



Australian Government

Commonwealth Government response to the
House of Representatives Standing Committee on Indigenous
Affairs report:

Alcohol, hurting people and harming communities

Inquiry into the harmful use of alcohol in Aboriginal and
Torres Strait Islander communities

DECEMBER 2015

Introduction

The Commonwealth Government (the Government) welcomes the work the House of Representatives Standing Committee on Indigenous Affairs (the Committee) undertook to investigate the harmful consumption of alcohol in Indigenous communities and thanks all those who contributed to the Committee's Inquiry.

The Committee's report *Alcohol, hurting people and harming communities* (the report) was tabled in Parliament on 25 June 2015 and makes 23 recommendations to address the harmful use of alcohol in Indigenous communities. The Government's response to the report's recommendations is set out below.

Recommendations and Responses

Recommendation 1

That the Commonwealth Government, states and territories, at the late 2015 Council of Australian Governments (COAG) meeting, place harmful impacts of alcohol on the agenda for coordinated action. This should:

- formally recognise the social and economic determinants of harmful uses of alcohol namely poverty, mental health, unemployment, an ongoing sense of grief and loss, alienation, boredom, cultural acceptance of drunkenness, ease of access and cost of alcohol, peer pressure 'to drink' and epigenetics in some Aboriginal and Torres Strait Islander communities and for some individuals;
- ensure that within each specific target of Closing the Gap in Indigenous Disadvantage, the impact of alcohol is recognised in all strategies and targets including addressing the social and economic determinants of high risk drinking, and
- develop a framework, methodology and resource allocation for the collection and publication of a national standardised wholesale alcohol sales dataset. The framework and relevant agreements should be in place by December 2015 with comprehensive data available no later than February 2017.

Response: Noted

Indigenous Affairs is already a standing item at COAG and where appropriate, Indigenous alcohol and other drug matters are considered as part of that item. For example, at the COAG meeting on 17 April 2015, the Commonwealth, state and territory governments agreed to work bilaterally to address Indigenous disadvantage, including by improving community safety through action on alcohol and substance misuse.

The social and economic determinants of harmful alcohol use are well recognised and are currently addressed in the biennial *Aboriginal and Torres Strait Islander Health Performance Framework* reports. These reports, under the auspices of the Australian Health Ministers' Advisory Council, recognise and analyse where possible the social determinants of harmful alcohol use for the purposes of informing programme and policy development. Relationships between excessive alcohol consumption and health, education and employment outcomes are also analysed.

Reporting against the Closing the Gap targets is undertaken annually as specified in the *National Indigenous Reform Agreement* (NIRA). The NIRA includes an indicator on levels of risky alcohol consumption. Data on alcohol are updated as new data are published. The

Productivity Commission is completing an independent report on the Closing the Gap targets, which is due by the end of 2015. The alcohol data for these reports are from Australian Bureau of Statistics (ABS) survey collections.

At the national and jurisdictional level, wholesale alcohol sales data give little insight into the impact of alcohol on Indigenous Australians as there is no way of determining the Indigenous status of those purchasing or consuming the alcohol.

Recommendation 2

That all strategies developed or funded by the Commonwealth or other governments are developed in partnership with the relevant Aboriginal and Torres Strait Islander peoples and/or their organisations.

Response: Agreed

The Government engages with Indigenous Australians in the development and implementation of strategies, policies and programmes.

The reforms introduced by the Government through the Indigenous Advancement Strategy (IAS) have established a flexible programme structure that supports a new way of engaging, allowing for joint development of solutions between the Government and Indigenous Australians. The IAS is administered by the Department of the Prime Minister and Cabinet (PM&C) which has established a Regional Network that comprises 12 regions across Australia reflecting similarities in culture, language, mobility and economy. Under this model and the IAS, senior decision makers (Regional Managers) have been positioned closer to communities and are responsible for working with communities and leading engagement with stakeholders to design, drive and deliver holistic, tailored and practical local solutions in Indigenous communities.

