

# How can we work better to coordinate governments' response to drugs and alcohol?

## Efficiency Review of the Ministerial Council on Drug Strategy and its supporting structures

*Department of Health and Ageing*

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# 1 Executive summary

The Ministerial Council on Drug Strategy (MCDS) is Australia's peak policy and decision-making body for drug policy. It is a national ministerial-level forum that aims to ensure that Australia's national drug approach is consistent across all jurisdictions. Its cross-portfolio nature (drawn from health and law enforcement representatives) is a distinctive feature of the MCDS and is considered by many stakeholders to be one of its key strengths.

This review of the Ministerial Council on Drug Strategy (MCDS), its supporting committee of officials - the Intergovernmental Committee on Drugs (the IGCD), the associated working groups and the MCDS Secretariat is required to:

- evaluate the efficiency and effectiveness of the MCDS to coordinate national approaches to licit and illicit drug issues in Australia, including an assessment of appropriateness, governance arrangements, accountability mechanisms and Council processes; and
- assess the level of MCDS compliance with the general principles and broad protocols for the operation of the Council articulated by the Council of Australian Governments (COAG).

This review has also taken into consideration the outcomes of the recent COAG review of Ministerial Councils conducted by Dr Allan Hawke ('the Hawke Review'). In response to this review, COAG has accepted that there is a need to undertake fundamental reform of the Ministerial Council system, with Councils to be focused on issues of strategic national significance.

This review draws extensively on the views and experience of stakeholders that were consulted, which included members, past and present, of the IGCD, the Australian National Council on Drugs (ANCD) and various research institutions. It has not been possible to complete consultation with members of the MCDS due to the availability of Ministers over the timeframe of the evaluation.

The review categorises and prioritises the key research questions into three key themes:

- governance structures and processes - which includes an assessment of possible arrangements both if the MCDS were to continue and if it were to be disbanded in the future;
- efficiency and effectiveness - with a focus on improvements to the structure and arrangements for working groups and the management of the Cost Shared Funding Model (CSFM), enhanced accountability and reporting mechanisms and clarity around the objectives of the MCDS and IGCD; and
- stakeholder engagement – with a focus on options for improved stakeholder engagements within the MCDS and IGCD structure.

Overall, there was unanimous support for a meeting of Ministers that considers issues specific to drugs and alcohol, and the continued cross-portfolio approach that has been employed within the MCDS and IGCD. However, there was also widespread agreement that the functioning of the MCDS and its supporting structures could be improved. These issues largely reflect the efficiency and effectiveness of these bodies. There is a range of processes and practices that could be changed that have the ability to improve outcomes.

## Governance structures and processes

The review of governance structures and processes revealed that in recent years, attendance at the MCDS has fallen, both in terms of numbers and seniority of Ministers attending. Some stakeholders identified that the forum focuses more on the approval and acceptance of items put forward by the IGCD, including the spending of CSFM monies. As a result, the focus on driving drug and alcohol policy debate and development at the strategic level appears to have declined over time.

Although stakeholders had mixed views about the continued value of the MCDS and its current governance structures, the anticipated outcomes of the Hawke Review mean that the review must consider options for the governance of drug and alcohol policy issues under a scenario where the MCDS is disbanded, as well as improvements to the current MCDS governance arrangements.

- If the MCDS remains – there are problems with the current governance arrangements, in that more regular attendance by more senior Ministers is necessary to take some issues forward in a timely manner. Further, there is a focus on decisions on expenditure of the CSFM, which do not appear to be of national significance and could be made through the forum of senior officials. Suggested solutions for these issues are recommended under efficiency and effectiveness;
- If the MCDS is disbanded – there are a number of alternate governance arrangements that could be introduced. However, given there is overwhelming support to continue the IGCD and its cross-portfolio nature in some form, governance

arrangements that consider both health and law enforcement input are required. As a result, PwC recommend a 'branched' governance option, where alcohol and drug policy issues can be adequately dealt with by the Australian Health Ministers Conference (AHMC) and the Ministerial Council for Police and Emergency Management - Police (MCPEMP). Discipline will be required to ensure that there is adequate communication between the two bodies and that drug and alcohol policy remains on the national agenda. PwC suggests that one Minister from both AHMC and MCPEMP should be charged with responsibility for drug and alcohol policy issues, for collaborating with each other and for reporting back to the IGCD to frame future policy development.

PwC recommends:

- A. That the MCDS continue, but with a reduced frequency to annual meetings.
- B. However, if the MCDS is disbanded, a 'branched' governance option be introduced, where drug policy issues are dealt with through the AHMC and MCPEMP. PwC suggests that one Minister from both AHMC and MCPEMP are charged with responsibility for drug and alcohol policy issues, for collaborating with each other and for reporting back to the IGCD to frame future policy development.

## Efficiency and effectiveness

The assessment of efficiency and effectiveness of the MCDS and its supporting structures reveal that the MCDS and IGCD have been effective in building a strong and collaborative relationship between the health and law enforcement portfolios. This relationship is clearly valued by members of the IGCD and other stakeholders.

Further, both the MCDS and IGCD have broadly achieved their set objectives. However, there is a growing concern that the quality of outcomes is at risk and that processes are becoming increasingly inefficient. There appears to be a lack of focus and strategic direction within the IGCD and MCDS that influence how effective each body can be. The current focus and objectives are too broad and more specific outcomes may help to focus efforts on a set of core issues or actions.

Key PwC recommendations in relation to improving the efficiency and effectiveness of the MCDS and IGCD include:

- The MCDS agenda should be focused on issues of national significance that require decision or debate at the Ministerial level. Meetings of the MCDS should be annual, thereby leaving sufficient time for a full agenda with a focus on issues of national significance to be developed;
- Objectives for the MCDS and the IGCD should be more specific, clear and measurable, so that future accountability and reporting against objectives can be transparent and clear.
- The number and responsibilities of existing working groups should be reviewed, with an aim to streamline the existing working groups, as well as implement measurable objectives and timeframes. PwC recommend the introduction of a core set of working groups that are structured thematically, such as alcohol, illicit drugs, tobacco and pharmaceutical misuse.
- The CSFM guidelines should be revised and updated to make them more relevant to the current priorities of the National Drug Strategy (NDS) and implement an annual update of relevance at the meeting of the MCDS. Responsibility for decisions in relation to CSFM projects should be undertaken by the IGCD Executive, with the role of the MCDS shifting to a role of providing guidance on priorities and necessary national research.

PwC recommends:

- C. Changes to the content of the MCDS agenda are to be revised in line with the annual frequency with which the MCDS meets
- D. A review of the objectives of the MCDS and IGCD to be more specific, clear and measurable and to introduce reporting against these objectives

- E. A review of existing working groups, with an aim to streamline existing working groups to a core set of working groups that are structured thematically (alcohol, illicit drugs, tobacco and pharmaceutical misuse)
- F. A revision and update of the CSFM guidelines and a shift in responsibility for initial decision recommendations in relation to CSFM projects to the IGCD Executive, with guidance from the MCDS on priorities and necessary national research.

