Families and Friends for Drug Law Reform submission on the National Drug Strategy

Introduction

About FFDLR and its objectives

Families and Friends for Drug Law Reform is a community based non profit organisation that was formed as a direct result of heroin related deaths in the Australian Capital Territory. It believes that prohibition laws have created unintended adverse consequences. It seeks laws and policies that will eliminate the deaths and minimise the health and social harm.

FFDLR believes society should help people come through any drug using experience alive and as healthy as possible. In other words FFDLR is about promotion of life and wellbeing.

Its members include parents, siblings, friends, politicians former and present, past and present illicit drug users and other concerned members of the community.

Focus of this submission

FFDLR's main focus is on illicit drug policy. Therefore this submission will focus on illicit drugs and promote a National Drug Strategy that will minimise health and social harms, help people come through any drug using experience alive and as healthy as possible even though they may continue to use drugs.

Comments on the preamble

The preamble of the consultation paper makes a number of assumptions and raises a number of issues that cannot be adequately responded to in the specific questions that the paper asks. FFDLR's comments on those matters are listed hereunder.

Patterns of use

The consultation paper has indicated that it is interested in emerging issues and new developments and how to respond to those issues and developments.

Drug use in Australia appears to be a constant with the only variable being the type of drug that is used. Take for example the response that resulted from the shortage of heroin. Users of heroin appeared to shift to other opiates or to amphetamine type substances or alcohol. The degree of that shift is difficult to determine from published data which for the most part does not include quantities consumed. The household survey for example only shows the number (more correctly the estimated percentage) of persons using a particular drug. The implications of this are:

- additional data on quantities consumed is needed;
- campaigns that focus on trying to reduce the use of one drug may result in increased use of another drug;
- campaigns that focus on one drug type cannot be guaranteed to be effective.

Priorities

Top priorities for the next five years should include:

- an objective evaluation of the effectiveness of current strategies,
- examination, evaluation and trials of alternate approaches,
- provision of greater autonomy from political interference for drugs policy bodies,

- a more balanced distribution of funding across the three pillars of the harm minimisation drug policy
- examination of the evidence relative to regulation of illicit drugs which would introduce control, improve outcomes, and reduce the supply and demand for drugs. Even a small reduction in illicit markets and the harms caused by current policies can mean huge financial and other gains for society.
- full support of prescription heroin to severely addicted people under strictly controlled conditions

Costs & effectiveness

The ability to reduce the costs associated with legal drugs such as alcohol and tobacco is within the reach of governments because those drugs are regulated and controlled. For example governments can reduce the number of licences issued and limit the hours within which those drugs can be sold. That would reduce the supply and should have a run-on effect reducing the costs. What is unstated in the costs is the revenue that is gained from taxes and licence fees. Thus the net cost would be somewhat reduced.

In respect of illegal drugs the only compensating revenue comes from assets seizures.

It would thus be more accurate and balanced to report on the net cost.

False claims

The consultation document perpetuates a false claim in respect to the shortage of heroin that occurred in 2000. That is that "law enforcement efforts have severely curtailed the supply of heroin to Australia over the past decade". This false statement is included twice in the document.

While one does not quibble with the lives that the shortage may have saved, it is simply untrue to say that law enforcement had a significant impact. The origins of this statement can be traced to political pressure and influence on the AFP.

Law enforcement may have been one influence but it was likely to have been no more influence than it had been in previous and will be in future years, but it was certainly not a major influence. There were other influencing factors such as:

- the decline of production of opium because of weather conditions,
- declining opium production over a number of years before 2000,
- marketing decisions by Asian crime gangs to switch to amphetamines,

It is interesting to note that there was a coinciding shortage of heroin in areas of Canada that have the same heroin source as Australia but without increased or related law enforcement activities.

When the shortage became known, the then AFP Commissioner Keelty reported the situation factually, but it was not long afterwards that political pressure was brought to bear and the Commissioner told a different story. The facts bear out the Commissioners former statement.[1]

Approaches based on false assumptions contribute to policy failures, ineffective expenditures and increasing costs.

[1] See the following documents: ffdlr.org.au/commentary/docs/HeroinDrought.htm, Changes in Canadian heroin supply coinciding with the Australian heroin shortage, Evan Wood et al, Society for the Study of Addiction, 2006, **International Journal of Drug Policy, Australian heroin seizures and the causes of the 2001 heroin shortage** *Pages 273-278* John Jiggens and **What caused the recent reduction in heroin supply in Australia?** *Pages 279-286* Alex Wodak.