Through the IAS, the Government has significantly increased the role of Indigenous organisations in the delivery of services for Indigenous people and communities. On 27 May 2015, the Minister for Indigenous Affairs, Senator the Hon Nigel Scullion, announced over \$1 billion of the \$4.9 billion available over four years for grant funding would be offered to organisations as a result of the 2014 IAS open grant funding round. Of this, 46 per cent of organisations recommended for funding were Indigenous organisations and they received 55 per cent of the total funding. This represents a significant increase from the pre-grant round arrangements where only 30 per cent of organisations were Indigenous.

The Government has also established the Prime Minister's Indigenous Advisory Council (the Council). The Council provides advice to the Government on Indigenous Affairs, with a focus on practical changes to improve the lives of Indigenous communities. The Council engages with Indigenous communities, including existing Indigenous advocacy bodies, to ensure that the Government has access to a diversity of views. It also engages with other individuals and organisations where relevant.

The Commonwealth lead agency on Indigenous Affairs, PM&C, values engaging local Indigenous people in a participatory approach when conducting social research. Providers on the Department's Participatory Planning, Research and Evaluation Panel have been used to engage local Indigenous researchers in a number of large and small sized survey projects over the past few years. Involving local Indigenous people in the design and conduct of surveys ensures that survey findings are more robust. PM&C is currently in the process of

establishing the Collaborative Evaluation, Research and Planning Panel which will replace the existing panel later this year.

A national stakeholder consultation process was undertaken in early 2015 to inform the development of the next National Drug Strategy (NDS). The *National Drug Strategy 2010-2015*, managed by the Department of Health (DoH), provides the framework for an integrated and coordinated approach across all levels of government. It aims to reduce the prevalence of drug-related harm and drug use in Australia. Further consultation undertaken in late 2015 is guiding finalisation of the next NDS. The revised version will provide a framework to guide actions by governments, communities and service providers to minimise drug and alcohol related harms.

In addition, the whole of government *National Alcohol Strategy* (NAS) for 2016-21 is also being developed. As a sub-strategy of the NDS, the NAS will provide a framework to guide the work of governments, communities and service providers to reduce alcohol related harms. The NAS will build on existing progress, infrastructure and frameworks in place at local, state and national levels. It will be informed by the evidence of what works to reduce alcohol-related harm, and by an extensive stakeholder consultation process. The next NAS will be developed in the last quarter of 2015 to ensure alignment and consistency with the next NDS.

One of the seven sub-strategies under the NDS is the *National Aboriginal and Torres Strait Islander Peoples Drug Strategy 2014-2019* (NATSIPDS). The NATSIPDS is informed by extensive community and stakeholder consultations. It provides a guide for governments, communities, service providers and individuals to identify key issues and priority areas for action relating to the harmful use of alcohol and other drugs amongst Indigenous Australians.

Recommendation 3

That the Commonwealth develops a public awareness campaign, highlighting the risks of alcohol consumption, focussing on:

- where to find help to reduce harmful drinking
- where to find help to reduce alcohol related violence, and
- providing information on other diseases associated with risky drinking.

The campaign should have sections targeted for populations in the criminal justice system and the education system.

Response: Noted

The NDS outlines a range of actions aimed at reducing the prevalence of drug-related harm and drug use in Australia and these include public awareness campaigns that address the risks of alcohol, tobacco and other drug use. It also highlights the risks of specific drug use practices and promotes healthy lifestyles and safer drinking cultures, including targeted approaches and local complementary initiatives for different population groups. Development of the next NDS is underway (see response to Recommendation 2).

The NDS is a product of collaboration between Commonwealth, state and territory governments, and extensive community and sector consultations. The NDS strives for a balanced, evidence based approach to tackling drug use in the community that incorporates law enforcement, prevention, early intervention and health care strategies.

In addition, the Government provides funding to support drug and alcohol treatment services across Australia, including the delivery of social marketing campaigns (see response to Recommendation 13).

State and territory governments also fund alcohol related public awareness campaigns, the content of which is a matter for those governments.

Recommendation 4

That the committee recommends:

- the introduction of a national minimum floor price on alcohol, and
- prompt consideration be given to the recommendations of the Henry Tax Review on volumetric tax.

Response: Noted

The Commonwealth is committed to a tax reform process and wants to promote a community-wide conversation on how we can improve our tax system. The Government is examining the whole of Australia's tax system through the *Tax White Paper* process.