## Stakeholder engagement

In terms of stakeholder engagement, many stakeholders identified that there is limited opportunity for non-government organisations (NGOs) to engage with the MCDS/IGCD and as a result the advice provided to Ministers may not be sufficiently challenged and representative of the full range of views within the drug and alcohol sector. Further, where mechanisms do exist for stakeholders to participate in the policy development process (such as the National Expert Advisory Panel (NEAP)), experts are not always being brought in at appropriate times and given sufficient information and time to provide genuine input.

There is further scope to involve external bodies in meetings of the MCDS and IGCD. PwC recommend that the IGCD convenes annual stakeholder forums that coincide with a meeting of the IGCD to promote and engage with NGOs and other organisations that work in the drug and alcohol sector, but are not represented on the IGCD. PwC suggests that such a forum could replace or complement the current annual strategic workshop. Under these arrangements the membership of the IGCD would not be revised.

Further, PwC recommend that key experts should be more actively engaged in working groups (with a balanced representation of health and law enforcement experts) to ensure that ministerial advice considers the latest thinking and research in the drug and alcohol sector. These experts would be drawn from those that also participate in the stakeholder forum suggested above.

PwC recommends:

- G. Stakeholder engagement should be increased through the introduction of an annual stakeholder forum to coincide with a meeting of the IGCD
- H. Themed working groups should include representation by key experts in each of these related fields.

Regardless of the outcomes of the Hawke review, it is clear that the cross-portfolio IGCD formed to discuss issues on national drug and alcohol policy should continue. PwC suggest ways to improve the efficiency and effectiveness and governance arrangements so that the MCDS/IGCD, in whatever form they may be structured in the future, can be transparent, accountable and effective in driving the national drug and alcohol policy agenda.

## 2 Review background

This review of the Ministerial Council on Drug Strategy (MCDS), its supporting committee of officials (the IGCD), the working groups and the MCDS Secretariat is required to:

- evaluate the efficiency and effectiveness of the MCDS to coordinate national approaches to licit and illicit drug issues in Australia
- assess the level of MCDS compliance with the general principles and broad protocols for the operation of the Council articulated by the Council of Australian Governments (COAG) that facilitate 'high quality, consultative decision making through a robust framework that is accountable, fiscally prudent and administratively efficient'.

This review has been guided by the Department of the Prime Minister and Cabinet's review framework. It has also taken into consideration the outcomes of the recent COAG review of Ministerial Councils conducted by Dr Allan Hawke. In response to this review, COAG has accepted that there is a need to undertake fundamental reform of the Ministerial Council system, with Councils to be focused on issues of strategic national significance.

It is anticipated that there will be a significant reduction in the number of Ministerial Councils. COAG has indicated that there will be 11, or fewer, Councils overseeing areas of ongoing importance. While the full report from Dr Hawke, and its recommendations, has not yet been released, it is understood that the MCDS may be disbanded. In light of this possibility we have given consideration to alternative structures that could be employed to ensure that there is still a coordinated approach to drug policy development and implementation.

To inform our review we have undertaken extensive consultation with representatives from the IGCD Executive and the IGCD, members of the MCDS/IGCD Secretariat, members of the Australian National Council on Drugs (ANCD), representatives from research organisations and former members of the IGCD. It has not been possible to complete consultation with members of the MCDS due to the availability of Ministers over the timeframe of the evaluation. Table 1 provides a summary of the range of stakeholders that we have consulted with across jurisdictions and across health, law enforcement and the research and non-government areas. A full list of individuals consulted for this review is at Appendix A.

**Table 1: Coverage of consultations for this review**

	New South Wales	Victoria	Queensland	Western Australia	South Australia	Tasmania	Northern Territory	Australian Capital Territory	Commonwealth	Total
Law enforcement (IGCD)	2	2	1	2	2	-	-	1	4	14
Health (IGCD)	2	2	5	2	1	5	2	2	1	22
Other (researchers, alcohol and drug organisations)				1	1				3	7
IGCD Secretariat									2	2
ANCD										3
Former IGCD members										1
<b>Total</b>	<b>6</b>	<b>4</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>3</b>	<b>10</b>	<b>49</b>

This review is based on a series of research questions that were developed and agreed on commencement of the review; these research questions focus on the:

- efficiency of the MCDS and its support structures – the relationship between outputs and inputs;
- effectiveness of the MCDS and its support structures – the extent to which the structures' outcomes result in the intended objectives;



## Review background

- appropriateness of the current structures – the extent to which the current structures best meet community needs and government priorities;
- governance structures – including whether an alternative governance model for the MCDS and IGCD would achieve better outcomes;
- accountability mechanisms – as a means of measuring success and reporting against the achievement of set objectives; and
- processes – including an assessment of some of the more logistical processes that are required to keep the MCDS and IGCD in operation.

The full list of research questions is provided in Appendix C. However, it is important to note that with such a large number of research questions (37 in total), the evaluation focused on a smaller number of key research questions around efficiency, effectiveness, governance and stakeholder engagement, which form the basis of the key findings of the evaluation.

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## 3 The Ministerial Council on Drug Strategy and supporting structures

### 3.1 Background

In the 1960s, drug consumption became increasingly recreational and heroin and cannabis became popular among younger Australians.<sup>1</sup> Up to this time, government sanctions were strictly prohibitive in nature, with penalties increasing in severity as drug use became more popular. Some of these prohibitive sanctions included the *Narcotic Drugs Act 1967* and the *Psychotropic Drugs Act 1976*. Additional State, Territory and Commonwealth laws were established in response to the Williams Royal Commission (1977), an inquiry into the corruption of police officials in association with the importation and distribution of illegal drugs.<sup>2</sup>

In 1984, then Prime Minister Bob Hawke called for a nationwide campaign against illicit drug activity - the National Campaign Against Drug Abuse (NCADA). The campaign was adopted at the Special Premiers conference in April 1985, and placed under the watch of the newly formed Ministerial Council on Drug Strategy (MCDS) and its supporting body, the National Drug Strategy Committee (NDSC).

### The National Drug Strategy (NDS)

With the creation of the MCDS the Commonwealth began a nationwide initiative against illicit drug abuse - the National Campaign Against Drug Abuse (NCADA). The NCADA acted as a brief theoretical framework to guide jurisdictions in making, implementing and enforcing anti-drug laws. It described the kinds of initiatives to be undertaken by groups in education, hospitals, community programs and other related industries, ensuring a common approach against drug use across the nation. The strategy focused primarily on illicit drug issues, reflecting the popularity of cannabis and heroin among drug users.<sup>3</sup> Whereas previous legislation had aimed to eliminate consumption, the NCADA was interested in harm minimisation – a concept that has remained central to Australian drug policy to this day.

Since 1985, the NCADA (hereafter referred to by its current title, the National Drug Strategy or 'NDS') has evolved significantly in response to changing drug trends and political arrangements. The second version of the NDS (1993-1998) included a description of Key National Indicators for the Commonwealth to use in measuring its progress in fighting drug related activity.<sup>4</sup> While the indicators were comprehensive and included baseline measurements in most cases, the strategy provided no mechanism for data collection or reporting, which is perhaps why the indicators were reportedly never put to use.<sup>5</sup> The revised strategy was broader in scope regarding legal drugs, particularly alcohol, in order to account for the relative popularity of legal over illegal substances. A steady increase in heroin use remained a key issue during this period of time.