Good aspects

FFDLR fully supports the policy for the supply and safe disposal of syringes through needle and syringe programs. A practice which has kept HIV and Hep C infections in Australia at a low rate and has been shown a number of times over to be cost effective. That practice needs to now be introduced into all Australian prisons where drugs are available and are used but used by way of shared, not clean, syringes. Prisons are an incubation factory for blood born viruses.

Political limitations to effectiveness

There is a need to provide a greater degree of independence of action to policy making bodies and to research bodies. Because of political influence innovation in the drug policy area is stifled and funding for research is limited to those areas that are "politically safe". Such influences can be seen with the veto of the proposed heroin trial by the then prime minister Howard despite approval for the trial by MCDS (an approval that still stands) and can also be seen during election and other times in "tougher on crime" debates. It can be seen in the research and consultation processes for a cannabis strategy which had such limited terms of reference that they specifically excluded any innovative approaches.

Clearly there needs to be greater independence of research funding and there needs to be greater autonomy for enacting drug policy for bodies like the MCDS.

There is also an urgent need for research funding for objective overall analysis of drug policies.

Not a balanced approach in practice

The consultation document talks about the emphasis being on a balanced approach and ensuring that investment is weighted towards where there is evidence of the most harm.

In practice the balance is not there. In respect of illicit drug law enforcement, the supply control arm receives the lion's share of the funding and those organisations that relate to the harm reduction component of the policy receive relatively very little. Research has indicated that health treatments can be up to seven times more effective in reducing demand for drugs than border control. Applying this in practice by redirecting a proportion of the law enforcement budget to appropriate health areas can mean significant gains for society and for individuals.

There also is no analysis or acknowledgement that the laws and policies that purport to protect Australians from drug harm can themselves cause a great deal of harm. For example Australia's prohibition drug laws have:

- created a black market in drugs where there is no control except that by drug gangs and corrupt officials,
- not controlled the purity or strength of the drugs
- given no indications for safer use (other than the message 'don't use')
- stigmatised and marginalised persons using drugs, making it less likely for them to seek help
- driven a wedge between family members
- ensured that funding resources are wasted on least effective strategies.

A better and more balanced distribution of funding needs to be established as a first priority coupled with gaining control over the drugs market.

Response to specific questions

How can structures and processes under the National Drug Strategy more effectively engage with sectors outside health, law enforcement and education?

It is not so much how can structures be improved to more effectively engage with outside sectors but how can internal structures be improved. The consultation paper refers to the following key structures: MCDS, IGCD, ANCD, NDARC, NDRI, NCETA. To this list could be added ADCA, ACC.

The structure is cumbersome and conflicted.

The MCDS is the peak body of health and police ministers of the federal government and all states and territories. However this body does not have the final say in drug policy. Members must negotiate items for acceptance with their own governments and, as witnessed by the veto of the heroin trial by PM Howard, can have decisions overturned or thwarted for reasons that are not supported by evidence and are not in the long term interest of the community but are more populist in nature.

The IGCD provides the policy advice to the. The IGCD represents the governments and their departments and their advice is not necessarily expert advice, while the ANCD represents the community and has a charter of providing expert advice.

The research organisations such as NDARC, NDRI etc, are dependent for their funding for the large part on government grants and as allocated by MCDS or IGCD. Even the one shining light in this area, the Drug Policy Modelling Project which was initially privately funded, is now being influenced by some government funding.

Within this structure there is little scope for innovative thinking. The providers of funding can influence the direction of the research which is, more often than not, in politically safe directions. And the weight of advisers that are also providing politically safe advice means that the true value of such a body as the MCDS will not be realised. Until those matters are addressed little will be gained in trying to engage other organisations outside this structure.

The MCDS could be strengthened by re-examination of its structure and objectives. For example rather than the current objective of "Provide a mechanism for regular consultation between Australian Government, State and Territory health and law enforcement Ministers on programs and policies in relation to licit and illicit drugs in Australia" it could be given a stronger role "Provide a mechanism for Australian Government, State and Territory health and law enforcement Ministers to develop evidence based programs and policies in relation to licit and illicit drugs in Australia".

Instead of "Promote a consistent and coordinated national approach to policy development and implementation in relation to all drugs issues" replace it with "Promote a consistent and coordinated national approach to policy development and implementation in relation to all drugs issues that cause the least possible harm to the community, drug users and their families".

It should allow a range of matters to be considered, not just those from one source ie IGCD. For example instead of "Consider matters submitted to the Council, through individual Council members, by the IGCD" replace it with "Consider matters submitted to the Council, through individual Council members, by the IGCD, ANCD and other relevant organisations". In this process it should be ensured that any recommendations or advice are supported by evidence.