Recommendation 5

That the states and territories conduct detailed analysis of any demand increase for liquor licences particularly in areas of high risk drinking, with a view to moving towards a risk-based licencing system similar to that of New South Wales.

Response: Noted

This is a matter for state and territory governments.

Recommendation 6

That the Commonwealth takes steps to ensure a nationally consistent and coordinated approach to alcohol advertising, including:

- Banning alcohol advertising during times and in forms of the media which may influence children.
- Banning alcohol sponsorship of sporting teams and sporting events, including but not limited to those in which children participate or may be involved, and
- That the Australian Communication and Media Authority change the Commercial Television Code of Practice to ensure that alcohol is not able to be advertised before 8.30pm and that no exemptions are given for alcohol promotion during sport broadcasting.

Response: Noted

The Government considers it is important to ensure that alcohol is advertised in a responsible manner.

Voluntary codes of practice set the guidelines for the content of alcohol advertisements. The *Alcohol Beverages Advertising (and Packaging) Code* (ABAC) states that alcohol advertisements must present a balanced and responsible approach to drinking alcohol and not have a strong or evident appeal to children or adolescents. The ABAC also requires that advertisements for alcohol do not depict the consumption of alcohol with personal, business, social, sporting, sexual or other success. In addition, the Australian Association of National

Advertiser's Code of Ethics requires that advertising or marketing communications do not depict material contrary to prevailing community standards on health or safety.

The rules for when alcohol advertising on commercial television can be shown are set out in the *Commercial Television Code of Practice* (the Code). A new, revised version of the Code was released on 10 November 2015, and is effective from 1 December 2015. The Code was developed under a co-regulatory framework established by the *Broadcasting Services Act 1992* (BSA92) and administered by the Australian Communication and Media Authority (ACMA). It was developed in consultation with, and then registered by, the ACMA. Before registering the Code, the ACMA was required under the BSA92 to satisfy itself that the Code provided appropriate community safeguards and was endorsed by a majority of broadcasters to whom the Code would apply. It was also required to satisfy itself that there had been adequate community consultation on the proposed Code.

The Code only permits alcohol advertisements to be broadcast during M (mature) or above classification periods or as an accompaniment to the broadcast of a sports program on weekends (beginning 6:00 pm on Fridays) or public holidays. Under the Code, the M classification period is between 7:30 pm in the evening and 6:00 am of the following morning for all days, and between 12:00 pm and 3:00 pm on schooldays. However, the new Code provides that advertisements for alcohol may not be broadcast between 7:30 pm and 8:30 pm or between 5:00 am and 6:00 am unless it is during a sports program broadcast between 6:00 pm on Friday evening and Midnight on the following Sunday.

In addition to the rules set out in the Code, regulatory obligations relating to alcohol advertising on commercial free-to-air television which may influence children are set out in the *Children's Television Standard 2009*, determined by ACMA under the BSA92. This Standard includes the prohibition of all advertising during 'P' (preschool programming) periods and alcohol advertising and alcohol sponsorship announcements during 'C' (children's programming) periods. For programming that is not classified as 'P' or 'C' but may otherwise be watched by children, such as programs classified 'G', the rules set out in the Code apply.

Sponsorship of sports teams is generally not a matter for the Commonwealth Government and any regulations in this area would be made by the relevant state or territory government.

Recommendation 7

That governments at all levels:

- prioritise Aboriginal and Torres Strait Islander community driven strategies to reduce the harmful effects of alcohol
- ensure that communities are empowered to develop the strategies that will work for their communities, and
- cooperate and facilitate any work in Aboriginal and Torres Strait Islander communities which aims to change the liquor trading hours in their community.

Community Alcohol Management Plans and other community driven strategies need to be reviewed and processed within a maximum of a six month period, including where any alterations are recommended.

The current backlog of Community Alcohol Management Plans in the Department of Prime Minister and Cabinet need to be cleared by January 2016.

Response

- a) *Prioritising Aboriginal and Torres Strait Islander community driven strategies to reduce alcohol related harm, empowering communities to develop strategies that will work for their communities, and cooperating and facilitating work to change liquor trading hours in Aboriginal and Torres Strait Islander communities:* Noted

The reforms introduced by the Government through the IAS began on 1 July 2014 and replaced more than 150 disparate Indigenous programmes and activities with five flexible, broad-based programme streams under the IAS. The new flexible programme structure supports a new way of working with Indigenous people, communities, industries, business and service providers, allowing for joint development of solutions that will work over the long term, including through regional or local solutions. Funded organisations are expected to work closely with Indigenous communities in the design and delivery of projects.

