development and brain function (for example in self-regulation, mood and impulse control) as well as other body systems, including the immune and endocrine systems. 9 Such physiological disruption can make people more vulnerable to later problems in learning, physical and mental health and behaviour, including harmful substance use.

Thus, toxic stress in early childhood not only is a risk factor for later risky behaviour but also can be a direct source of biological injury or disruption that may have lifelong consequences independent of whatever circumstances might follow in later life 9, e238

Current socio-economic disadvantage can also impact on problematic drug use through the life course. 10 Children raised in very disadvantaged families may experience less close supervision and care, a risk factor for later harmful drug use. Low socio-economic status can create ongoing stress which as we have seen, both compromises development and creates a demand for relief and respite, however short term. More disadvantaged communities commonly have less access to resources such as education, mental health services, recreation and social supports. Overall, there is evidence the relationship between low socio-economic status and problematic drug use is two-way. Various forms of socio-economic disadvantage increases vulnerability to problematic drug use and such drug use can contribute to a decline in life circumstances and opportunities. When exacerbated by wider social inequalities and without the buffering of supportive social networks the risk of these circumstances repeating in the next generation is heightened. 9

Given that the roots of problematic drug use lie in part in adverse social conditions, particularly during early childhood, it makes sense that part of the solution to harmful drug use is to improve social conditions, reduce toxic stress and provide environments that support effective parenting, stable families and thriving communities. This means that initiatives in employment, taxation policy and education will be needed to address harmful drug use, along with targeted programs to support vulnerable families and population groups. 10

Current drug policy and its limitations

Australia has a longstanding national drug strategy based on the model of harm minimisation. This bipartisan policy is comprised of three pillars: Supply Reduction (e.g. legislation, customs and law enforcement – measures often collectively described as the ‘war on drugs’), Demand Reduction (e.g. treatment services) and Harm Reduction (e.g. Needle and Syringe Programs, Medically Supervised Injecting Centre). We believe the way the framework is currently applied has limitations that detract from its overall effectiveness.
We provide the bulk of funding to the least effective measures

One issue is that the funding allocation for different elements of the framework is unbalanced and is not in accord with the evidence about what approaches work best. Research by the National Drug and Alcohol Research Centre in 2009-10 estimated that of the 1.7 million the Australian Government spent to tackle illicit drugs, 64% was spent on law enforcement with 22% going to toward evidence based demand reduction strategies e.g. treatment. Less than ten percent (9.7% ) is spent on prevention, and only 2.2% is allocated to harm reduction initiatives. The difficulty here is that evidence indicates that law enforcement measures are the least effective in reducing drug use and associated harm. Treatment and harm reduction measures, by comparison, are more effective, more cost-effective and do not carry risk of increasing harm.

Criminalising personal drug use does not appear to work

The idea that being tough on those taking drugs will reduce the amount of illicit drug use is commonly expressed in public debate. In reality there is little correlation between consumer law enforcement regimes and the rates of drug use.

Of the more than 80,000 Australians charged with drug related offences in 2014/15, 66% were charged only with personal possession or use, and this number is increasing. Yet national data indicates that overall levels of illicit drug use are relatively stable. Internationally, the UK Home Office publicised a report on practices in European nations that found no observable relationship between the toughness of a country’s laws on drug possession and the levels of drug use in that country. In a recent Australia 21 report following consultations on drug policy, the former Commissioner of the Australian Federal Police, Mr Mick Palmer states, “….what we have now is badly broken, ineffective and even counter productive to the harm minimisations aims of Australia’s national illicit drugs policy.”

Criminalising personal drug use has other negative consequences

There is growing recognition that the criminalisation of drug use has a range of negative effects: These include:

- People using drugs may fear seeking health care in case it exposes them to legal consequences
- It creates stigmatisation and reduces opportunities for employment
- It intensifies alienation from people’s families and other social supports
- It exposes people to the criminal justice system and potentially to the negative effects of the prison environment

Criminalising drug use fails to address the causes and consequences of drug dependency. By treating drug users as criminals, new problems are added to the existing ones - thus increasing the person’s marginalisation and the risk of a downward spiral.
Some theological reflections on drug policy- law, grace and communal wellbeing

As a church we take seriously Jesus’ call to be salt and light to the world (preserving what is good, highlighting important truths). This means we are compelled to think theologically about the social issues of the day. How might that reflection shape our thinking about drug law reform? This section is taken from a theological reflection prepared for the Synod by Rev Dr Chris Budden and Rev Dr Rhonda White.

Law grace and communal wellbeing

We take our perspective on law from the example of Jesus who reminds his followers that the law is given ultimately to enrich life rather than deplete it. Law can be used as a deterrent with the threat of punishment enabling the protection of the community. But the law is also used to promote life. The laws of the Old Testament for example, do provide a foundation for sanctions against wrongdoing, but they also describe the shape of the community life at its best- for the Israelites this was one lived in covenant relationship with God.

