T R A N S C R I P T

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the use of cannabis in Victoria

Melbourne—Wednesday, 21 April 2021

(via videoconference)

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WITNESSES

Associate Professor Christopher Wilkins, Leader, Drug Research Team, SHORE and Whariki Research Centre, and

Dr Marta Rychert, Senior Research Officer, Massey University; and

Ms Sarah Helm, Executive Director, and

Mr Stephen Blyth, Communications Manager, New Zealand Drug Foundation.

The CHAIR: Hello, everyone, and welcome back. I take great pleasure in declaring open again the Standing Committee on Legal and Social Issues public hearing on our Inquiry into the Use of Cannabis in Victoria. It has been a very good morning, and I am very much looking forward to this afternoon.

We are delighted to be joined today by our New Zealand brothers and sisters from the New Zealand Drug Foundation; we have Sarah Helm and Stephen Blyth. And from SHORE and Whariki Research Centre we have Associate Professor Chris Wilkins and Marta Rychert. Thank you again for taking the time to join us.

Assoc. Prof. WILKINS: Thank you.

The CHAIR: I am Fiona Patten, the Chair. Joining me today are Tien Kieu, the Deputy Chair; Kaushaliya Vaghela; Tim Quilty; David Limbrick; Georgie Crozier; and Sheena Watt. We make up part of the Legal and Social Issues Committee.

Just to remind you, all evidence taken at this hearing is protected by parliamentary privilege as provided by our *Constitution Act* but also the standing orders of the Legislative Council. Therefore the information that you provide to us today is protected by law. However, any comment repeated outside may not have the same protection. And here I would just like to note for you across the ditch that this protection only relates to any action taken against you within the confines of Victoria—you might not be protected in a similar way in New Zealand. Any deliberately false evidence or misleading of the committee could be considered a contempt of Parliament.

We are recording this; we are also broadcasting this live. You will receive a transcript of today's session, and I would just encourage you to have a look at it because ultimately it will be on our website and will form part of this committee's report.

Again, thank you for the time that you have given us today. I welcome Chris and Marta to make some initial comments and observations, and then we will go to Sarah from the New Zealand Drug Foundation. Thank you.

Visual presentation.

Assoc. Prof. WILKINS: Good afternoon and thank you for inviting us to make a presentation. As you might be aware, New Zealand has just recently gone through a cannabis referendum and the referendum debate. One of the reasons that we became involved in this issue is we started a study where we were looking really to inform the level of debate running up to that referendum around cannabis legalisation and trying to get people thinking about all the different criteria and trade-offs involved.

You might be aware that sometimes academics are not particularly useful when it comes to trying to advise policymakers and politicians about what to do about policy, because we are pretty narrowly focused on really basic research. So what we did is we used what we called a multicriteria decision-making analysis, which really is a fancy way of saying we got 50 national stakeholders—government, non-government and community—into one room and really tried to get them to nut out the different decision-making criteria and trade-offs associated with cannabis policy. Obviously we were most concerned with the legalisation debate, but we were really concerned that we would look at all the different options, starting with prohibition. With multicriteria decision-making analysis one of the things that makes it really useful for policymakers is it forces people to make trade-offs. So it is a series of these decisions like you see on the screen now, where people are forced to decide between different criteria. This is just an example of that. Essentially over a couple of hours we did that process. We went through 24 different ones of these and people were asked to vote on which one they thought was the preferred outcome.

Basically there was this quite involved process about going through all the criteria and the decision-making outcomes. This is the answer that came out through that quite complicated process, and this shows you the relative value that people put on the different criteria around cannabis policy change. The percentages are relative values. Essentially what is the takeaway from this? We had five criteria that would be used to assess cannabis policy change—health and social harm, reducing arrests, reducing the black market, expanding treatment, and tax and employment. Essentially what this outcome tells you here is that for those 50 national stakeholders by far the most important criteria was health and social harm. The relative values here tell you that the next most important one was reducing arrests related to cannabis. But one of the most important things it shows you here is that on tax and employment, a function of legalising cannabis, health and social harm was actually considered to be 20 times more important than earning tax and employment. It is similar with reducing the black market—again, health and social harm was considered four times more important than reducing the black market for cannabis. This just gives you kind of an overview of what people value in terms of how they see cannabis policy.

This is the final slide I want to show you. The reason we wanted to find out those preferences is because we were really looking at people's values. Often decision-makers and politicians talk about outcomes, but one of the really important things about cannabis policy change is deciding what objectives people actually value. Do they want to reduce health harm and social harm? Do they want to reduce arrests? Do they want to create a new industry? How people value those different objectives determines how they value the outcomes. But if we were going to look at outcomes, we wanted to make the point that this is not just a binary decision between legalising cannabis and having prohibition; there are actually a whole lot of different options in between those two outliers that you could consider. So this slide here compares prohibition with three other different outcomes. One is a government monopoly, one is strict regulation like you might have for tobacco and one is light regulation like we are most familiar with with alcohol. So if you think about the US reforms for cannabis, they are most like the alcohol-style commercial market we are pretty familiar with, but there are other options. We are also familiar with the tobacco market, where it is much more strictly regulated, and then there are other government monopolies.