PM&C has established a Regional Network that comprises 12 regions across Australia reflecting similarities in culture, language, mobility and economy. Under this model and the IAS, senior decision makers (Regional Managers) have been positioned closer to communities and are responsible for working with Indigenous communities and leading engagement with stakeholders to design, drive and deliver holistic, tailored and practical local solutions in Indigenous communities. PM&C Regional Managers also have responsibility for working to improve coordination and collaboration across government agencies to drive better outcomes for Indigenous Australians.

Liquor licensing is primarily the responsibility of state and territory governments.

- b) *Alcohol Management Plans:* Not Agreed

Contrary to Recommendation 7, there are no Alcohol Management Plans (AMPs) with PM&C for consideration.

Eight AMPs have been submitted for approval to the Minister for Indigenous Affairs, Senator the Hon Nigel Scullion, in accordance with the *Stronger Futures in the Northern Territory Act 2012*. To date, the Minister has approved one AMP, in May 2014, covering the Titjikala community. Between January and April 2015, the Minister declined to approve the remaining seven AMPs in part because they had the potential to increase alcohol related harm.

The process around Government handling of AMPs has been streamlined to reduce red tape and support local outcomes. Priority is being given to working with the Northern Territory (NT) Government and local communities to advance practical actions that reduce alcohol related harm. For those communities that choose to submit AMPs, they will be assessed by the Government in accordance with legislative requirements.

Recommendation 8

That the Northern Territory Government re-introduce the Banned Drinker's Register and set up a comprehensive data collection and evaluation program which monitors criminal justice, hospital and health data.

Response: Noted

This is a matter for the NT Government.

Recommendation 9

That the Commonwealth re-establish the National Indigenous Drug and Alcohol Committee.

Response: Not agreed

The National Indigenous Drug and Alcohol Committee (NIDAC) operated as a sub-committee of the former Australian National Council on Drugs (ANCD). In late 2014, the ANCD was reformed as the Australian National Advisory Council on Alcohol and Drugs (ANACAD). Part of these reforms included discontinuing all sub-committees of the ANCD, including NIDAC. This change ensures that substance misuse issues facing Indigenous Australians are given consideration by the full membership of the national advisory body rather than a sub-committee.

Indigenous specific issues in relation to alcohol and drugs are a priority for the Government and this is reflected in the work plan of the ANACAD. To support this, the Government has recently appointed a second Indigenous representative, Ms Donna Ah Chee, to support Associate Professor Ted Wilkes AO who is the Principal Advisor to the ANACAD on Indigenous alcohol and other drugs matters.

Recommendation 10

That the Commonwealth develop a protocol for the recording and sharing of effective, evidence-based practices in Aboriginal and Torres Strait Islander communities, in particular such practices that have relevance to Aboriginal and Torres Strait Islander communities. This protocol should be available by December 2016.

Response: Noted

The Government supports a range of websites to disseminate research and evaluation evidence on what works to overcome Indigenous disadvantage. These include the Australian Indigenous HealthInfoNet and the Australian Indigenous Alcohol and Other Drugs Knowledge Centre which receive funding through the DoH, the Australian Institute of Health and Welfare Indigenous Observatory, and the Indigenous Justice Clearinghouse, which receives funding through the Australian Institute of Criminology.

Protocols for sharing the results of research and data collections with communities are built into existing research and data collection processes. The Lowitja Institute, which receives Government funding, has undertaken significant work to reform the way Indigenous research is conducted in order to provide Indigenous communities with more involvement in the design, execution and evaluation of research and ownership and control of research findings.

The National Health and Medical Research Council (NHMRC) requires that applications for Indigenous health research funding demonstrate that community engagement is planned for various stages of the research including report writing and dissemination of results. The NHMRC ethics guidelines also advise that it is critical that respect for Indigenous communities underlies all aspects of research.