Which sectors will be particularly important for the National Drug Strategy to engage with?

The National Drug Strategy needs to inform policy making in respect of drugs for all Australian governments. However the strategy needs to have a broad and integrating approach. It is often the

case that the three pillars of the harm minimisation drug policy work against each other when they should be complimentary and integrated. The competition for funding is one example and the one with the stronger bargaining power (eg supply control) will win out despite evidence which demonstrates a diminishing return on investment

Drug use has become "normal" in our society but it is problematic drug use that needs to be addressed in the strategy.

In that respect there are many social determinants that lead to problematic drug use and a full understanding of these factors is important for all who might make a positive impact. Thus the engagement should be with all who have a stake and the NDS should be focussed on providing that understanding.

There should also be broader stakeholder engagement in policy development including users and parents. There is no doubt also that the views of a well informed broader community would be useful. But a great deal of work will be required to develop that well informed community and overcome the prejudice and propaganda that has been instilled in the community over past years.

It is important also that this strategy be integrated with other strategies such as mental health, homelessness, child protection. And the reverse needs also to occur.

Could the IGCD and MCDS more effectively access external expert advice and if so, how?

As noted above, the structure of drug policy making in Australia is confused and conflicted and is in need of change. The MCDS needs to have its role strengthened and the provision of advice and of matters for it to consider must come from a wider range of sources, not just the IGCD.

Further the provision of research funding needs to be opened up to innovation rather than research that is for the most part non controversial and perceived as politically safe..

Where should effort on the support and development of drug and alcohol sector workforce be focused over the coming five years?

And

Where should efforts be focussed over the coming five years to increase the capacity of the generalist health workforce to identify and respond to substance use problems?

It is important that organisations in the drug and alcohol sector meet certain standards. For this purpose a national accrediting or licensing system needs to be developed (but implemented locally). A system of continuous improvement and quality control needs to be implemented for those organisations.

In addition staff providing such service must have the relevant qualifications and experience. Government funding will be needed over the five years of the strategy so that all such organisations and their staff have been brought up to the required standards.

The treatment drug addiction requires specialist skills and abilities. Those who provide that treatment must all have those skills and the existing workforce must be brought up to the professional standard demanded of them.

While this applies largely to health professionals, law enforcement workers also must have a professional approach. A policeman on the beat must have the skills and training to make decisions that are in the best interest of the individual as well as the community. It is not sufficient for that policeman to decide simply because a person has used an illicit drug that she must be arrested. He must consider whether by making such an arrest will he cause more harm. Likewise the workers in the rest of the criminal justice system must have the skills, knowledge and abilities to make

decisions that are in the best interest, not only of the community but of the arrestee. It would be a tragedy if a person is jailed for a drug related crime when diversion to rehabilitation would be a better option. Or even worse if after a person has served a jail term he uses, overdoses and dies on the day he is released.

Thus the NDS must identify strategies to not only ensure a supply of appropriately skilled and qualified workers but must ensure the existing workforce meets those professional standards.

It is noted also that the large turnover in the sector has mostly to do with the low salaries and wages paid and the difficult nature of the work.

What are the particular opportunities and challenges that technology development is likely to pose for the community and the alcohol and drug sector over the next five years?

It is true that technology can both help and hinder. It would be near impossible to impose a censorship to prevent misleading or wrong information or even recipes for drug making being posted on the internet. With the speed and ease of providing information on the internet a recipe, a myth or simply wrong information can reach almost anyone in the world at the speed of light.

However it is important that trusted sites which have factual or helpful information be identified. A list of such trusted sites could be maintained and a system of certification could be adopted to identify those sites. And those websites could be authorised to display a suitable logo so that those viewing the site could be assured that it meets certain standards.

The Queensland University of Technology, in 2009, undertook a study funded under the NDS to examine the application of new technology through the internet to the provision of advice, information and services. This new NDS should take the recommendations of that study on board.

How can efforts under the National Drug Strategy better complement the social inclusion agenda such as addressing unemployment, homelessness, mental illness and social disadvantage?

The drug strategy in many respects works against complimenting the social inclusion agenda. The years of propaganda such as “drugs are bad” or zero tolerance campaigns, the marginalisation and stigmatisation of drug users and sometimes their families have taken their toll. Add to this the large numbers of arrests of drug users (over 80% of drug arrests are of drug users) and their processing through the criminal justice system.

It is not remarkable that people who are problematic drug users, who more often than not are homeless or have a mental illness or are socially disadvantaged are averse to seeking help. An observer at any office that provided such services would quickly understand that prejudice and stigmatisation of the drug user, still abounds.