All I wanted to briefly do here is just try and contrast those four options. It is not so much about the numbers, but it is understanding some of the permutations between those comparisons. The first one is tax revenue. So obviously if you stay with prohibition, you are not going to get any tax revenue. You can actually get fairly good tax revenue by having a government monopoly in strict markets like tobacco because the excise is going to be higher. I think with an alcohol-style market often the taxes that are promised never really eventuate because the industry is always working against taxation and the consumers do not want taxes either, so just keep that in mind.

Health harm: in New Zealand we estimate that health harm from cannabis is something like $1.3 billion. So how does that change when we look at these different options? Well, a government monopoly will be able to focus a little bit more on health because the government will control the potency and the type of cannabis sold. We estimated that under a government monopoly health harm would reduce to $1.2 billion. Strict regulation like tobacco would increase health harm to $1.4 billion. These increases are coming because we are acknowledging that if you do legalise cannabis, there is going to be some increase in use and there is going to be some increase in harm, but keep in mind we have got all those other criteria that we are thinking about. If we go to a lightly regulated market like alcohol, harm goes up to $1.6 billion. So this is an alcohol-style market where it is much more likely to have much more use and much less regulation.

The third criteria we talked about is reducing the black market. In New Zealand at the moment we estimate the black market from cannabis is about $500 million. So if we legalise cannabis, we are going to reduce the black market. But I think it is really important to keep in mind that even if we legalise cannabis, we are going to still have a residual black market just because essentially whatever the legal market offers, the black market will try and undercut that or offer something different. We estimated that under a government monopoly the black market will reduce to $300 million, under strict regulation it will reduce to $250 million, but under a light regulation it would reduce all the way to $150 million. So really it is a trade-off. If you have a very lightly regulated market, you have a lot less black market, as we illustrate there, but you also have a lot more harm.

The fourth criteria is arrests. Obviously one of the objectives of cannabis reform is to look at reducing cannabis arrests. So under the prohibition approach in New Zealand about 10 000 people are arrested. Under these legalisation options we can reduce the number of arrests by about half. But again it is important to keep in mind that even if we legalise cannabis, there are still going to be some arrests, because people will continue to break

the rules that we have in the legal market or they will continue to operate in the black market. We get the lowest level of arrests in the alcohol-style market, but again we are offsetting that against increased health harm and lower tax revenue.

Finally, treatment: one of the objectives of cannabis reform is to look at increasing the level of treatment for people who are cannabis dependent. At the moment under prohibition about 50 per cent of people that want treatment for cannabis dependency are getting it. If we go to other kinds of legalisation options, particularly a government monopoly and the strict market, we can try and increase the number of people who go into treatment by lowering the kind of stigma involved in that or increasing services, and they are most easy to do under government monopoly or the strict market. Under the light alcohol-style market the treatment demand is increased a little bit but not as much just because treatment is not so much the focus and there is not so much tax revenue.

Thank you for that. That was a very quick run through, but these are some of the basic numbers that we came up with through that exercise.

The CHAIR: Thank you very much. That is very interesting. I know the committee will have a number of questions in drilling down on that information. Sarah, would you like to make some opening remarks?

Ms HELM: Yes. Kia ora koutou katoa. My name is Sarah Helm. I am the Executive Director of the New Zealand Drug Foundation. I hail from Ngāi Tahu, our southern iwi, and I am also what we call here pakeha, an English, Scottish et cetera immigrant as well. I have a few comments partly about the draft legislation that was put forward to the referendum in New Zealand last year, partly about the referendum itself, and then I will also touch on a recent amendment to our *Misuse of Drugs Act* in New Zealand and what that has meant or not meant in another sense here in terms of convictions for low-level cannabis and other drug crimes.

So cannabis in New Zealand is our most widely used illicit drug. As many as 15 per cent of New Zealanders use it annually, with a much higher proportion among young people, and cannabis is of course a lower risk drug compared to some of the other substances. However, people do become dependent and/or experience some harms from it. We have a view that we need to do more than just ban a substance. We need to do a lot more in terms of support, advice, treatment and the like. So in just looking at your inquiry terms of reference—preventing young people and children from accessing and using cannabis, protecting public health and safety and implementing a health education campaign et cetera, which you will be very familiar with—they feel like they bear a very strong resemblance to the objectives of the draft Cannabis Legalisation and Control Bill that was put to a non-binding referendum in New Zealand late last year.