Further, the ABS employs Indigenous Engagement Managers and Officers to engage with urban and remote Indigenous communities through collaborative partnerships to increase participation in ABS collections; increase understanding and usage of the results; return information to communities; and improve the quality and relevance of statistics for communities.

Recommendation 11

That where the Commonwealth funds Aboriginal and Torres Strait Islander alcohol treatment and support programs, these are funded over a longer cycle for at least four years, particularly for well-established and successful programs.

Response: Not agreed

The Government's IAS funding agreements for alcohol and other drug providers are generally for three years. IAS contract durations were based on the nature and risks associated with individual projects and prior funding relationships. In accordance with the *Commonwealth Grants Rules and Guidelines*, PM&C considered the use of longer term grant agreements where appropriate. As a result, more than 80 per cent of organisations now have a funding agreement that is two years or longer.

The IAS is designed as a strategic investment in Indigenous Affairs that focusses on achieving measurable outcomes and improving the way Government does business, including simpler programme arrangements with less red tape. It is aimed at directing effort where it is most needed and tailoring funding to solve localised issues.

Recommendation 12

That the Commonwealth and key Aboriginal and Torres Strait Islander groups ensure access to training and career pathways for alcohol treatment and support workers. The employment conditions should be fair and equitable.

Response: Agreed in principle

Organisations funded for alcohol and drug treatment are responsible for staff development and complying with relevant laws governing employment conditions.

Through the IAS, the Government is funding eight providers and five Registered Training Organisations across Australia to deliver training development and support for social and emotional wellbeing and alcohol and other drugs workers. This support provides access to professional development and training towards relevant qualifications and skills, as well as cross-sector engagement with other workers.

As part of the IAS alcohol and other drug funding grants, providers are encouraged to maximise opportunities for Indigenous employment and for alcohol and other drug workers to gain Certificate IV qualifications.

In addition to the Indigenous specific funding for staff development and training, the Government provides substance misuse funding to support the activities of mainstream drug and alcohol treatment services. These include workforce training, front line service delivery, education and development of partnerships with the broader health sector. The Government's funding also targets dissemination of best practice policies and procedures that support the identification and management of clients experiencing comorbidity.

Recommendation 13

That the Department of the Prime Minister and Cabinet ensure that a full range of evidence-based, best practice treatments are available in order to meet the needs of all Aboriginal and Torres Strait Islander people, regardless of where they live. The treatment services should provide for families, follow-up services, and include detoxification and rehabilitation.

Response: Agreed in principle

The Government is committed to restricting access to harmful substances, minimising harm from drugs and alcohol and providing rehabilitation and treatment services. PM&C is responsible for some but not all funding for alcohol and other drug treatment services. Through the IAS, around \$69 million has so far been allocated in 2015-16 to support Indigenous alcohol and other drug treatment services, such as residential rehabilitation, counselling, referral, transitional aftercare and sobering up shelters across Australia.

DoH is managing funding of up to \$97 million in 2015-16 to support the provision of drug and alcohol treatment service delivery across Australia, including the delivery of social marketing campaigns. Funding of up to \$16.4 million is also available in 2015 to support the prevention of substance misuse and promote service improvement within the alcohol and other drug and related sectors through funding research and data collection activities, information campaigns and early intervention activities.

The Government will consider the *Final Report of the National Ice Taskforce* (when available) in the context of the implementation of the IAS.

State and territory governments are also significant providers of alcohol and other drug treatment services.

Recommendation 14

That Commonwealth, states and territories, through the COAG process implement justice reinvestment to reduce the number of Aboriginal and Torres Strait Islander people incarcerated as a result of harmful alcohol use.

Response: Noted

The Government's focus is on implementing practical on-the-ground solutions which have been shown to work in improving community safety and reducing disadvantage. State and territory governments need to take the lead in determining the feasibility of a justice reinvestment approach in the Australian context, given their responsibility for the criminal justice system.

Indigenous Affairs is already a standing item at COAG (see response to Recommendation 1).

Recommendation 15

That the Northern Territory Government prioritise the resourcing of voluntary alcohol treatment and rehabilitation programs in place of the Alcohol Mandatory Treatment program.

Response: Noted

This is a matter for the NT Government.

