



## Katy Gallagher MLA


CHIEF MINISTER

MINISTER FOR HEALTH

MINISTER FOR TERRITORY AND MUNICIPAL SERVICES

MEMBER FOR MULONGLO

Mr Robbie Swan  
Public Officer  
Australian Sex Party  
PO Box 181  
Deakin West ACT 2600

Dear Mr  Swan

Thank you for your letter of 2 July 2012 about the ACT Government's recent adoption of a range of synthetic cannabinoids as prohibited substances. You are concerned that synthetic cannabis has not been included in the offence notice scheme under the *Drugs of Dependence Act 1989* (DODA) and state that prohibition will not result in a decrease in the use of illicit drugs. You also state that synthetic cannabis appears to have a more therapeutic or analgesic effect than natural cannabis.

As you are aware, on 6 July 2011 the Commonwealth Government's Therapeutic Goods Association ('TGA') announced that it had classified a range of synthetic cannabinoids as poisons, and consequently listed these substances as prohibited substances under Commonwealth medicines law. The effect of the Commonwealth Government's listing was that these substances were automatically adopted as prohibited substances in the ACT's *Medicines, Poisons and Therapeutic Goods Act 2008* (MTPG Act).

The ACT Government relies on and supports the TGA's assessment of the harms of these substances, which was completed by experts at the TGA.

Commonwealth decisions on prohibiting a drug are made independently of the Australian Government, based on evidence and information available to the delegate of the Secretary to the Commonwealth Department of Health and Ageing. The delegate agreed that the dangers of use of these eight synthetic cannabinoids warranted limiting their use to strictly controlled medical and scientific research.

I am not currently considering the inclusion of synthetic cannabis as part of the simple cannabis offence notice scheme (SCON).

ACT LEGISLATIVE ASSEMBLY

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I note that earlier this year, the Health Directorate commissioned an external evaluation of ACT drug diversion programs. The ACT drug diversion system has two primary objectives:

1. to divert drug offenders away from the criminal justice system;
2. to divert drug and drug related offenders into:
  - (a) contact with the alcohol and other drug (AOD) treatment system;
  - (b) education;
  - (c) assessment and treatment.

The evaluation included consideration of improvements that can be made to the current system including, but not limited to, current access, program barriers to be overcome, referral system and program components.

I expect the evaluation report and the Government response to that report to be finalised towards the end of the year.

As you may be aware, with the exception of the SCON scheme, drug diversion programs in the ACT are not legislated. Instead, they are dealt with by way of practice directives, memoranda of understandings etc.

The AFP Practical Guide on Drug Diversions (ACT Policing) indicates that a drug diversion program should be considered:

- in all instances where the criteria for a drug diversion can be met;
- for people who are found to be in possession of prohibited drugs, drugs of dependence or involved in the natural cultivation of 1 or 2 cannabis plants, contrary to part 10 of DODA;
- for people who are found to be unlawfully in possession of pharmaceutical drugs and poisons and chemicals controlled under the MPTG Act; and
- for all young people having been apprehended for minor possession of drug offences under DODA where the drugs were for personal use only.

A drug diversion program will be considered for a person in circumstances where the following criteria are met:

- the person has been apprehended for minor drug possession offences, and the drugs were for personal use only under DODA;
- the person acknowledges ownership of the drug;
- the person admits to the offence;
- the person consents to take part in a drug diversion program after being informed of their responsibilities to attend one assessment and one treatment session to comply with the requirements of the program;
- the person not previously participated in the drug diversion program on more than two occasions;
- the offence was not committed in circumstances involving violence;
- a drug diversion is in the public interest and the interest of the person and their immediate family;
- the offence does not involve artificially grown (hydroponic) cannabis;
- the weight of the cannabis is no more than 25 grams or 2 plants;
- there are no more than two amphetamine type stimulant tablets (often purporting to and/or containing MDMA), or other controlled substances sold in tablet form as ecstasy; and
- for all other drug types, there is only a small amount for personal use (approximately 25% of the trafficable amount).

The ACT Government continues to look at the best available evidence on measures that will reduce harms to illicit drug users and to the community. I will consider the report commissioned by the Health Directorate evaluating the ACT's drug diversion programs to determine whether the ACT Government should propose reforms to the current system.

I appreciate that this is an issue of concern for many and I thank you for raising your concerns with me.

Yours sincerely

A handwritten signature in black ink that reads "Katy Gallagher". The signature is written in a cursive, flowing style.

Katy Gallagher MLA  
Minister for Health

**13 SEP 2012**