I should say actually the New Zealand Drug Foundation ran a yes campaign in Aotearoa New Zealand. We were the organisers of the referendum campaign here for a yes vote. You will know that the referendum very narrowly lost, with 50.7 per cent of voters opposing legalisation and 48.4 per cent in support. That is about a 70 000-vote difference, so in our context that is a very narrow margin. The Bill, we believe, was an excellent piece of legislation. It was written by our Ministry of Justice here, so written by our government, and it was all about public health, not only because we were shifting away from criminalising but also because of what the legislation would have meant for those vulnerable to harm of cannabis use: young people, people who use regularly or heavily and people with a particular risk factor. These things were addressed in many ways: potency limits, pricing, caps on daily sales, labelling, health warnings and education-focused information available at licensed stores.

The Bill itself sought to allow for the regulated sale of cannabis at licensed outlets, which would have been world-leading. There would be two types of licences: retail and consumption. Just starting with retail outlets, this would allow the sellers to sell only cannabis, cannabis products and cannabis accessories. Cannabis retailers would not be able to sell alcohol, tobacco or conventional food products. You would not have been able to consume the cannabis on site; you would have had to take it home, and I will touch on where consumption would have been allowed shortly. You would have, if you were an adult over 20, been allowed to purchase up to 14 grams of dried cannabis, enter a licensed premise where it is sold or consumed, consume cannabis on private property or at a licensed premise, grow up to two plants with a maximum of four per household, and share. There is consideration around giving to other people as opposed to just selling—so sharing up to 14 grams of dried cannabis with another person aged over 20.

The legislation would have prevented online sales, which has been allowed in other places—I believe Canada. It also would have prevented advertising, fancy packages, promotions. Even store signs were prohibited. Your consumption would have been limited to private places, so basically not allowed in public. It could have been consumed at home and in licensed premises. There are three types of premises envisaged: basically dedicated cannabis retailers, licensed premises for BYO consumption and a combined retail and consumption space with special licensing as well. Consumption licences would have been provided for a licensed premise, but you would not have been allowed to consume alcohol. Edibles in particular would have been restricted—so some baked goods; no gummy bears or that kind of thing—and the edibles would have been dealt with over a period of time. And all products would have been subject to approval. There was a provision in the Bill for a national public health drug education and treatment services strategy with the aim of reducing harm caused by cannabis. Income generated from a levy would have been used to fund harm reduction strategies. I want to cry, really, because it feels like great public health oriented legislation, right? Also under this proposal a phased approach would have been taken to prevent big alcohol and big tobacco by putting some steps in place to prevent the same kind of high commercialised model that we have seen in some of our other harmful substances. So that was the legislation itself.

The referendum itself: so one of the things about the referendum we have found since we held it is that we ran a survey, or the Helen Clark Foundation of New Zealand ran a survey, and of those who voted no, 39 per cent of those people who voted against legalisation would have supported decriminalisation. The referendum question itself, being so tight and so connected to a specific proposition, perhaps led to its failure, and being so specific it did not allow for people to express their support for some change. We think for those people who were in that 39 per cent group, where they voted no but do support some change, the proposals that were put forward sounded at least like a bridge too far for them. I do not believe, with a lot of what I just read out to you around the proposals, that everyone fully understood what was being proposed in the legislation itself. It was also very complicated, and it was a very tumultuous time of course around the middle of COVID. Nonetheless New Zealand has had it very lucky, but people were focused on other matters as well.

I think that the legalisation felt like a bridge too far for some for a number of reasons. The no campaign itself spread, I guess, the counterfactual, you could call it—some might call it misinformation. But one of the things that they were really speaking to that caught hold was the idea that we were through this legislation going to be selling cannabis products in the local dairy, as we call it here—or convenience stores in other countries—and specifically in the form of gummy bears like are sold in other countries with vitamins and various things. Of course, you heard from me around the draft legislation that that most definitely was not the case—very much trying to prevent any appealing products and have very restricted places around where it could be sold. The outtake for the public was that it would be appealing to children and young people, so I can see why that might cause people to vote no.

The other thing about the backdrop of having been through decades of a so-called war on drugs is that the rhetoric around being soft or hard on drugs has given us a false picture that hard equals less drug harm and use and that soft equals more. We know convictions actually, after decades of evidence, do nothing to deter use. We know that decriminalisation and legal changes, from Portugal to your own neighbours in the ACT, have not resulted in a massive uptake in substance use and particularly where a careful health model has been adopted. Changes to drug laws and policies that shift away from criminalisation are therefore perceived as encouraging or promoting increased use, when in actual fact we are trying to shift away from decades of ineffectual drug laws that have wrecked lives and caused death, and instead reduce harm.