The subsequent version of the strategy (1998 - 2003) again expanded on the preceding strategy, and was based on the theme of 'building partnerships' between all parties with a vested interest in drug policy. The strategy called for greater involvement from outside organisations and different tiers of government and emphasised the collaborative role of the new Australian National Council on Drugs (ANCD) and Intergovernmental Committee on Drugs (IGCD). The new strategy included a framework for the

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<sup>1</sup> D Manderson 1993, *From Mr Sin to Mr Big: A History of Australian Drug Laws*. Melbourne: Oxford University Press.

<sup>2</sup> Parliament of Australia Joint Committee. *Thirds Evaluation of the National Crime Commission*. Available at [http://www.apf.gov.au/senate/committee/acc\\_ctte/completed\\_inquiries/1996-99/3rd-eval/report/e04.htm](http://www.apf.gov.au/senate/committee/acc_ctte/completed_inquiries/1996-99/3rd-eval/report/e04.htm).

<sup>3</sup> Department of Health 1985, *The National Campaign Against Drug Abuse*. Available at [http://www.ancd.org.au/images/PDF/NationalStrategies/national\\_drug\\_strategy\\_1985.pdf](http://www.ancd.org.au/images/PDF/NationalStrategies/national_drug_strategy_1985.pdf).

<sup>4</sup> Commonwealth of Australia 1993, *National Drug Strategic Plan: 1993-1997*. Available at [http://www.ancd.org.au/images/PDF/NationalStrategies/national\\_drug\\_strategy\\_1993-97.pdf](http://www.ancd.org.au/images/PDF/NationalStrategies/national_drug_strategy_1993-97.pdf).

<sup>5</sup> Siggins Miller 2009, *Evaluation and Monitoring of the National Drug Strategy 2004-2009*, p.25.

development of an indicator reporting mechanism.<sup>6</sup> Key issues during this time largely resulted from an extended ‘heroin shortage’, which forced many heroin users toward other drugs – particularly amphetamines, cocaine and prescription medicines.<sup>7</sup>

The most recent version of the NDS (2004 - 2009) pays attention to the relative prominence of legal drug issues compared to illicit issues, and has guided the development of appropriate sub-strategies to counter increasing amphetamine and polydrug use as well as binge drinking. Under the current NDS, the MCDS has published the:

- National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture
- National Amphetamine Type Stimulant Strategy 2008-2011
- National Alcohol Strategy 2006-2011
- National Tobacco Strategy 2004-2009
- National Cannabis Strategy 2006-2009
- National Aboriginal and Torres Strait Islander Peoples Complementary Action Plan 2003-2009
- National School Drug Education Strategy
  - National Corrections Drug Strategy 2006-2009.<sup>8</sup>

## Commonwealth and State/Territory roles

As with many other policy areas, the Commonwealth has a defined role in the regulation of licit and illicit substances. For example it has powers in relation to taxation (of licit substances), border protection and approval of therapeutic drugs and provides funding to the States and the non-government sector for the delivery of a range of services. Thus an effective front against drug activity requires the cooperation of State and Commonwealth governments and a consistent approach across all jurisdictions.

A primary goal of the NDS is to ensure a consistent approach across jurisdictions in controlling drug use and abuse.<sup>9</sup> Without a consistent approach, it is difficult to control the outcomes of initiatives and to achieve the objectives of supply reduction, demand reduction and harm reduction. A consistent approach toward drug policy also improves understanding of the law at the individual level and allows for the sharing of educational, rehabilitative and media materials.

A clear example illustrating the division of responsibility between State and Commonwealth governments is seen in the administration of cannabis laws. Because the Commonwealth is signatory to the United Nations International Drug Treaty, the States cannot legalise or decriminalise cannabis entirely. The States, however, are responsible for implementing the majority of drug policy, and therefore determine the severity of cannabis related offences. Thus in 1987, South Australia replaced the standard prohibitive cannabis laws with a Cannabis Expiation Notice (CEN) policy, meaning that offenders could avoid prosecution by paying a fine within 60 days. Since then, all other States and Territories have introduced similar initiatives to deal with low quantity cannabis offences (primarily under the rubric of the Illicit Drug Diversion Initiative). Jurisdictions differ, however, in how they define a ‘small amount’ of cannabis, as well as the size of associated fines and other details.<sup>10</sup>

## 3.2 The Ministerial Council on Drug Strategy (MCDS)

The Ministerial Council on Drug Strategy (MCDS) is Australia’s peak policy and decision-making body for drug policy. It is a national ministerial-level forum that aims to ensure that Australia’s national drug approach is consistent across all jurisdictions.

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<sup>6</sup> Ministerial Council of Drug Strategy. National Drug Strategic Framework: 1998-99 to 2002-03.

<sup>7</sup> Degenhardt L, Day C, Dietze P, Pointer S, Conroy E, Collings L. and Hall W. 2005, The effect of a sustained heroin shortage in three Australian States. *Addiction*. 100(7), pp.908-920.

<sup>8</sup> Siggins and Miller 2009, Evaluation and Monitoring of the National Drug Strategy 2004-2009.

<sup>9</sup> Department of Health. 1985, The National Campaign Against Drug Abuse. Available at [http://www.ncpd.org.au/images/PDF/NationalStrategies/national\\_drug\\_strategy\\_1985.pdf](http://www.ncpd.org.au/images/PDF/NationalStrategies/national_drug_strategy_1985.pdf).

<sup>10</sup> Cannabis and the Law. *National Cannabis Prevention and Information Centre*. Available at <http://ncpic.org.au/ncpic/publications/factsheets/article/cannabis-and-the-law>. and MacKay L 2001, National Drug Policy: Australia. Available at <http://www.parl.gc.ca/37/1/paribus/commbus/senate/com-e/ille-e/library-e/robin-e.htm#BACKGROUND%20TO%20AUSTRALIAN%20DRUG%20POLICY>.

The MCDS includes representation from the Australian and State and Territory Ministers of Health and Law Enforcement, including the Commonwealth Minister responsible for Education. The New Zealand Ministers of Health and Police also have observer status at MCDS meetings. This cross-portfolio membership is a distinctive feature of the MCDS and is considered by many of the stakeholders that were consulted for this report to be one of its key strengths.