Recommendation 16

That the Commonwealth, as a matter of urgency, increase its efforts to ensure that consistent messages:

- about the risks of consuming any alcohol during pregnancy, and
- about the importance of supporting women to abstain from alcohol when planning pregnancy, when pregnant or breastfeeding

to reduce the risk of Fetal Alcohol Syndrome and Fetal Alcohol Spectrum Disorder are provided to the whole community.

Response: Noted

The NHMRC *Australian Guidelines to Reduce the Health Risks from Drinking Alcohol* promotes the advice that no alcohol is the safest option during pregnancy, when planning a pregnancy and while breastfeeding.

To complement and reinforce this message, *The Women Want To Know* project was launched in July 2014. This project specifically targets general practitioners and related health professionals who work with pregnant women, or those who may be planning a pregnancy, to ensure the clear and consistent message is given that no alcohol is the safest option. The project provides online and hard copy resources for health professionals and women and is shortly to undergo a second round of awareness raising and work with professional colleges to embed the project's message. Funding of \$414,000 has been provided to the Foundation for Alcohol Research and Education for the project which will end in June 2016.

Funding of \$9.2 million has also been allocated for the *National Fetal Alcohol Spectrum Disorders (FASD) Action Plan* which includes a range of projects to respond to the harmful impacts of FASD on children and families in Australia. This includes \$4 million for targeted measures to prevent and manage FASD in Indigenous communities.

Recommendation 17

That the Commonwealth, as a priority, ensure that the National FASD Diagnostic Tool and accompanying resource are released without any further delays.

Response: Agreed

The work to finalise the FASD Diagnostic Tool is being undertaken by the Telethon Kids Institute in Western Australia. The Institute is working to have the Tool ready for release with the appropriate user guidelines and referral advice by the end of 2015.

Recommendation 18

That states' and territories' teacher training, education and in-service systems provide:

- information and education on alcohol and drug exposed children's behaviour, and
- details of the impact on the child's mental health and their achievement at school.

Response: Noted

Education Ministers have agreed that all initial teacher education programmes will be accredited by the relevant state or territory teacher regulatory authority using national *Accreditation of initial teacher education programs in Australia: Standards and Procedures* (the Accreditation Standards). These Accreditation Standards require graduates of initial teacher education programmes being able to describe "strategies that support students' well-being and safety, working within school and/or system, curriculum and legislative requirements." Professional development for in-service teachers is a matter for state and territory education authorities.

Recommendation 19

That the Commonwealth:

- include FAS and FASD as recognised disabilities for Carer's allowance to allow fast-tracking of the application

- include FAS and FASD as a recognised disabilities in the Better Start for Children with a Disability initiative, and
- include FASD in the operational Guidelines for the National Disability Insurance Agency.

Response: Noted

a) *include FAS and FASD as recognised disabilities for Carer's allowance to allow fast-tracking of the application:*

This is not consistent with a proper understanding of the operation and purpose of the *List of Recognised Disabilities* used in the eligibility criteria for Carer Allowance. Accordingly, it would not be appropriate to include Fetal Alcohol Syndrome (FAS) and FASD on the *List of Recognised Disabilities* used in the assessment of eligibility for Carer Allowance (the List). The purpose of the List is to include only those disabilities that would always be severe enough to qualify the parent or carer for Carer Allowance (Child). FAS and FASD are conditions which manifest in a broad range of disabilities for individual carers which range from mild to very severe. Parents or carers of children diagnosed with FAS and FASD are still able to qualify for Carer Allowance (Child), but with qualification depending on an appropriate assessment of the severity of the condition.

b) *include FAS and FASD as a recognised disabilities in the Better Start for Children with a Disability initiative:*

As the National Disability Insurance Scheme (NDIS) is rolled out across Australia, children currently supported through Better Start for Children with Disability will transition to the NDIS. FAS is included in the *Operational Guidelines of the National Disability Insurance Agency* (NDIA Operational Guidelines) under Lists B (Permanent impairment/functional capacity variable – further assessment of functional capacity required) and C (Permanent impairment/Early intervention, under seven years – no further assessment required) of Appendix B (Access – disability requirements).

c) *include FASD in the operational Guidelines for the National Disability Insurance Agency:*

The NDIA is currently examining best practice with respect to FASD, including conducting an analysis of early intervention practices. Further consideration regarding whether to include FASD in the NDIA Operational Guidelines may occur when the FASD Diagnostic Tool and clinical guidelines have been finalised and once there is sufficient data about the needs of FASD participants and carers.