Another problem with the referendum itself is actually the fact that the people who are most negatively impacted by our current framework around cannabis are minority groups—young people in particular. So over half of people who are convicted with minor cannabis convictions are under 30 and are Indigenous Māori people in Aotearoa as well. And so of course it was going to be a hard slog to win a campaign when, more importantly, the group who are most adversely affected by our legislation are a low number of the voting population. Most middle-aged and pakeha or white cannabis users are not generally picked up by the law, and so even some cannabis users voted no because for them the system currently works, essentially, or they believe it does. They would not necessarily want those other changes that maybe they thought the law was going to end up promoting to their children or young people. Whereas we know that, especially from the special votes that were cast later—and we have special Māori electorates in New Zealand—there was an overwhelming vote for ‘yes’ among Māori and young voters.

Now we are also left with a result that has impacted of course our government's willingness to implement better drug legislation, full stop. It is a funny process we have been through, because in a way half the country not only voted, they kind of decided that cannabis is an okay product and should not be illegal, and the other half are mixed in their views. So the law itself has almost become a nonsense, because when you do not have public support for a law it ceases to have as much relevance and enforceability.

But there were some good things about the referendum, and public engagement and discussion was one of them. There has emerged a general public mood, particularly among our media, for drug reform in New Zealand. This has increased even further because over the summer in New Zealand we legalised drug checking—I think you might call it 'pill checking' in Australia. We have had a particularly bad summer where substances have been doing the rounds that were not what people thought they were, and that legalisation has prevented harms and it has consolidated the public's sort of appetite for or at least experience of a harm reduction and health approach to drug use.

Another thing that happened that I will just touch on very briefly was an amendment to the *Misuse of Drugs Act* in New Zealand in 2019, which provided for police discretion to not prosecute people for possession or consumption for all drugs actually, not just cannabis. Since that time we have been looking at the stats, and there has been a very small improvement—an improvement depending on your world view—or a reduction in the number of convictions for cannabis offences. But for the other offences it has remained relatively the same, and with methamphetamine perhaps it has even gone up a little. In 2019–20, 3067 people in total were convicted of low-level drug offences, and for over 1000 of them that was their most serious offence. Most of them were cannabis offences. I think that is all I have for you. Thank you very much for listening. Kia ora.

The CHAIR: Thank you, Sarah. That was very interesting. And personally, congratulations on drug checking. I think that is probably saving lives over there. I will open it up to the committee. Tien.

Dr KIEU: Thank you, Chair. Thank you, panel from New Zealand. We appreciate very much your contribution, as New Zealand is well advanced in the research after the referendum on cannabis in particular. I maybe disappointed myself because I was hoping to get to the symposium there, but I was late, so I did not see what happened. There were so many details and materials presented, but I would just like to ask a quick question to allow time for the others. You have presented a spectrum of scenarios from prohibition to government monopoly and from strict to light regulation and also to some other discretionary policing examples, and there are some facts and figures to go with that. I think that maybe you have assumed that those figures are derived from the current situation of education on the harmfulness of cannabis usage. Do you think there would be any reduction or any profit from increasing the education or reforming the education in the way that we have learned from the data or from all the materials on substance abuse that we have seen? Would that be of any help further to this spectrum that you have?

The CHAIR: Tien, just to clarify, was that probably more directed at Chris and Marta?

Dr KIEU: Yes, it is for the SHORE and Whariki Research Centre.

The CHAIR: I am certain Sarah might have some thoughts as well—

Dr KIEU: Yes.

The CHAIR: but maybe start with Chris and Marta.

Assoc. Prof. WILKINS: We did try. I guess the first point we should make here is the figures—essentially it is really too early to tell what the impact of cannabis legalisation is going to be. So if you look at the United States, Canada and Uruguay, the jurisdictions that have legalised cannabis, even now it is really too early to see the long-term consequences. So with that whole process it is going to take at least 10 years or more to see some of those things come through.

What we did are basically back-of-the-envelope estimates based on the data we have got in front of us. And sure, we tried to take into account that education could improve the situation—also the quality of cannabis could be improved as well, through manufacture standards and product standards—and also things like health warnings. But I guess we were kind of a little bit dubious about whether that would really improve some of the health risks related to cannabis very much. Although we accept that cannabis by and large has a very modest health impact for most people, for a small group of people it does cause some more serious health risks. We

were relatively dubious about whether that kind of thing could really have an impact. The reason why we were a little bit dubious is if you look at tobacco and alcohol, the history of that regulation is that education of young people around those substances really has not been that effective.

Dr RYCHERT: Yes, I would agree. I mean, yes, it is important to stress that with these reforms in the US the earliest one was 2013, so we are not even 10 years into the process. Also these reforms—especially those early ones, Colorado—were very commercial. What we are trying to achieve here in New Zealand, through the Bill that Sarah explained, is something different. It is very difficult to estimate what would be the outcome for New Zealand, so it is all broad estimates.

But in terms of education, as Chris said and I am sure Sarah will reiterate, of course education activities in addition to those policy changes is worthwhile, and the Bill included those provisions for education, but the evidence from alcohol and tobacco is, if education is an addition to a commercial market, it is actually not that effective. The evidence, the evaluation, of that suggests that if the cannabis law reform in this case will result in a highly commercial market, with commercial operators, they have their own ways of going against that with marketing and so on. That is not to say education is not worth trying; it is to say that it is important, but the impact of that education will be dependent on what policy change you are intending to do. So I think that context is very important.