The role of the MCDS is to determine national policies and programs intended to reduce drug related harm within the Australian community. The objectives of the MCDS are to:

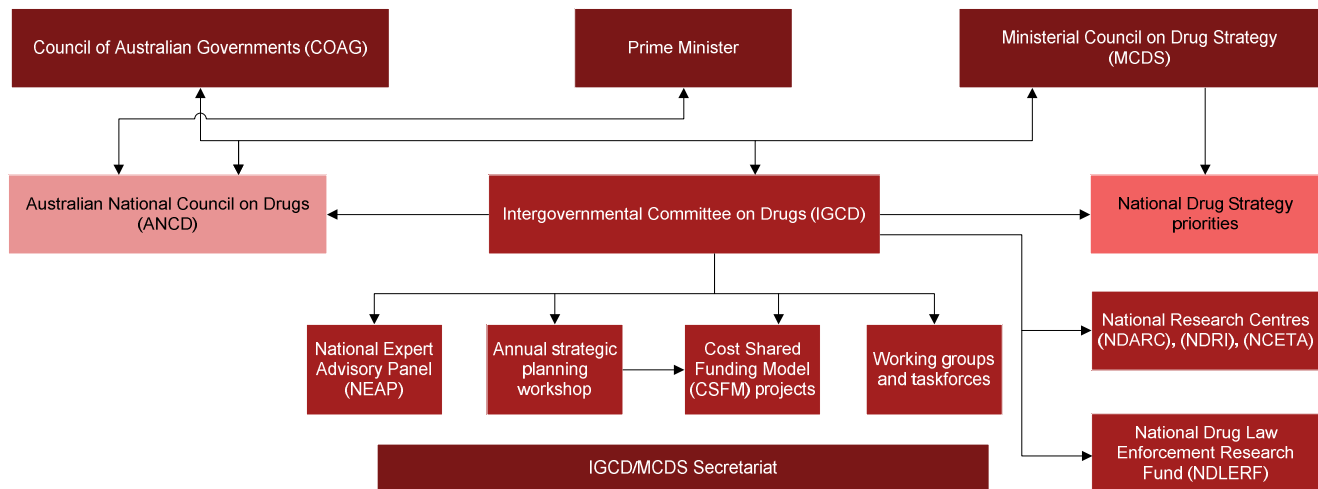
- provide a mechanism for regular consultation between Australian Government, State and Territory health and law enforcement Ministers on programs and policies in relation to licit and illicit drugs in Australia;
- promote a consistent and coordinated national approach to policy development and implementation in relation to all drugs issues; and
- consider matters submitted to the Council by individual Council members and by the IGCD.

The MCDS is committed to the principles of harm minimisation and the policies of demand reduction, supply reduction and harm reduction. It is assisted in the policy-making process by the IGCD and the Australian National Council on Drugs (ANCD). It liaises with and reports regularly to other Ministerial Councils affected by drug-related issues.<sup>11</sup>

The role of the MCDS has changed over time with the continued expansion of various advisory groups. The primary roles given to the MCDS were to oversee the implementation of the NCADA and to generate new drug policy as needed. It was supported by the National Drug Strategy Committee (NDSC) until 1998, when the committee was replaced by two broader committees: the IGCD and the ANCD.

In 2004, the National Expert Advisory Panel (NEAP) was formed to replace four National Expert Advisory Committees. It comprises experts from several fields directly and indirectly affected by drug policy. As the MCDS advisory network has expanded, the Commonwealth has increased its scope in dealing with specific drug issues. The structure of the MCDS and its supporting structures are illustrated in Figure 1.

**Figure 1: MCDS and related structures**



### 3.3 The Intergovernmental Committee on Drugs (IGCD)

The MCDS is supported by the IGCD. The IGCD provides policy advice to Ministers on the full range of drug-related matters and is responsible for implementing the National Drug Strategic Framework. This Committee consists of senior officers representing health and law enforcement in each Australian jurisdiction, the Commonwealth education department and people with expertise in identified priority areas. New Zealand health and police officials also have observer status at IGCD meetings.

<sup>11</sup> Ministerial Council on Drug Strategy. (2004). The National Drug Strategy: Australia's integrated framework. [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/5EAED77A78166EB5CA2575B4001353A4/\\$File/framework0409.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/5EAED77A78166EB5CA2575B4001353A4/$File/framework0409.pdf).

The IGCD was established in its current form in 1998 with the following Terms of Reference modified from those originally specified for its predecessor, the NDSC. The Terms of Reference for the IGCD are to:

- develop proposals for and oversee implementation of the National Drug Strategic Framework;
- provide policy advice to Ministers and develop proposals for recommendation to the MCDS on licit and illicit drug matters;
- implement decisions of the MCDS;
- liaise with other intergovernmental agencies on matters relevant to the National Drug Strategic Framework and to consult with the non-government sector, including the Australian National Council on Drugs (ANCD);
- prioritise and coordinate activities across the National Expert Advisory Committees on behalf of the MCDS;
- coordinate the development, implementation and evaluation of the National Drug Action Plans; and
- report annually to the MCDS.

## IGCD Executive

The IGCD Executive is made up of the Chair, Deputy Chair, the representative from the Australian Government Department of Health and Ageing (DoHA) and five other members from the Commonwealth and State and Territory departments equally across health and law enforcement. The Chair of the IGCD rotates between a health and law enforcement representative.

The IGCD Chair and the rest of executive are charged with driving and developing the agenda for each IGCD and MCDS meeting, including acting as the avenue for issues and policy discussions nominated by other members of the IGCD to be put on the agenda. The IGCD Executive are also responsible for the guidance of the IGCD generally and the annual report against the objectives of the MCDS and IGCD.

## Working groups and sub-committees

In principle, to encourage efficiency, the IGCD accomplishes specific tasks through the use of working groups (i.e. small teams assigned to focus on specific issues for a limited amount of time). In addition to IGCD members, working groups can draw from ANCD members and relevant experts. Working groups are intended to be a flexible mechanism that allows the IGCD to respond to new issues requiring immediate attention. Several past groups operated for less than a year, although most operate for a longer time frame.<sup>12</sup> The most recent list of IGCD working groups that is publicly available is summarised in Table 2.

**Table 2: Working groups under the IGCD**

Working group	Purpose
<i>Evaluation and Monitoring of the National Drug Strategy 2004-09</i>	Monitor and evaluate the following four components of the NDS: <ol style="list-style-type: none"> <li>1 policy framework</li> <li>2 program outcomes</li> <li>3 advisory structures</li> <li>4 identification and monitoring of actual and potential issues and trends.</li> </ol>
<i>Foetal Alcohol Spectrum Disorder Working Party</i>	Provide advice on developments in Australia and overseas to address the problem of FASD, and to identify best practice approaches to reduce the incident of FASD, particularly in Aboriginal and Torres Strait Islander communities.
<i>Harms from Alcohol and Other Drug Use</i>	Develop a paper documenting the broad range of social harms arising from alcohol and other drug use.
<i>Monitoring of Alcohol Advertising</i>	Continue monitoring alcohol advertising and the self-regulatory system for

<sup>12</sup> Intergovernmental Committee on Drugs 2009, *Intergovernmental Committee on Drugs National Drug Strategy 2004-2009, 2007-2008 Annual Report to the Ministerial Council on Drug Strategy*, Commonwealth of Australia, Canberra, p.22.

