



NEW ZEALAND
Permanent Mission
TE AKA AORERE

The New Zealand Permanent Mission presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to its note of 16 April 2015 regarding the study on the impact of the world drug problem on the enjoyment of human rights, as requested by paragraph 1 of resolution A/HRC/28/L.22 on the contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem. An inter-agency submission from the New Zealand government is attached.

The New Zealand Permanent Mission takes this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration

New Zealand Permanent Mission to the United Nations Office

GENEVA

14 May 2015

Human Rights Council resolution A/HRC/28/L.22 on the contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem

The impact of the world drug problem on the enjoyment of human rights, and recommendations on respect for and the protection and promotion of human rights in the context of the world drug problem, with particular consideration for the needs of persons affected and persons in vulnerable situations.

New Zealand submission for input into the OHCHR survey

Definition and approach

For the purpose of this survey we have defined 'drugs' to cover substances classified under the Medicines Act 1981 or Misuse of Drugs Act 1975 (i.e. Convention drugs) not used within the controls set out in legislation or for their intended purpose, and substances captured by the Psychoactive Substances Act 2013.

Overview of drug harm in New Zealand

Approximately half of New Zealanders have used an illicit drug or diverted pharmaceutical at least once in their lives, with the most frequently used drug being cannabis. The most recent New Zealand Health Survey data indicates that 8 percent of New Zealand adults use cannabis at least once a month, 2 percent use ecstasy-type substances at least once a year, and 1 percent use amphetamines at least once a year.

Not all drug use leads to health harm: four out of five New Zealand adults who had used an illicit drug at least once a year reported no harmful effects. For those who do experience harmful effects, these occur along a continuum from mild problematic use or addictive behaviour through to severe dependence.

Approximately 12 percent of New Zealand's population is thought to experience a substance use disorder at some stage in their lives, although for the majority of people the substance will be alcohol. Vulnerability to substance use disorders is strongly influenced by social determinants, with significantly higher rates of drug use and dependence in socially disadvantaged populations.

While small in numbers, people with the greatest risk of health harm are those who use opioids or inject drugs. For some time, New Zealand has had a managed system of Opioid Substitution Treatment, whereby services can prescribe and administer opioids such as methadone in a controlled situation. This is a very safe system that allows people with opioid issues to live relatively normal lives. However, rates of accidental poisonings (including overdose) are higher for opioids than for any other illicit drug in New Zealand, with approximately 40 deaths each year.

Sharing needles and other drug utensils remains the primary route for hepatitis C virus transmission in New Zealand: 83 percent of people with hepatitis C virus infection report a history of intravenous drug use. New Zealand is fortunate in that the early introduction of the needle exchange programme has led to one of the lowest HIV rate amongst its intravenous drug users in the world.

Illicit drug use can also impact on others. For example, around a third of drug dealing houses and a slightly lower proportion of methamphetamine laboratories detected by Police have children living in them. There is also an association with illicit drug use and crime. Research suggests that approximately one in five detainees had been using a drug other than alcohol at the time of arrest.

Policy framework

New Zealand has a National Drug Policy, which sets the overarching framework for New Zealand's response to alcohol, tobacco and other drug issues. The Policy is a multi-agency document led by the Ministry of Health, recognising that minimising harm from drugs requires effort from many different sectors.

The current Policy is being refreshed, but its three core strategies to achieve harm minimisation are being carried over. These strategies are:

- supply control initiatives that stop illegal drugs from getting into the country, being manufactured, or being traded, and regulate the sale and supply of legal drugs
- demand reduction initiatives that encourage people not to misuse substances and strengthen community responses
- problem limitation initiatives that help people that are using substances either to stop or reduce consumption or reduce harm from consumption.

All three strategies are needed to minimise harm and promote and protect health and wellbeing, and while for the most part these strategies are complementary they sometimes conflict, and a balance is required. A focus of the new Policy is to look at ways to make New Zealand's response to the world drug problem more compassionate and health-focussed, while also continuing to disrupt illicit supply chains and organised crime.

The Ministry of Health has additionally developed *Rising to the Challenge: The Mental Health and Addiction Service Development Plan 2012–2017* aimed at enhancing the delivery of mental health and addiction services to improve wellbeing and resilience, expand access and decrease waiting times.

Legislative framework and the criminal justice system

In accordance with obligations created by United Nations drug conventions, New Zealand's Misuse of Drugs Act 1975 prohibits the use of controlled drugs, with tightly controlled exemptions for medicinal and scientific purposes. Controlled drugs are classified as Class A, B or C drugs based on an assessment of risk of harm by an expert advisory committee. Classifications determine the penalties for offences. The maximum penalty for dealing in a Class A drug is imprisonment for life; a Class B drug imprisonment for 14 years; and a Class C drug imprisonment for eight years. The maximum penalty for possession or personal use of a Class A drug is six months imprisonment or a fine of \$1000 or both, and a Class B or C drug three months imprisonment or a fine not exceeding \$500 or both.