The CHAIR: Sarah.

Ms HELM: Maybe I will allow for another question. I have got Stephen sending me some messages that he might want to speak to, though, and I wonder if he should just say some of that.

The CHAIR: Stephen, please.

Mr BLYTH: Well, one of the things that we have noted with Canada—and we were observing very closely—is that by bringing cannabis into the open it is no longer taboo. It does open the way to public education in a way that we have not been doing up until this point. I note that the Canadian government has invested very heavily in this—$100 million over six years. That far exceeds the amount of funding that goes into education at this point under our prohibition model. Interestingly, a lot of it is about obviously concerned with delaying the onset of young people's use. That is the primary concern. So who better to turn to to do some of that education than younger people? We are very interested to see some of the evaluations that are already coming through from the Students for Sensible Drug Policy. The Canadian branch have been awarded some of the funding—a reasonable chunk of it—to do very focused education. When it is in the shadows, in the dark, you have less opportunity to do education; bring it out, we can do it much, much better.

Ms HELM: We can also encourage people to seek help and have honest conversations with their loved ones about their use, which is also efficacious. I also worked in youth alcohol harm reduction and alcohol harm reduction messaging about a decade ago when New Zealand had a stronger alcohol harm reduction initiative in New Zealand, and quite similarly funded through a levy. We were, I would say, competing with a very unfettered market and a very expensive spend on the public education side of things. So it is not exactly comparing apples with apples. We are comparing apples with oranges when we are talking about the model that was being proposed in this legislation. Kia ora.

The CHAIR: Thank you. Kaushaliya.

Ms VAGHELA: Thanks, Chair, and thanks to all the panellists from New Zealand, and also thank you for the submissions. My question is for Chris Wilkins. The mention of the criteria for what people value in cannabis policy was very interesting, and also the four alternative pathways for cannabis policy were quite interesting, because they also showed the numbers. The point I am making is it made a lot of sense. But also in the submission, Chris, you mentioned that it may take about 10 years or so to fully understand the outcomes of cannabis being legalised. Is that because we still do not have enough research data or evidence from the other jurisdictions globally to know what the unintended consequences could be, or because maybe the models that you are talking about are not the models that they have used? And if that is, say, 10 years of waiting, then do we have to wait for 10 years before we go on the path of legalisation?

Assoc. Prof. WILKINS: Yes, that is a good question. There is a number of reasons why it could take 10 years or longer. I mean, the first one is that even when jurisdictions have enacted legalisation, it takes time to implement the changes and establish things like stores. So even in places like Colorado and Oregon it took a

while for them to establish the stores. Another factor is: even when you have legalised, it takes people time to adapt to the new situation. So with people that previously have not used cannabis, once it is legalised, they have to decide if they are going to start using. Also it takes a while for the health and social consequences to move through the system. So things like, say, if you were worried about cannabis dependency, that is obviously not going to happen on day one of legalising cannabis; it takes a while for people to adapt to start using cannabis. And in terms of a lot of health measures and health statistics, it also takes a while for those to accumulate in terms of things like mental illness, dependency, and even things like car crashes and things like that, to accumulate that data. So it is an accumulation of things. Also, finally, it takes a while, if you do legalise cannabis, for industry to adapt. So the industry is going to start out quite small scale, but over time it is going to develop and adapt and become bigger or smaller, and that is going to have an influence. So it is a period of time for that to develop and come through the system.

Ms VAGHELA: So are you saying that if we do not have enough information to find out in terms of dependency the long-term impact on mental illness, do you think it is still advisable, speaking jurisdiction wise, to go on this path—to still go ahead, and down the track after a few years we find out that these were the mental health issues or mental illnesses just because of longer use of cannabis?

Assoc. Prof. WILKINS: Well, we would say this is a good reason, definitely, not necessarily not to legalise, but it is definitely a good reason to be extremely cautious. So that is why we do not generally support the commercial markets that are being established in the United States. We would say, you know, if you are going to legalise, it seems to make sense to be very strict about the regulatory regime and strict about the retail just because you are worried about what might eventually come out at the end. The other thing I would say is: keep in mind that if somebody asked me, 'Should you legalise cannabis for health reasons?', I would overall be pretty cautious because a lot of the data is inconclusive. We do not know what the outcomes are. But the other thing I would say to them is there are at least, as I showed in our presentation, four other reasons why you might consider it. So criminal justice, reducing arrests—I mean, is the law fair or not? There is the economic—you know, you can earn tax and you can use that tax in the health system, you can employ people. And reducing the black market—so the black market is a burden on many neighbourhoods, and it empowers gangs and drug dealers. That is what we have been trying to encourage people to think. So health is definitely an important part of it, but there are those other factors as well.