<b>Working group</b>	<b>Purpose</b>
<i>Committee</i>	Alcohol advertising.
<i>National Clandestine Laboratory Database User Advisory Group</i>	Finalise the concept of operations for the database, address any identified data sharing restrictions, and define implementation risks and resource costs.
<i>National Competition Policy Taskforce</i>	Explore the relationship between the National Competition Policy and liquor licensing arrangements across jurisdictions.
<i>Secondary Supply of Alcohol Working Group</i>	Collate, analyse and interpret the legal issues concerning parental/guardian supply of alcohol to underage drinkers and alcohol in general from all jurisdictions to establish whether it is possible to take a nationally consistent approach.
<i>Tobacco Advertising and Sales over the Internet</i>	Provide a progress report on Australian, State and Territory government mechanisms to ban tobacco sales over the internet.

Source: Intergovernmental Committee on Drugs 2009, *Intergovernmental Committee on Drugs National Drug Strategy 2004-2009, 2007-2008 Annual Report to the Ministerial Council on Drug Strategy*, Commonwealth of Australia, Canberra, p.22.

The current number of working groups is fewer than in previous years and it must be noted that this list is dated, as the latest annual report from the IGCD to the MCDS is yet to be publicly released. It should also be noted that this list only includes those 'active' working groups in 2009, anecdotally, there are known to be up to an additional 6 working groups identified in the IGCD's 2006-07 Annual Report that may still be in formal operation but may be inactive (see Table 3).

**Table 3: Additional 'inactive' working groups of the IGCD**

**Working group**

Amphetamines and other Synthetic Drugs National Action Plan Working Group
Drink Spiking Stage 2
Illicit Drug Diversion Initiative Working Group
National Inhalant Abuse Coordinating Group
National Tobacco Control Framework Project (previously known as Exploration of Frameworks to Control Nicotine in Australia Project)
Scheduling of Controlled Substances

Source: Intergovernmental Committee on Drugs 2007, *Intergovernmental Committee on Drugs National Drug Strategy 2006-07, Annual Report to the Ministerial Council on Drug Strategy*, Commonwealth of Australia, Canberra.

## MCDS and IGCD Secretariat

The Secretariat provides operational support for the MCDS and IGCD. It is funded by and sits within the Drug Strategy Secretariat and Coordination Unit within DoHA. In all, the MCDS and IGCD Secretariat is comprised of 2 full-time equivalent staff, with an annual budget of approximately \$85,000. These funds cover the costs associated with MCDS and IGCD meetings but do not include the salary costs of staff dedicated to the Secretariat.

The role of the MCDS and IGCD Secretariat is focused primarily on providing operational support to the MCDS and IGCD (e.g. organising meetings, circulating relevant documents and addressing correspondence). As Siggins Miller noted in their 2009 evaluation of the National Drug Strategy, there is "no mechanism" for the MCDS and IGCD Secretariat "to develop relationships with other government bodies."<sup>13</sup> One of these key government bodies is the ANCD.

The Australian National Council on Drugs (ANCD) was established in March 1998 by then Prime Minister, the Hon. John Howard to ensure the voice of the non-government sector was heard and influenced policy and practice. The ANCD represents a cross-

<sup>13</sup> Siggins Miller 2009. *Evaluation and Monitoring of the National Drug Strategy 2004-2009: Final Report*. Kenmore.

section of interests and expertise ranging through academia, medicine, education, law enforcement, treatment services, families who have suffered loss, those who have been affected by drugs, the Indigenous community and government.

The ANCD provides independent, strategic advice to the Prime Minister on priorities for policy development, emerging licit and illicit drug issues and measures by which these may be addressed. Through its diverse membership, the ANCD has the capacity to access an incredible range of expertise throughout the community.

Like the IGCD, the ANCD contains a number of smaller committees to focus on particular issues. The two most notable committees are the National Indigenous Drug and Alcohol Committee (established in 2004) and the Asia Pacific Drug Issues Committee. The responsibilities of these committees are, respectively, to advise policy makers on the impacts of various initiatives on Aboriginal and Torres Strait Islander communities, and to advise policy-makers on how to appropriately promote anti-drug initiatives with other Asia-Pacific countries.

The ANCD's meetings and consultations with people working with drug and alcohol issues are held in a different State or Territory every three months. Through these meetings and consultation forums, the ANCD is able to ensure that the views of the sector, in particular non-government and community-based organisations, are considered as part of drug policy advice.

### 3.4 The National Expert Advisory Panel (NEAP)

The NEAP is composed of 284 experts from various disciplines affected by drug related issues. It was established in 2004 to assist the MCDS by providing expert advice, suggesting priorities and strategies and identifying emerging trends in drug use, science, public health, ethics and public policy. Panel members are appointed by the IGCD and ANCD, and are commonly assigned to time-limited 'working groups' appointed by the IGCD.<sup>14</sup>

More specifically its activities include:

- Providing expert advice on nationally significant matters;
- Identifying emerging trends relating to the harmful use of specific drugs or other substances, and providing expert advice on strategies, to ensure a timely response;
- Providing expert advice on priorities and strategies for dealing with specific drug-related harm, including priorities and strategies for supply reduction, demand reduction and harm reduction;
- Providing advice on current legal, medical, scientific, ethical, social and public health approaches to reducing drug-related harm; and
- Providing advice and direction to ensure the development and application of strategies that are culturally responsive to specific population groups, including Indigenous communities.

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<sup>14</sup> Hughes C. Lodge M., and Ritter A. 2010, *The Coordination of Australian Illicit Drug Policy: A Governance Perspective*. National Drug and Alcohol Research Centre.

## 4 Evaluation framework

In order to evaluate the functional structures, fiscal prudence and accountability of the MCDS, it is necessary to establish a framework for the evaluation of the Council. Our evaluation framework includes two broad components:

(i) An assessment of efficiency and effectiveness, where:

- Efficiency assesses the relationship between inputs and outcomes in dollar terms. It refers to (a) minimising resources or inputs for a given level of program outputs, or (b) maximising outputs for a given level of resources or inputs; and
- Effectiveness refers to the extent to which the Council is producing meaningful results and/or the outcomes achieve the Council's objectives.

Further, this assessment includes a consideration of appropriateness, which refers to the extent to which the MCDS addresses an identified need, aligns with government priorities/policies and is meeting program objectives and desired outcomes.