As a church we often speak of people’s inherent value because we are all made in the image of God. This is a crucial claim that undergirds all efforts to safeguard and uphold individual dignity. But this claim also has a communal dimension as it recognises that my well-being depends on your well-being. When we criminalise behaviour and shame and exclude people, we not only hurt them but we harm our common life. We undermine our essential interdependence and pursuit of the common good.

Law and restoration

The Christian vision of community is restorative and inclusive, because we know that all of us are broken and depend on grace at certain times of life. We are to be wary of quick judgements about others, and we hope that others will not judge us too harshly or quickly. This is very apposite to the simplistic and brutal way in which some groups using illicit drugs are labelled by parts of the media. As a church we are reminded to love others in the exact same way that we want to be loved (Luke 10:27). We know that Jesus constantly sought out those who were lost, and offered them life.

New life arises as people own their behaviour, make amends where necessary, and are surrounded by a community that helps them adopt a new way of life. Given the situation of many people who take illicit drugs, it is hard to see how criminal penalties assist in the process of finding new life, rather than further marginalising them and harming the community.

Law and justice

While societies seek to make laws to protect the whole community, in reality they are applied unevenly, with much closer scrutiny and harsher penalties for some groups than for others. Poorer people are more likely to be arrested, convicted and receive a higher penalty than people with wealth and influence. The laws allowing or prohibiting use of different...
drugs also seem arbitrary. We have criminalised certain drugs, but have allowed other equally or more destructive drugs – alcohol and cigarettes – to remain legal and very socially acceptable. The laws relating to the use and possession of illicit drugs fall most heavily on the most vulnerable in our community – Aboriginal and Torres Strait Islanders, the unemployed, those living is isolated communities, and those identified as gay or bisexual.

Is this the sort of community we wish to be? Are these the values that we want to shape our lives? As a church we argue for laws and practices that err on the side of providing redirection and restoration rather than focussing on punishment which may lead to alienation.

The alternative approaches we would like to see

*Treating drug use as a public health issue*

The fundamental shift our Synod would like to see in drug policy is the treatment of personal drug use primarily as a public health issue rather than a criminal issue. This would mean that individual drug users would not be treated as criminals and subject to criminal proceedings. Rather, those who possess and use small quantities of illicit drugs for their own personal use, would be directed to evidence based harm reduction and demand reduction (treatment) options.

Many groups in our community are now calling for a health based approach to personal illicit drug use to be adopted. For example the Criminal Justice Committee of the NSW Bar Association, are calling for drug addiction to be treated as a public health issue and for an increase in effective demand reduction strategies. They argue this would increase the number of drug dependent persons seeking treatment. Strong legal sanctions against manufacture, wholesale supply and trafficking of drugs would remain.

The decriminalisation of drug possession and personal use is an important first step in this changed approach.

*What is decriminalisation and does it work?*

Decriminalisation does not mean legalisation and this must be clearly communicated to the general public. Under decriminalisation there is no legal means to obtain drugs for personal use. Decriminalisation is simply the removal of criminal penalties for personal drug use/possession. It is already happening to some extent in Australia either through law (removing criminal penalties or replacing them with civil penalties) or practice (police discretion, referring offenders to education/treatment rather than court).

A 2012 review by the UK drug policy organisation Release documented the decriminalisation (or depenalisation) of possession and use of drugs in 21 countries around the world, including Australia. The authors identified a ‘growing recognition of the failures of the criminalisation approach’ including ‘mounting evidence of the devastating consequences for individuals associated with the criminal justice response.’ While cautioning that ‘decriminalisation is not a panacea’, the review concluded that:

*Decriminalisation does appear to direct more drug users into treatment, reduce criminal justice costs, and shield many drug users from the devastating impact of a criminal*
conviction. A decriminalisation approach coupled with investment in harm reduction and treatment services can have a positive impact on both individual drug users and society as a whole. 16

The case of Portugal

The case of Portugal is often cited in support of decriminalisation.

In 2001, Portugal decriminalised use, acquisition and possession of all illicit drugs for personal use. They also expanded and improved prevention, treatment, harm reduction and social reintegration programs. 23

“Offenders in Portugal are sent to specialist ‘dissuasion commissions’ run by the government, rather than the judicial system....The aim of the dissuasion commissions, which are made up of panels of psychiatrists, social workers and legal advisers, is to encourage addicts to undergo treatment and to stop recreational drug users falling into addiction. They have power to impose community work and even fines, but punishment is not their aim.” 20

Since 2001, Portugal has experienced reduced problematic drug use, reduced drug use by adolescents, fewer people arrested and incarcerated for drugs, more people receiving drug treatment, and reduced incidence of new HIV/AIDS cases among people who inject drugs. ‘Past year’ drug use among people aged 15-64 was also lower in 2011 than in 2001. 23

Supporting approaches for which there is the best evidence of effectiveness.