Ms VAGHELA: Thank you.

The CHAIR: Sarah.

Ms HELM: I would probably disagree a little bit with Chris in regard to the health impacts. For example, we do not have many illicit drug related overdose deaths in New Zealand. In 2018 we had 40 to 45, and we have just had one in the last 48 hours to do with synthetic cannabinoids—all of them related to synthetic cannabinoids. We know, especially before synthetic cannabinoids came about, that even now some of those synthetic cannabinoid users would actually use cannabis if it was readily available. Earlier Chris said that the health implications for cannabis use are relatively low and yet we have more harmful substances available that can cause much more acute and sudden harm, and so there are some health consequences that are over and above overall use. What we are not seeing is a huge spike in use, even with commercial models, notwithstanding they are possibly an exception in California. So whilst you might want to take caution in your approach—and I would say that our draft legislation that we had proposed here in New Zealand was cautious—I would also be cautious of the unintended consequences of not acting however.

The CHAIR: Yes, thank you. Stephen, just quickly, we have got lots of questions.

Mr BLYTH: Of course we do have to wait for research to come out, but the Canadian government have also invested a lot in what they are doing in terms of reporting stats. We looked at some of the earlier stuff, and one area of concern is daily use, because it is a monitor of people using more and more frequently and then it is kind of a proxy for coming to high levels of harm. As at the beginning of last year, some of the rates had not increased after legalisation. I am going to share in the chat a link of some analysis that we did of that.

The CHAIR: Thank you, Stephen. That is very helpful. We will go to David, then Georgie, Tien and Sheena.

Mr LIMBRICK: Thank you, Chair, and thank you all for appearing today. Hearing about your experience with models and the referendum, there is one thing I would like to maybe get some insight on. I think maybe this is a question for you, Ms Helm. The referendum failed by only a very small margin. I think you said 70 000 people approximately. Do we think it was the legalisation that failed or the model presented that failed here, because I imagine no-one involved in the production side in the current black market would be very interested in legalisation? You mentioned as well that many cannabis consumers are probably not interested. In fact we heard earlier that the current black market is very sophisticated. People can get home deliveries and all this sort of stuff. Someone voting for a highly restrictive model like what was proposed are going to see price increases, less product availability possibly, all these sorts of things. Does that add up to 70 000 people?

Ms HELM: I think probably more like the people who voted no but did want some form of decriminalisation or change in the law. It was probably more the case that they did not understand the proposal fully because it is very hard to get your head around all of that. You have information coming from both sides. It is hard to know who to trust, and a particular narrative took hold a wee bit more around that sale in dairies. However, you are quite right. There are some people who are invested in the current sales model, people who are selling, themselves, in order to feed their family or for whatever dodgy purpose that they are selling cannabis. So those people are invested in the current model, and a new approach would have been a threat to their income. People perhaps are just complacent because they do not see a strong benefit for them, because they are using and are not suffering any undue consequences. Yes, that is probably it. Anything to add, Stephen? No.

Mr LIMBRICK: If I could just quickly—one question, Chair.

The CHAIR: If you can be very quick, David.

Mr LIMBRICK: Very quick.

The CHAIR: As you know, we—

Mr LIMBRICK: This is to Mr Wilkins, and thank you very much, Ms Helm. The various models of various levels of restriction, Mr Wilkins, that you presented, one of the things was on the light regulation. You anticipated higher costs for health harm, and yet we have heard evidence that in places where cannabis was legalised we did not see very large increases in consumption. What are the underlying assumptions for the increases in health harms for a light regulation approach, as you termed it?

Assoc. Prof. WILKINS: Well, again, I would emphasise that we really have not had good enough research to say whether use will increase or not. There have been a lot of early studies, and they focus on prevalence, whereas we are actually interested in patterns of use—so heavy users versus light users. Again, as I said, it is very early days—so whether that will affect it.

Essentially it is that there are going to be two things: it takes a while for people to change their patterns of use and respond to a new, legal, more liberal market and also the industry itself is going to be promoting sales and particularly targeting heavy users. So what we were essentially saying was that there is likely to be some increase in harm just because you are going to get more users. Some of the best studies that are just coming out now have shown increases in adult use in US states that have legalised cannabis, and even an increase in 12- to 17-year-olds, who have also increased since legalisation.

Dr RYCHERT: Also some of the leading drug policy researchers and cannabis policy researchers I think agree that in terms of light markets, which the question was about, it is entirely feasible to expect that there will be an increase in use in the population. Chris mentioned that is per se a not a bad thing, because we are worried about patterns, not that more people are using. If they are using once a month, we do not care.

But if we have such a large increase expected based on evidence from alcohol, in the using population, then it is likely that cannabis use disorder and these negative health effects may follow that. So that is based, I guess, on that inference from alcohol as well, and we are specifically talking about light market regulation here.