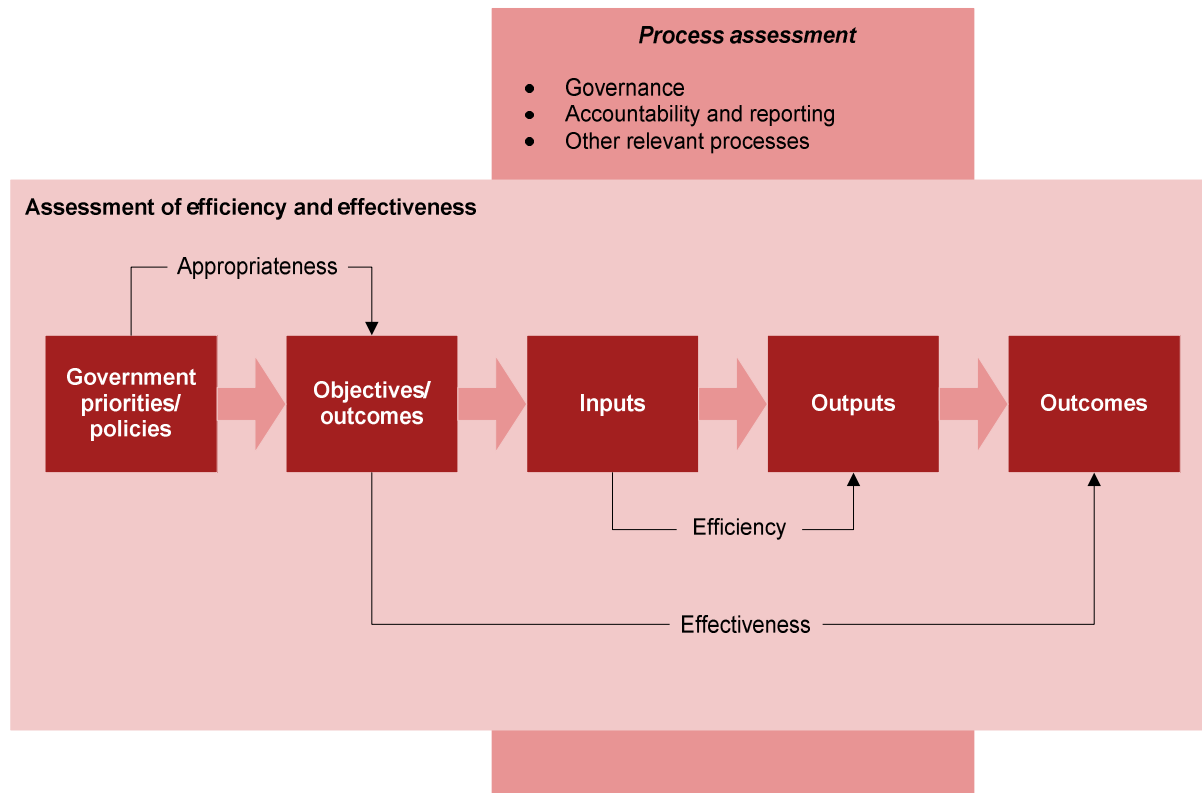
(ii) A process assessment, which considers the governance arrangements, extent of accountability and reporting processes in place and other process-driven outputs that indicate the success of the MCDS and support the assessment of efficiency and effectiveness.

The components of the evaluation framework are analysed against the key data/information requirements of program inputs, outputs and outcomes, where:

- Inputs are the resources, materials, processes and activities used to run the Council; for example: government funding
- Outputs refer to the units of service regarding the Council; for example: number of meetings and participants
- Outcomes are the actual impacts/benefits/changes as a result of the council meeting; for example: National, State and Territory drug strategies or other elements of the MCDS work plan that have been implemented.

The manner in which each of these facets are interrelated is best explained by Figure 2.

**Figure 2: Evaluation framework**





To ensure that our evaluation remains in the appropriate context, we have drawn on the protocols and general principles for the operation of Ministerial Councils. The points of most relevance to this review are summarised below (see Appendix B for a complete list):

- Every three years, as a minimum, each Ministerial Council should review its structure, objectives and performance, and evaluate the implementation of its decisions. This will be assisted by procedures for tracking the implementation of decisions and agreements made between the Ministers. The review should include an assessment of the Council's structure and relationship with other Ministerial Councils, identify any areas of overlap and include recommendations and timelines for addressing any issues in the report.
- Each Ministerial Council should clarify annually its field of coverage and the powers it exercises, consistent with the brief that Ministers hold from their governments.
- Every three years, as a minimum, Ministerial Councils should review the structures of their committees of officials and working parties to ensure they are reduced in number to those which are essential, that those retained are clearly focussed, given a fixed time to achieve their objectives and that their terms of reference include a sunset clause. Ministerial Councils should meet annually. Councils may meet more than once a year in exceptional circumstances, or where the work program of the Council clearly demonstrates a need. In all cases, when Ministerial Council meetings are scheduled, Ministers should check the agendas to ensure that a face-to-face meeting is necessary.
- Council agendas should focus on items of strategic national significance. Items should only be included on the Agenda where there is:
  - referral by COAG
  - legislative requirements
  - interest or potential interest for all jurisdictions
  - seen to be a benefit in sharing information, innovations and experience
  - a need to resolve areas of disagreement on key issues of Australia-wide concern
  - a need to ensure effective Ministerial control and accountability to Ministers at a national level of key activities and matters subject to funding agreements.
- Items of a procedural and technical nature should be delegated as far as possible to standing committees of officials to determine, or be dealt with out-of-session (for example, by correspondence).
- Where items cover the remit of more than one Ministerial Council, the Council should identify a process for involving the other relevant Ministerial Councils in discussions and policy development.
- In cases where the field of policy covered by a Ministerial Council covers more than one portfolio in any jurisdiction, each jurisdiction should determine which Minister or Ministers are to attend and arrange appropriate liaison.
- Council arrangements should include processes for ensuring that all parties have input to the development of agendas and that agendas are agreed at the earliest possible date prior to meetings.

## Governance arrangements

This review also considers appropriate governance structures that could be employed should the MCDS be disbanded as part of the reform process for Ministerial Councils. To do this a series of established principles of good governance have been used to ensure the options developed are appropriate. The National Drug and Alcohol Research Centre (NDARC) has used the eight governance principles and criteria for good coordination in its assessment of the coordination of Australian illicit drug policy (Table 4), and it is considered these provide a good framework for guiding the development of new frameworks.<sup>15</sup>

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<sup>15</sup> C Hughes, M Lodge, A Ritter 2010, *The Coordination of Australian Illicit Drug Policy: A Governance Perspective*, Drug Policy Modelling Program Monograph 18, National Drug and Alcohol Research Centre, p.3.

