



1/6 Gritten St
Weston ACT 2611
02 6202 7200
actcoss@actcoss.org.au
actcoss.org.au

Standing Committee on Justice and Community Safety
ACT Legislative Assembly
GPO Box 1020, Canberra, ACT 2601
LACommitteeJCS@parliament.act.gov.au

19 January 2023

Dear Committee

Corrections and Sentencing Legislation Amendment Bill 2022

As the peak body representing the needs of the community services sector and marginalised communities in the ACT, the ACT Council of Social Service (ACTCOSS) welcomes the opportunity to participate in the consultation process for the Inquiry into the Corrections and Sentencing Legislation Amendment Bill 2022. Our feedback on this Bill relates to the proposed changes to facilitate the upcoming smoking ban at the Alexander Maconochie Centre.

Smoking Ban

ACTCOSS is supportive of moves to reduce the rate of smoking at the Alexander Maconochie Centre to protect the health of detainees and staff, however we are seriously concerned about how detainees will be supported through this significant change to their daily lives. In particular, we urge the ACT Government to ensure that therapeutic support to quit smoking is culturally safe and community-led where appropriate, as well as accessible and ongoing.

Given their expertise in the sector, we are supportive of ATODA's position on the provision of adequate therapeutic support, namely that it should include multiple types of nicotine replacement therapy, specialist counselling services and ongoing support to cease smoking upon exit from prison. As the prison is the detainees' home, we encourage the Government to regard the ban as akin to a ban in a private residence, in that the human rights of both smoking and non-smoking detainees must be kept in focus at policy and implementation levels. The ban intends to improve health outcomes for all detainees and staff; therefore, implementation must include careful consideration of how multiple and ongoing supports will be put in place to reduce potential negative outcomes that may impact upon the health and human rights of all detainees. As detainees are consistently entering and exiting the prison, supports must be evenly accessible across all areas of the prison, including in planning for release.

As one of the last Australian jurisdictions to put in place smoking bans in prisons, the ACT is well placed to learn from the experiences and outcomes of other jurisdictions. A report on the successes and unintended consequences of a smoking ban in [Northern Territory \(NT\) prisons](#) showed that detainees placed a high value on being provided with multiple forms of support beyond, and sometimes instead of, nicotine replacement therapy (NRT). These supports largely hinge on realising solutions to a major pre-existing issue in the AMC identified in the

2022 [Healthy Prison Review](#) (HPR), that of boredom stemming from a lack of meaningful and consistent work, activities and programs for detainees to occupy themselves, learn new skills and co-operate in their rehabilitation journey. A transition to a non-smoking prison requires that detainees have consistent and ongoing replacements for smoking as a habitual, reliable activity that may stave off boredom and provide pleasure, as well as support for withdrawals from physical dependence on nicotine. A lack of activity to replace smoking may lead to negative behavioural outcomes as well as increased risks of detainees seeking self-medication through misuse of NRT products, smuggling and trade of tobacco products and increased usage of other illegal drugs. These issues should be dealt with in a proactive manner through effective policy and ensuring that all detainees, including new and returning detainees, are given opportunities to engage in meaningful and appropriate activities from their first day entering the prison.

In addition, the rollout of NRT to detainees must be considerate of individual needs. Research and policy documents from other Australian jurisdictions indicate that NRT given to detainees is largely limited to nicotine patches. Equivalence of care to community members should be considered, as individuals will have different needs regarding the type, strength and amount of NRT they require to reduce the physical and emotional stress caused by withdrawal symptoms. Maximising choice and control for detainees who smoke in their process to quitting maintains the most respect for the rights of detainees who otherwise have little control over their conditions of daily life. ACTCOSS recommends that the transition to a smoke-free prison involve co-design and leadership from detainees around these sorts of decisions, as well as through program delivery, groups and direct peer support.

ACTCOSS has continuously called for Aboriginal and Torres Strait Islander led responses to the issue of smoking in the AMC. The [Deadly Connections](#) report accompanying the HPR highlights issues already impacting Aboriginal and Torres Strait Islander detainees that reinforce serious concerns regarding the ability of the AMC to enforce a smoking ban in a culturally safe and supportive manner. Aboriginal and Torres Strait Islander detainees reported ongoing problems with accessing Alcohol and Other Drug (AOD) support programs as well as more general issues with a lack of access to cultural supports and programs. ACTCOSS is therefore supportive of [Winnunga CEO Julie Tongs'](#) lack of support for the smoke-free transition due to the likelihood of an emergent 'black market' for tobacco products and associated impacts on the wellbeing of Aboriginal and/or Torres Strait Islander detainees. ACTCOSS strongly recommends that Winnunga be heavily involved in the delivery of services and supports to Aboriginal and Torres Strait Islander detainees and prioritise ongoing consultation to ensure that new detainees who smoke continue receiving culturally appropriate supports to quit when entering the prison.

It is also of concern that Aboriginal and Torres Strait Islander detainees are both more likely to smoke and more likely to be subject to disciplinary measures in AMC. This concern also extends to other detainees with mental ill-health and/or disability, as research shows that detainees living with conditions such as [Attention Deficit Hyperactivity Disorder](#) (ADHD) are also more likely to be dependent on nicotine and are likely to experience symptoms that may cause negative behavioural outcomes when non-smoking rules are enforced. ACTCOSS is concerned for the wellbeing of these detainees, as they may require intensive positive supports to avoid negative outcomes that may lead to unnecessary application of punitive measures. In order to further support detainees with disabilities, lower literacy or English as a second language, any written resources to support detainees to quit smoking should be provided in [Plain and/or Easy English](#) as well as in accessible audio-visual formats.



As the Bill specifies that the Director General will only declare the entire AMC facility as smoke-free if they are reasonably satisfied that appropriate therapeutic support is available, it is essential that the procedures governing these decisions are transparent. It is currently unclear what kind of data will indicate a satisfactory level of supports or how it will be collected.

We would be happy to discuss this submission further as necessary. Please contact myself, or policy officer Gabby Robertson on gabby.robertson@actcoss.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gemma Killen'.

Dr Gemma Killen
Interim Chief Executive Officer
ACT Council of Social Service
ceo@actcoss.org.au