Mr LIMBRICK: Thank you very much.

The CHAIR: Thank you. Georgie.

Ms CROZIER: Thank you very much, Chair, and thank you all very much for presenting to us this afternoon. I have been very interested in following that discussion, and I was interested in Professor Wilkins's comments around, I think you said, modest health impacts for most people and also that the health data was inconclusive. I am still very concerned about the health impacts of cannabis use, and we have heard evidence that suggests there are tens and tens of thousands of articles written by medical specialists to connect the harms of cannabis use, especially around mental health impacts, and other health-related issues. But my question really goes to Ms Helm, in the interests of time, to your point about the legislation. You mentioned a number of stipulations in that legislation, including the age of 20. What was the reasoning for the 20 age point being made in the legislation for use?

Ms HELM: I might hand to Stephen on that one, please.

Ms CROZIER: Pardon?

Ms HELM: Stephen, would you be able to speak to this for me, please?

Mr BLYTH: Sure. There are things pulling in a couple of different directions, because of course we know that the longer that you can delay using, the better it is in terms of a developing brain and stuff like that. So there is a bit of a ballpark figure. Some say 23, 25. At the same time, in New Zealand, alcohol can be legally purchased at 18, and we know the people that are most vulnerable to the use of these substances are younger people and we need to do as much as possible to protect them. The idea of making the age analogous or the same as alcohol was considered probably a step too far, although why would you allow young people to access one type of psychoactive substance and not another? There is a sort of double standard going on there, which I think brings into question whether 18 is the appropriate age for alcohol, although it is not really a live debate. So balancing those two sorts of considerations, 20 was settled on as both closer to the age where less harm would occur but also pragmatic based on who was actually accessing and using cannabis, because you have got to remember we do not want to exclude those who would most benefit from the legislation and its protections. They would essentially be turning once again to the black market, where they miss out on the health interventions that you can get from a regulated approach.

Ms CROZIER: Aren't they going to be doing that anyway under 20 years of age? Isn't that just an arbitrary figure that is counterproductive to what you are trying to achieve?

Dr RYCHERT: I guess in an ideal world we want to delay the onset, the start, of use as long as possible, right? And I guess—

Ms CROZIER: Why?

Dr RYCHERT: Well, because it is most harmful for younger groups. So that is why.

Ms CROZIER: Thank you. I agree with you.

Dr RYCHERT: Now, why did they settle at that age? The government settled at the age of 20, as Stephen explained. Well, it was something that maybe would protect users and delay that onset. But it was just a figure that came up. Actually, I need to admit that there were a number of public health researchers arguing against that age in that it is inconsistent with alcohol legislation—why would we allow people to access alcohol but not cannabis?—and that it should be the same as alcohol. So it was a political decision, I guess, Chris.

Ms CROZIER: I have got many more questions, but unfortunately we do not have time. Thank you very much.

The CHAIR: I know. If there is time, I will come back to you, Georgie. Tim.

Mr QUILTY: My question is around the referendum process. In retrospect did it set back the legalisation movement, having the referendum fail? Would you recommend that as a way of pursuing legalisation? And also will it change policing, having had the referendum and having shown that almost 50 per cent of the population support legalisation? Do think that will change the way the laws are policed?

Ms HELM: I will answer this if that is good. I do thing on the one hand the referendum has helped things and in another way it has been a hindrance. It has definitely helped public debate and so forth. It has meant something has passed and there has been a conclusion. We tend to want to respect referendums and the vote as

well that is expressed in such a strong way that you cannot really replicate and uphold, for example. But I do think that nonetheless things have moved on and there is internationally and locally a mood for change, so there will be some type of change around our drug laws moving forward at some point, whether it is now or later.

Your other point was around the policing. We had that *Misuse of Drugs Act* amendment that allowed for police discretion. One of the theories we have why there has been some reduction in the number of convictions for cannabis but not for the other substances is that the debate and discussion has been so focused on cannabis that in fact maybe the police are picking up on that cannabis thing but not on the other substances. Also, because that particular clause requires the police to consider what is in the public interest—which is quite a high call for a cop on the beat, I think—they have probably interpreted that as, 'Hey, cannabis has shifted but the other has not'. Nonetheless thousands of people are still being arrested for minor cannabis convictions here in New Zealand despite the referendum and despite this particular clause being on pause. So more is needed.

I would say a majoritarian vote probably is not the best way to create public health legislation. Evidence and using your elected process is probably a better way to go. A referendum here that touches on whether or not people were supportive of some change may have been more helpful in terms of providing scope to the government to do what is needed to follow evidence and best practice rather than, 'The public think this'.

The CHAIR: Thank you, Sarah. Sheena.