**Table 4: Principles for good governance**

<b>Principle</b>	<b>Description</b>
Participation	<ul style="list-style-type: none"> <li>• All relevant stakeholders have been identified and given opportunities to participate</li> <li>• There are structures/mechanisms to enable participation</li> <li>• Desirable levels of participation have been considered for different issues, circumstances and participants</li> <li>• Each participant clearly articulates who they represent and nominates how the voices of their constituents are heard and represented.</li> </ul>
Consensus-oriented	<ul style="list-style-type: none"> <li>• A process of open dialogue is adopted</li> <li>• All stakeholders consider the evidence-base and alternate views and debate issues</li> <li>• All stakeholders work towards compromise while taking into account the interests of the other stakeholders.</li> </ul>
Transparency	<ul style="list-style-type: none"> <li>• The roles and responsibilities of each player are clearly specified and documented</li> <li>• The procedures for decision making are clearly specified and documented</li> <li>• There is a free flow of information between stakeholders</li> <li>• The reasons for decisions are well articulated, recorded and disseminated</li> <li>• If necessary, the limits in access to information are well defined and are justified</li> <li>• Real or potential conflicts of interest are declared.</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>• There is an explicit commitment to clear and common goals</li> <li>• There is an identifiable accountability mechanism for each stakeholder to each other, their constituency and society</li> <li>• There is regular reporting of performance and outcomes</li> <li>• There is robust reporting of performance and outcomes.</li> </ul>
Responsiveness	<ul style="list-style-type: none"> <li>• The current structures/processes are suited to the production of timely advice/decision making</li> <li>• All parts of the system are appropriately responsive</li> <li>• Stakeholders identify/address emerging problems</li> <li>• Difficult issues are being addressed and resolved</li> <li>• There is appropriate delegation of authority.</li> </ul>
Equity and inclusiveness	<ul style="list-style-type: none"> <li>• All stakeholders are educated on their roles and responsibilities and the processes of coordination</li> <li>• All stakeholders are able to put forward their views and have their views assessed on their merits</li> <li>• The methods of engagement are appropriate for all stakeholders</li> <li>• There are active efforts to overcome differential capacities and hence ensure full participation</li> <li>• Decisions are being made in an equitable manner.</li> </ul>
Effective and efficient	<ul style="list-style-type: none"> <li>• Structures/processes provide leadership and direction</li> <li>• Structures/processes are leading to more holistic and integrated policies</li> <li>• Current arrangements are the most cost-effective</li> <li>• Barriers to coordination are being identified and addressed</li> <li>• All stakeholders act in the spirit of cooperation.</li> </ul>
Follow the rule of the law	<ul style="list-style-type: none"> <li>• The regulations and agreed rules that govern each party are recognised and respected</li> <li>• The regulations and agreed rules that govern each party are adhered to</li> <li>• Processes ensure ethical and fair behaviour.</li> </ul>

Source: C Hughes, M Lodge and A Ritter 2010, *The Coordination of Australian Illicit Drug Policy: A Governance Perspective*, Drug Policy Modelling Program Monograph 18, National Drug and Alcohol Research Centre, p.37

Further, NDARC conducted a survey to rank this set of good governance principles, the survey identified that the most important to least important governance principles were as follows:

- Accountability
- Participation
- Following the rule of law
- Transparency
- Effectiveness and efficiency
- Responsiveness
- Equity and inclusiveness
- Consensus-orientation.<sup>16</sup>

These principles of good governance are similar to those that have been developed by the Australian National Audit Office (ANAO), which also places emphasis on:

- Accountability
- Transparency
- Integrity
- Stewardship
- Leadership
- Efficiency.<sup>17</sup>

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<sup>16</sup> C Hughes, M Lodge and A Ritter 2010, *The Coordination of Australian Illicit Drug Policy: A Governance Perspective*, Drug Policy Modelling Program Monograph 18, National Drug and Alcohol Research Centre.

<sup>17</sup> ANAO 2003, *Public Sector Governance, Better Practice Guide*, Volume 1.

## 5 Governance structures and process

### Key findings

- In recent years attendance at the MCDS has fallen, both in terms of numbers and seniority of Ministers attending. It has a limited influence on driving drug policy debate and development and focuses more on reviewing and approving items put forward by the IGCD (including the CSFM).
- Although there are some areas for improvement, overall there is support and an identified need to continue the MCDS with some adjustments to its structures.
- Stakeholder views vary significantly about what should happen if MCDS were to be removed – A ‘branched’ approach using AMHC and MCPMP is a possible alternative but strategies (such as nominated Ministerial representatives) would need to be implemented to ensure that the views of health and law enforcement continue to be brought together.
- Other governance options include the retention of the MCDS as a ‘select council’, which meets less frequently, establishing a Ministerial forum to replace the MCDS that would meet on an ad hoc basis (potentially every second year), disbanding the MCDS and having the IGCD report to the COAG senior officials meeting or disbanding the MCDS and the IGCD.
- Even if MCDS were to be discontinued IGCD should continue - the collaboration and cooperation that occur at this level are considered to be vitally important. However, as for the MCDS, there is room to improve the IGCD’s processes.
- IGCD and its supporting structures need to have greater transparency and greater accountability for delivery. This could be achieved through the establishment of clearer goals and objectives for the IGCD.

This review considers existing processes and governance arrangements. This section focuses on the continued need for the MCDS (in light of the Hawke Review) and the governance arrangements and processes that could be put in place to make sure there continues to be a coordinated and effective process for drug policy development.

First, the purpose and objectives of the MCDS and the appropriateness of it as a policy making forum and within the broader objectives of governments are considered. In addition, the current governance and process arrangements have been examined to determine whether there are improvements that could be made to these structures that would improve outcomes and possibly improve the efficiency and effectiveness of MCDS and its supporting structures.

We have also considered a range of process questions in relation to the operational procedures of MCDS and IGCD, this assessment is contained in Appendix C.

### 5.1 Appropriateness

Across the stakeholder consultation conducted there was much discussion of the changes that had occurred in the development of drug policy since the MCDS was first formed and the changes in the focus of drug and alcohol policy that had occurred in recent years. It was noted that the debate around drug policy was not as vigorous as it had once been and that both the MCDS and IGCD had lost momentum and energy. The drop off in attendance at MCDS meetings was given as a prime example of the extent of prioritisation away from drug and alcohol policy issues at the Ministerial level.

A number of reasons were given for this, one of which was that the environment has changed from the time at which the MCDS was first established. At that time there was a particular focus on illicit drug use and the impact this was having, there was a sense of urgency and need for action. One stakeholder suggested that the shift in the work of MCDS and IGCD has changed because the settings around drug policy are now largely in place and working, and the focus is now on implementation rather than strategic policy development. Others suggested that the focus of drug and alcohol policy has now changed, as has the way governments make decisions and develop policy internally. This suggests that consideration may need to be given to the purpose and desired outcomes for MCDS and IGCD.

It has been suggested by some stakeholders that attendance at MCDS meetings indicates how drugs and alcohol are currently viewed in the broader policy context. The value in Ministers attending must be evident – that is the agenda must focus on issues and actions that warrant Ministers’ attention and decision-making power. Some stakeholders expressed the view that the MCDS had become too procedural and is not appropriately focused. There was general agreement that MCDS needs to be a decision making body at the Ministerial level.

Another indicator that the MCDS may need to adjust its focus is that in recent years significant policy decisions in this area have been made outside this forum. Examples that were cited on a number of occasions were the development of policy in relation to binge drinking, which was developed through COAG, and the announcements by the Commonwealth in relation to changes in alcohol taxation (the alcopops tax), as well as the introduction of changes to cigarette packaging.

There was broad agreement that both MCDS and IGCD remain relevant and that there is a need for a national approach to the development of drug policy and that the development and implementation of drug policy should remain the focus of these bodies. It was also considered that the relative roles of each should remain as they are, with the IGCD being responsible for the detailed development of policy and MCDS focused on making important policy decisions.

## 5.2 Current processes

Under the existing framework the MCDS comprises law enforcement and health ministers from across all jurisdictions and the Minister for Education from the Commonwealth. The MCDS makes decisions on policy, based on the information and guidance that is provided by the IGCD.