In addition to loss of liberty for prison and community-based sentences and/or any fines, penalties for offences under the Misuse of Drugs Act can have life-long implications, for example in relation to employment prospects and restrictions on international travel. It is important that responses are proportionate to the offence and are responsive to underlying issues such as drug dependence. New Zealand has a number of tools available to enable a proportionate and health-focussed response for people in contact with the justice system because of drugs.

- New Zealand Police under certain circumstances can use alternatives to prosecutions such as warnings or family conferences (for youth) as part of operational discretion.
- Judicial discretion allows for mitigating and aggravating factors to be taken into account in sentencing, which helps ensure a proportionate response. In addition, judges can require offenders to take part in drug treatment programmes as a condition of their sentencing, if

satisfied that this will reduce the chance of the offender re-offending through their rehabilitation and reintegration.

- An Alcohol and Other Drug Treatment Court pilot is underway to provide selected defendants, who are facing a term of imprisonment of up to three years, with an opportunity to participate in an alcohol and other drug treatment programme before sentencing.

Additionally, New Zealand has put in place dedicated legislation to address the widespread availability and constantly changing composition of new psychoactive substances. This legislation, the Psychoactive Substances Act was passed in 2013, and subsequently amended in 2014 to remove all products that had been granted interim approval, and also to ban the use of animal testing data for any manufacturer seeking approval to sell products in the future. The Act establishes a testing and regulatory regime where new psychoactive substances can be approved for sale to adults aged 18 and over following evidence establishing the product as low risk. This is consistent with New Zealand's approach to other products such as medicines, food additives and hazardous substances. No applications for approval have yet been received for new psychoactive substances. The maximum penalty for possession of a commercial amount of unapproved product with intent to supply is two years imprisonment (individual) or a fine of \$50,000 (body corporate). Personal possession of an unapproved product will incur an infringement fee of up to \$500.

Drug treatment and harm reduction following contact with the criminal justice system

The New Zealand Corrections Department provides a range of alcohol and drug programmes in prisons including:

- screening and brief interventions
- brief support programmes
- intermediate support programme
- 8 week intensive treatment programme
- drug treatment units
- Methodone maintenance treatment

In addition, all offence focused programmes have an alcohol and drug component.

Corrections also has a range of reintegration services to facilitate the transition from prison back into the community, including staff trained to provide alcohol and other drug brief interventions and relapse prevention. Offenders who have been released from prison, or are serving sentences in the community, are referred to alcohol and drug programmes funded through the public health system.

Prevention activity

The New Zealand government along with the community and voluntary sector undertakes and funds a range of activities that build resilience in young people, intervene early with people showing signs of problematic substance use and strengthen communities. One example is the Youth Mental Health Project which comprises programmes and activities in schools, via health and community services, and online to improve the mental health and wellbeing of young people.

New Zealand Police's operating strategy also takes a prevention approach to minimising harm from organised crime and drugs, including:

- education and early intervention initiatives such as collaborating with education providers at English education schools to raise awareness among international students around their potential for exploitation by organised crime groups

- working with the community through neighbourhood policing teams
- monitoring drug use, purity and supply
- undertaking border control work with the New Zealand Customs Service and other agencies to prevent drugs and precursors from entering the New Zealand market
- collaborating with other agencies including arranging for Psychiatric Nurses to be present at main Police Stations to help deal with offenders arrested by Police who have mental health issues or are adversely effected by alcohol and other drugs.

Harm reduction and addiction treatment services

New Zealanders have access to a range of publicly funded residential and community based drug treatment and other services such as:

- trained counsellors through a national free and confidential alcohol drug help line
- a similar helpline service for beneficiaries that believe they would fail a pre-employment drug test
- a dedicated methamphetamine treatment pathway in addition to routine treatment services
- various web-based services such as DrugHelp and PotHelp to allow people to self-manage their issues or to supplement treatment options
- Health funded treatment programmes for repeat drink drivers
- alcohol brief interventions in primary care
- managed withdrawal and detoxification services
- mental health diagnosis including a focus on co-existing mental health and addiction issues
- opioid substitution (e.g. methadone) treatment.

Specialist services are also provided specifically for youth and Māori.

New Zealand has operated a needle and syringe exchange programme since the late 1980s, with a number of dedicated distributors throughout the country as well as mobile and pharmacy-based services.