Recommendation 20

That the Commonwealth, in consultation with the FASD Technical Network, include in the appropriate table in the Social Security Tables for the Assessment of Work-related Impairment for Disability Support Pension Determination 2011:

- A person with Fetal Alcohol Spectrum Disorder who does not have an IQ below 80 should be assessed under this Table.

Response: Noted

The Government notes that people with FAS or FASD who do not have a low IQ can already be assessed under Table 7 - Brain Function in the *Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011*.

To make clearer that people with FAS or FASD who do not have a low IQ can be assessed using Table 7, the Government supports amending the *Guide to Social Security Law* and operational guidance to Department of Human Services (DHS) assessors. Changes will also be considered to the Introduction to Table 7 in the *Social Security (Tables for the Assessment of Work-related Impairment for Disability Support Pension) Determination 2011* to include FAS and FASD as examples.

Recommendation 21

That the Commonwealth, in consultation with the FASD Technical Network, and relevant organisations from the criminal justice system:

- develop a model definition for cognitive impairment, and
- conduct a review of Commonwealth law and policy to identify where eligibility criteria need to change to ensure that people with FAS and FASD and other cognitive impairments can be included.

Response: Noted

The interaction of people with cognitive disability with the criminal justice system has been the subject of ongoing review at the Commonwealth, state and territory level. Legislative powers in relation to the administration of criminal justice principally rest with state and territory governments. However, the Commonwealth Government will raise the issue of fitness to plead and the defence of mental impairment with states and territories.

Undertaking this work is outside the scope of the FASD Technical Network, which is responsible for advising the DoH on activities under the FASD Action Plan announced in June 2014.

Recommendation 22

That the Australian Institute of Health and Welfare review and update the methodology and instrument of the National Drug Household Survey to obtain reliable estimates on Aboriginal and Torres Strait Islander and non-Indigenous illicit drug and alcohol use. These changes should be implemented for the conduct of the 2017 survey.

Response: Not Agreed

The National Drug Strategy Household Survey (NDSHS) is used to inform policy, monitor trends and evaluate progress under the NDS. The NDSHS provides reliable estimates of illicit drug and alcohol use for the non-Indigenous and total Australian populations at the national and state and territory levels.

Changes to the NDSHS sample design would not be the most cost effective way to improve data on Indigenous illicit drug and alcohol use. The collection of valid and reliable data on the Indigenous population requires specialist research methods, different to those used in a general household survey. Nationally representative information on alcohol and illicit drug use by Indigenous Australians is already collected from representative samples of Indigenous Australians through the ABS National Aboriginal and Torres Strait Islander Health Survey (NATSIHS) and the National Aboriginal and Torres Strait Islander Social Survey (NATSISS). The latest data from these ABS surveys can be found at www.abs.gov.au.

Recommendation 23

That the Australian Bureau of Statistics conducts a review of the relevant sections of the National Aboriginal and Torres Strait Islander Social Survey and the National Aboriginal and Torres Strait Islander Health Survey to ensure international best practice is adopted in the instrument and conduct of surveys on alcohol consumption.

Response: Not agreed

The ABS Aboriginal and Torres Strait Islander survey programme provides the only nationally representative alcohol consumption data, using best practice collection methods and aligning to NHMRC guidelines, to provide accurate information by jurisdiction, as well as for both remote and non-remote areas of Australia.

The NATSIHS and NATSISS surveys ask a series of questions relating to alcohol consumption to facilitate an adequate response. These questions have been developed to ensure high quality data and extensive consultation is undertaken to ensure survey content is meeting stakeholder requirements. For instance, the questions do not ask about standard drinks, but rather ask about the amount consumed, in order to more accurately calculate the number of standard drinks. In addition, the ABS is currently undertaking an evaluation of its social statistics survey program to ensure current and emerging needs of stakeholders are best met.

Data produced from these surveys allow an assessment of consumption of alcohol against the NHMRC guidelines and are widely used in a range of government and non-government reports, such as the NIRA and the *Report on Government Services*.