

17 April 2025

Qld Law Reform Commission
Level 30
400 George Street
Brisbane Qld 4000

qlrc-criminaldefence@justice.qld.gov.au

To Whom it May Concern

Thank you for the opportunity to provide feedback on the on the Queensland Law Reform Commission *Review of Particular Criminal Defences 2025*. The Queensland Network of Alcohol and other Drugs Agencies (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have more than 55 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA is pleased to provide further information or discuss any aspect of this submission. Please don't hesitate to contact me at [REDACTED] or by calling [REDACTED].

Yours sincerely



Rebecca Lang

CEO



Submission to the *Review of Particular Criminal Defences* 2025

March 2025

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its content is informed by consultation with QNADA member organisations providing alcohol and other drug treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

QNADA's member services work at the intersection of multiple different systems and provide support to people and their families who are in contact with, or are at risk of having contact with, the justice and legal system. Many of QNADA's members currently support, and will continue to support, victims who have experienced or are experiencing domestic, family and sexual violence. The alcohol and other drug sector have been identified as a key partner in reducing the impacts of DFV, as alcohol and other drug (AOD) use and DFV frequently co-occur. A high proportion of people who use AOD services are likely to have experienced or used DFV, suggesting that AOD workers have an important role to play in detecting DFV and intervening sensitively and appropriately.

This submission directs the Commission's attention to the role alcohol and other drug (AOD) use and intoxication and focusses on:

- The role of AOD use, and harms, within family and domestic violence contexts
- Issues to consider when implementing proposal 2 and 3
- The significant institutional stigma and discrimination experienced by people who use drugs

We welcome the Commission's review of various aspects of criminal law and are supportive of proactive, evidence-based reforms to criminal law which strengthen supports for victims of violent crimes, particularly those which occur within the context of coercive control and domestic and family violence.

The role of AOD use, and harms, within family and domestic violence contexts

We urge the Commission, in performing their review, consider the role and impact of AOD use and harms in the context of coercive control and domestic and family violence. The vast majority of people who use substances do not experience problematic use and never come into contact with services around their use. However, for those that do present because of domestic, family or sexual violence there are a number of areas where improved understanding could be beneficial.

It is first important to note that there is no direct causal relationship between alcohol and other drug (AOD) use and violence perpetration. This relationship is complex, and while most people in contact with the criminal justice system may use AOD in some form, contact is not always related to their substance use. With respect to offences charged, contact may be for AOD related offences (such as drug possession or supply), or other offences where AOD use is a presenting or underlying issue. This pattern was similarly represented in the broad scope of cases outlined in QSAC's Analysis of sentencing and parole outcomes (2021), which included a discussion on sentencing decisions for drug offences where a SVO declaration was made, as well as others in which drug use was discussed by the sentencing judge or appeals court as a contributing factor to the offending.

For example, some perpetrators may use their partner's substance use as part of a pattern of controlling behaviour, especially where illicit drug use is present. This may include a perpetrator seeking to control their victims' access to substances and/or threatening to disclose their use to service providers (such as police or child safety services). These latter behaviours reduce the likelihood

of their victim reporting abuse and where they do seek support, acts to diminish their credibility with services if the perpetrator does follow through with their threats.

More broadly, stigma and discrimination also impact women and girls who use substances and are engaged with the criminal justice system. In particular, for victim/survivors it may result in a reluctance to report offences because of previous negative experiences with the criminal justice system and/or a fear of harmful consequences (particularly for those who use illicit drugs). Where victim/survivors who use substances do report, they are also more likely to encounter (real or perceived) issues with respect to the credibility of their statements which may impede the investigation or successful prosecution of offences.

As outlined in more detail in our [Stigma and Discrimination Position Paper](#), illicit drug dependence is one of the most stigmatised health concerns in the world and experiences of stigma and discrimination are a common occurrence in the lives of people who use drugs, including in the criminal justice system¹. A victim's substance use is often used to routinely discredit them where they make a report by playing into harmful stereotypes. This is only further exacerbated by a lack of understanding about substance use among legal practitioners and judicial officers.

Issues to consider when implementing proposal 2 and 3

Overall, we are supportive of proposals 2 and 3, however we wish to direct the reviews attention to certain potential issues for people who use drugs. We are concerned that proposals 2 and 3 may inadvertently hinder the ability of victims to establish self-defence claims, particularly in situations where substance use coercion is a component of the abuse. Substance use coercion involves perpetrators manipulating or controlling their victims' use of substances as a tactic of abuse, thereby increasing the victim's vulnerability and dependence².

In such scenarios, the perpetrator's control over the victim's substance use is intricately linked to the circumstances necessitating self-defence. For example, a perpetrator may coerce the victim into substance use to impair their judgment or credibility, thereby undermining their ability to seek help or defend themselves effectively. This dynamic not only exacerbates the victim's isolation but also complicates their legal standing when asserting self-defence.

We also direct the commission's attention to the possibility of a victim who, while intoxicated, uses reactive violence towards their abuser. Are there alternative defences available to these individuals? If this concern could be answered by the introduction of a trauma-based partial defence – we would support such a defence.

Stigma and discrimination experienced by people who use drugs

While we agree that intoxication should not excuse criminal behaviour, we wish to note the significant role stigma and discrimination towards people who use drugs may play within legal settings. While we support proposals 2 and 3, we stress that, in implementation, serious consideration should be given to the significant role of institutional stigma and discrimination towards drug users in current legal and criminal justice settings.

¹ Kari Lancaster, Kate Seear, and Alison Ritter, "Reducing Stigma and Discrimination for People Experiencing Problematic Alcohol and Other Drug Use," (Queensland Mental Health Commission, 2017)

² KODY Policy Stakeholder Group, 2023. "Policy Briefing Paper: Substance Use Coercion/Exploitation" <https://vawc.com.au/wp-content/uploads/2024/08/2024-02-Policy-Briefing-Paper-Substance-Use-Coercion.pdf>

A recent Drug Policy Modelling Program [report](#) highlighted the impact of stigma and discrimination on people experiencing problematic alcohol and other drug use and found that experiences of stigma were common across health, justice, courts, welfare and child safety services, workplaces, family and friends and in the broader community³.

³ Lancaster, Kari., Seear, Kate., and Ritter, Alison. 2018. Reducing stigma and discrimination for people experiencing problematic alcohol and other drug use: A report for the Queensland Mental Health Commission, Monograph 26.