The Uniting Church Synod of NSW and the ACT supports a greater investment in strategies that have been shown to be effective in reducing the harm of illicit drugs. These are strategies that focus on demand reduction (treatment) and harm reduction, such as needle exchange programs and the Medically Supervised Injecting Centre.

Building on the success of the Medically Supervised Injecting Centre

Over 15 years ago the Uniting Church supported the establishment of the Sydney Medically Supervised Injecting Centre (MSIC). This was the first supervised injecting facility in the English speaking world. There are now approximately 100 such services in ten different countries. The Sydney MSIC has successfully treated thousands of overdoses, reduced the spread of diseases like HIV and Hepatitis C, taken public injecting off the streets, thus improving safety and amenity and crucially, the service has provided a pathway into treatment and support services for people who may otherwise have never contacted them.24 The MSIC now enjoys broad based support including from the Australian Medical Association.

Despite the success of the Sydney MSIC, it remains the only such centre in Australia. Specific legislation was enacted by the NSW Parliament to establish that it is not a criminal offence to self-administer or possess a small quantity of drugs for personal use within the MSIC. The legislation also specifies that only one licence can be issued for an injecting centre, so the establishment of additional centres would require a change to the legislation. Eliminating the criminality of drug consumption and possession of small quantities for personal use would remove this impediment to establishing other facilities in NSW. Similar laws would enable other such centres to be opened in other states including Victoria.
Our recommendations

The Synod of NSW and the ACT makes the following recommendations to the Victorian Parliament Inquiry into Drug Law Reform. We believe these recommendations would lead to a fairer and more effective approach to the personal use of illicit drugs, reduce overall harm and contribute positively to greater individual and community wellbeing.

Recommendation 1: Governments should address the broad socio-economic factors that increase the risk of harmful drug use among vulnerable populations. These factors include socio-economic disadvantage (poverty, unemployment, homelessness), low education levels, exposure to child abuse and neglect, domestic violence, mental health problems, and social stigmatisation and marginalisation e.g. due to racism. Greater government investment in evidence-based strategies to reduce these risk factors would contribute to lower rates of problematic drug use. Strategies to reduce chronic (toxic) stress in the early childhood years should be a major focus of attention. Initiatives should include early intervention programs to support parenting within vulnerable families, universal access to early childhood education programs as well as broader strategies to improve education and employment opportunities for young people.

Recommendation 2: Government policies should be reformed to address personal possession and use of illicit drugs primarily as a public health issue and not as a criminal issue. In other words, people possessing and using drugs should not be treated as criminals and subject to criminal proceedings. Rather, they should be directed into evidence-based treatment programs. This approach would have the dual benefit of reducing the demand and cost of the criminal justice system, including the jail population, as well as producing better social and economic outcomes as people are diverted to more positive life paths.

Recommendation 3: Governments should move to progressively decriminalise the possession and use of small amounts of illicit drugs. There is significant support for this step among a range of medical, legal and public health experts. Research also indicates that a majority of the general public support alternatives to responding to personal drug use with criminal sanctions. Such sanctions can be replaced with civil penalties if necessary but the primary strategy should be more consistently and purposefully providing effective health interventions (as indicated above).

Recommendation 4: There should be a greater investment in harm reduction and demand reduction strategies to address illicit drug use. It is critical that funding is directed to the most effective strategies. In practice this means increasing funding for demand reduction and harm reduction strategies which have the most evidence of success, and directing fewer resources to supply reduction which has been shown to be less effective. The decriminalisation of personal possession and use of illicit drugs should, logically, free up funds for these more effective strategies as less money will be required for policing, courts and imprisonment.

Conclusion

Uniting Church, Synod of NSW and ACT. Submission to Inquiry into Drug Law Reform, March 2017.
The Uniting Church Synod of NSW and the ACT believes there are compelling reasons for greater investment in demand and harm reduction practices and moving to decriminalise personal drug possession and use. Such an investment is consistent with seeing drug use and drug addiction primarily as health and social issues rather than criminal justice issues. It recognises the social factors that contribute to problematic drug use. Not only is there evidence that these approaches will achieve better results in reducing overall drug use and avoiding the negative impacts of criminalisation, they are also more cost effective. Importantly, they also better recognise the essential human dignity and rights of all persons and help shape the common life that in our better moments we all aspire to.

We again express our appreciation to the Victorian Parliament’s Law Reform, Road and Safety Committee for the opportunity to make this submission.

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