Ms WATT: Hello. Thank you so very, very much for your sharing of everything today and all the fantastic efforts in moving to getting to where you are over there. I just had a question about working with vulnerable groups and communities. Sarah, you spoke a little bit about working with Māori communities, and I just wanted to really explore that and why you think it is so important for drug law reform that we work in partnership with First Nations and Indigenous communities, particularly around informing this work, because we have heard from lots of organisations but none that are actually First Peoples led at this point, so I am interested in your work that led to this.

Ms HELM: I would rely on Stephen a little bit for this potentially, but both the drug harms and the harms of the punitive approach are compounded in particular groups, young people being one, Māori being another, and men actually are over-represented in the convicted population. So it is very important that we create a system that enables wellbeing rather than punishes with no positive consequence on use, for the convictions are doing nothing to deter use. At the moment in Aotearoa, New Zealand, we provide almost nothing in the way of support, information, public education, advice, early intervention for drug users, full stop, until you end up at the point where you are either picked up by the criminal justice system or you have formed an addiction or have come up with any other sort of harm. So we want to see a total change. It is not just about liberalising supply, it is about putting all the other measures in place to enable people to have wellbeing.

What else can I say about Māori? Stephen, do you have anything to add there?

Mr BLYTH: During the lead-up to the referendum we worked with Māori partner organisations—Hāpai Te Hauora, a leading public health organisation. They were a bit constrained about what they could say about the legalisation of cannabis, but they were very concerned about addressing the impacts of the current system on the families and individuals that they had worked with in their networks. So they joined our campaign for drug law reform, and we worked very closely with some other partner agencies in the mental health space. The constructive, positive ways of addressing the issues are favoured over what is in the past. This is not to say that all Māori organisations or individuals support the approach that was being advocated, because there is a diversity of views, as you would expect. As we move forward those groups that I mentioned and others are actively working towards health-based approaches and are joining in our work for that.

Ms HELM: Young Māori men are disproportionately being picked up and convicted, and it is then that men suffer lifelong consequences of those convictions—employment consequences, travel consequences et cetera—and so we want to see not only those convictions stopped but better supports put in place so that people are able to limit their harms.

The CHAIR: Thank you. Just finally, I think following on from this, most of the submissions that we have received have recommended either a pathway towards legalisation or certainly a consideration of decriminalisation, so I was interested in the diversion program that you have for use and possession there now and somewhat the ineffectiveness or the reluctance of the police to use that diversion option. I have just got two

questions. One: Sarah, if we were to be looking at a decriminalisation model, would you see a compulsion in there for the police to use a diversion model or for us to actually fully decriminalise, where we could set up civil penalties or we could set up education? The recommendations we have been seeing in our submissions are that alongside that you would have an education program as well that would try and reduce stigma but would try and enable that better education.

To Chris and Marta: would decriminalisation with education in your opinion reduce the health-harm costs that you have been calculating?

Assoc. Prof. WILKINS: Well, I would say it is hard to know whether it would reduce the health costs. I would say more that it would be kind of inconclusive whether it would make much difference but you may well get a little bit more uptake in terms of treatment and access to treatment. But I am a little bit cautious about that because the reality is that—and I am thinking about people that are cannabis dependent here, not just people that are using occasionally, which does not really cause any harms—if you talk to people who work in drug treatment organisations, they tell you that when people are addicted to a drug they do not really listen to education and they do not want to go to treatment either so it takes a while for that all to happen. And I think that the New Zealand referendum would have definitely been successful if they had limited it to decriminalisation, and that would actually have been quite a good gain because it would have stopped the thing that I think is quite important, and that is it would have prevented arresting of people and the implications that has on the rest of their lives in terms of having a criminal conviction. I think that is really important. The only downside of decriminalisation is of course you do not address the supply side of people who are growing cannabis, and you have still got this black market that can affect communities.

The CHAIR: That is right. I think what we have been hearing was it might be more of a step-through process. Sarah, sorry.

Ms HELM: Yes, well, definitely for us the discretionary clause has not really worked, and there is a lot of chatter about that here. Actually our police and health ministers have asked the departments to please report back as to how it is going, so I am expecting that we will see some sort of change in that regard. We do not think that there is any good reason to convict anyone of possession or use actually when you think very hard about it. The reasons that we might hear, perhaps that they have committed a different crime—well, actually, do we want possession and use of cannabis to compound whatever other criminal activity they have got going on? Not really, so we do not think it is a useful framework. Better, if you are going to decriminalise, to properly decriminalise. One of the things as a result of that is for some police, they have been policing this for decades, so it is a mindset change, and if a bunch of us keep doing our thing, they will keep doing their thing. We are also going through a process of reviewing our 'unconscious bias', as they are calling it here in New Zealand—whether or not there is racism in the police force that is causing an undue burden on Māori, essentially, in being picked up more for crimes. That is another consideration to think about: whether or not you end up just leaving it still with the one group being picked off, if you like, over others.

The CHAIR: Thank you so much to all of you. We very much appreciate the work that you put into providing submissions to us but also the openness with which you have joined us today, so thank you very much.

Witnesses withdrew.