The strategy needs to work positively against such practices and needs to rebalance in this area. Services such as those that address unemployment, homelessness, child protection, mental health and the like need to be welcoming and should not respond to the prejudice and stigmatisation.

As identified earlier, this new NDS needs to be fully integrated with other strategies on the social inclusion agenda and those on that agenda need to be fully integrated with this NDS.

Drug related advertising needs to be aware of the effects shock and awe advertising can have. Such advertising only perpetuates the problem. Anti-drug campaigns should:

- be carefully designed so as to have the desired impact on the target audience and not be shaped by what seem convincing to those not in the audience;
- not cause parents to panic or otherwise react in ways damaging to the well-being of their children who may use drugs;

- not perpetuate the shame and stigma for those caught up in the addiction of drugs, and.
- be fully evaluated as to the effect on problematic drug usage or the uptake of drugs.

There needs also to be built into the NDS practices and policies that remove barriers to those seeking help. For many years the silo effect between mental health and drug and alcohol services were treated as two distinct and separate services even though clients can require seamless services from both areas.

Where should effort be focused in reducing substance use and associated harms among vulnerable populations?

This question is rhetorical and the obvious answer is to reduce vulnerable populations. Those most vulnerable are the homeless, socially disadvantaged, mentally ill, and those family members where there is intergenerational disadvantage. It will often be noted also that it is this group who have a limited education.

It is this group which is the most visible and most likely to come to the notice of law enforcement. They too have the lowest level of resources to be able to deal with consequential issues arising.

However in a way reducing substance use is the wrong question. It is not primarily a matter of reducing substance use but one of reducing harms. Many can use drugs in an unproblematic way. For example consumption of small quantities of alcohol appear not to cause harms. There are also many who use small quantities of cannabis in a non harmful way. In fact some use that drug for its medicinal/therapeutic effects.

The focus of the drug strategy should not be on the reduction of substance use. That is a costly and wasteful exercise. This approach puts the reduction of drug use above all else – even above life, health and well being. A vigorous pursuit of this goal can drive vulnerable people away from the very services that they need, or even incarcerate them so that they do not have access to those services. It is noted that with arrests of drug users running at over 80% of all drug arrests, such a practice has already been adopted.

The focus should be on the reduction of problematic substance use not drug use per se. This new focus implies that a health solution should be in the forefront and the focus should be on preserving health and wellbeing.

Are publicly available performance measures against the National Drug Strategy desirable?

If so, what measures would give a high level indication of progress under the National Drug Strategy?

Transparency should be the key word for the NDS. It should be clear to all who enquire whether or not the NDS is meeting its stated objectives.

Clear and unambiguous and measurable objectives should be built into each element of the NDS. And each should relate to the three pillars of the harm minimisation policy. Those measures must be measures of effectiveness.

For example one pillar is that of supply control and if the objective is to reduce the supply of drugs, the effectiveness measure is that of reducing the supply of drugs at the consumer level. A simple measure of quantity of drugs seized is not an effectiveness measure for two main reasons: 1) the supplier, because he expects some drugs will be seized, may supply 110% to make sure the market is satisfied, or 2) a seizure of a large quantity may simply reflect either police activity or market saturation or both. Noting that the drug market is a hidden market a parallel can be drawn to another hidden market: a fisherman will catch many fish when there is an explosive fish population.

Thus it requires more information to determine if the fish population is being depleted, or in our case whether there has been any real effect on the supply of drugs to consumers.

In addition to any specific objectives identified in the NDS the following measures are considered necessary to be able to indicate progress:

- Build in monitoring and evaluation measures of cost effectiveness for investments in each program under each of the three pillars – this implies the implementation of a more appropriate accounting of costs and measurement of outcomes (note outcomes not outputs)
- Develop an evaluation framework with appropriate data collection for each program funded under the NDS and monitor and report both during and at conclusion of the completion of that program
- Provide a more responsive, up-to-date and transparent reporting of drug-related mortality. The current data collection of drug-related mortality, which is managed by Melbourne University, is only available to a select few, it is many years in arrears and there is no public annual reporting. In short it has only limited value.
- Provide a drug monitoring and early warning system in collaboration with users, police, health and other related service providers. The aim here is to report on the availability and purity of illicit drugs. This could save users' lives and could enable service providers to prepare for adverse consequences from, say, overdoses. Findings could be made available using technology eg mobile phone, twitter etc.
- Provide a measure of drug consumption to complement data that relates to numbers of consumers.