Chairing of both the MCDS and IGCD rotates between the jurisdictions and between health and law enforcement. This is seen as an appropriate arrangement. However, one stakeholder did note that, in relation to the IGCD, the background of the Chair did tend to affect the agenda i.e. when a health representative was Chair, health issues seemed to gain prominence and the same occurs when the Chair is from a law enforcement background. While potentially inevitable, it was considered that this could affect the consistency of approach and focus over time.

The ANCD has responsibility for ensuring that the expert voice of non-government organisations working in the drug field reaches all levels of government and influences policy development. There are also a number of MCDS and IGCD working groups that provide advice on specific issues.

The Secretariat and coordination unit, within DoHA, provides support to the MCDS and IGCD. There was general agreement among those consulted that the Secretariat performed its functions adequately but that it was sometimes limited in its ability to provide support as a result of factors outside of its direct control. The most often cited example was the circulation of agenda papers prior to meetings. Many stakeholders noted that papers are often not circulated with much time prior to meetings, but this was thought to be a result of papers simply not being submitted to the Secretariat within the required timeframe.

Each year the IGCD provides an annual report to the MCDS that provides a summary of key trends over the past 12 months, key themes, achievements of the IGCD and jurisdictional achievements against the NDS priorities. This annual report is published on the National Drug Strategy website ([www.nationaldrugstrategy.gov.au](http://www.nationaldrugstrategy.gov.au)), along with communiqués that are released after MCDS meetings. Some additional items relating to the MCDS are also posted on DoHA's website.

The structures that have been put in place for the development of drugs policy recognise the importance of coordination and cooperation, but this brings a range of significant challenges. It has been suggested that the processes and mechanisms by which drug policy is directed, controlled and held to account determines who has a voice in decision making, how decisions are made and accountability for decisions. Good governance can result in better policy making processes and better outcomes.<sup>18</sup>

A recent survey of stakeholders involved in the peak advisory structures and analysis of previous strategies and evaluations, undertaken by NDARC, indicated that the structures and processes of drug policy coordination in Australia meet the principles of good governance, outlined in Chapter 3.<sup>19</sup> In discussions with stakeholders for this review it was also evident that appropriate governance structures have been put in place and that this does aid the development of policy and decision making.

There was some concern expressed around transparency and accountability and the inclusion of all stakeholders. However, this concern was not expressed in terms of suggesting that structures were inappropriate but rather that existing processes were potentially limiting the capacity of MCDS and IGCD to have greater influence and improve outcomes.

The assessment of current governance arrangements, against the evaluation framework criteria (outlined in Chapter 3), is based on stakeholder consultations and available written information is provided in Table 5.

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<sup>18</sup> C Hughes, M Lodge and A Ritter 2010, *The Coordination of Australian Illicit Drug Policy: A Governance Perspective*, Drug Policy Modelling Program Monograph 18, National Drug and Alcohol Research Centre, p.77.

<sup>19</sup> *Ibid.*

**Table 5: Assessment against principles for good governance, based on stakeholder consultations**

<b>Principle</b>	<b>Description</b>
Participation	<ul style="list-style-type: none"> <li>• There is a sense among those consulted for this review that stakeholders outside of government have not been given sufficient opportunity to participate in the IGCD and MCDS.</li> <li>• Jurisdictions tend to have at least one Minister attending MCDS and health and police representatives from all jurisdictions routinely attend IGCD.</li> <li>• There are structures that should enable participation but for some reason these are not being used.</li> <li>• There is clear representation from across the jurisdictions and the areas of law enforcement, with some involvement from other areas of government as required.</li> </ul>
Consensus-oriented	<ul style="list-style-type: none"> <li>• MCDS and IGCD are consensus bodies that promote open dialogue.</li> <li>• There is a strong feeling that policy decision should be evidence based and that MCDS and IGCD should be forums for debate. The debate at MCDS is not considered to be as robust as it once was.</li> <li>• There is a view amongst those consulted that increasingly issues are only placed on the agenda where it is clear there will be a consensus position, issues are not generally controversial.</li> </ul>
Transparency	<ul style="list-style-type: none"> <li>• The roles and responsibilities of the MCDS and IGCD are relatively clear, although some of those consulted did indicate that when they were new to the IGCD it was not immediately apparent what their role was or what was expected of them as individuals.</li> <li>• Stakeholders indicated that the procedures that govern meetings and out-of-session arrangements are not always clear and that they relied on colleagues to form an understanding of both bodies.</li> <li>• There is a free flow of information between government officials but stakeholders outside of government indicated that the work of the IGCD and MCDS was not always transparent and the work agenda for drugs policy was not clear.</li> <li>• Evidence from our consultations indicates that the reasons for decisions are not always well articulated, recorded or disseminated.</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>• When asked what the goals and objectives of the MCDS/ IGCD are, most stakeholders had a view on what these were but were unsure if these were the stated or original goals and objectives of both bodies.</li> <li>• There are accountability mechanisms in place, however there are questions around how targeted or effective these are in ensuring the work of MCDS and IGCD remains focused on priority areas.</li> <li>• There is regular reporting of performance via the IGCD Annual Report to the MCDS. It is questionable whether this is robust as it does not indicate performance against set measures.</li> </ul>
Responsiveness	<ul style="list-style-type: none"> <li>• There was frustration expressed by some stakeholders about the timeliness of IGCD and MCDS and that the agenda, for MCDS, often only contained issues that were non-controversial and that difficult issues were not necessarily being resolved by MCDS.</li> <li>• There was also some concern that the MCDS agenda contained issues that were of a procedural nature and were not decisions that needed to be made at the Ministerial level.</li> </ul>
Equity and inclusiveness	<ul style="list-style-type: none"> <li>• Stakeholders indicated that they did not receive any information on their roles and responsibilities in relation to MCDS and IGCD in any formal way, but learnt from colleagues and through observing.</li> <li>• IGCD is considered to be a relatively open forum where members can express their views.</li> <li>• Engagement methods for some stakeholder groups could be improved.</li> <li>• It was felt by those consulted that decisions are made in an equitable manner.</li> </ul>
Effective and efficient	<ul style="list-style-type: none"> <li>• These issues are addressed in the following chapter.</li> </ul>
Follow the rule of the law	<ul style="list-style-type: none"> <li>• The regulations and agreed rules that govern each party are recognised and respected.</li> </ul>

### 5.3 Future governance arrangements

Most stakeholders were aware of the Hawke Review and its potential implications for the MCDS, and that alternative governance arrangements would need to be made at the Ministerial level. It was acknowledged that while there was a preference for the MCDS to remain that it would be possible to have a national approach to drug and alcohol policy development without it (assuming IGCD continues) and that consideration needed to be given to an alternative structure.

It was considered by stakeholders that there needed to be a structure at the Ministerial level that took responsibility for drugs policy as without this the development of drug and alcohol policy would lose focus. It was noted by stakeholders that in a Federal system there are few other ways to get joint consideration of national issues and policy agreement. There was a view expressed that this body did not necessarily need to be a Ministerial council but that there needed to be a forum for the discussion of drug policy across jurisdictions.

#### 5.3.1 Recommended future governance arrangement

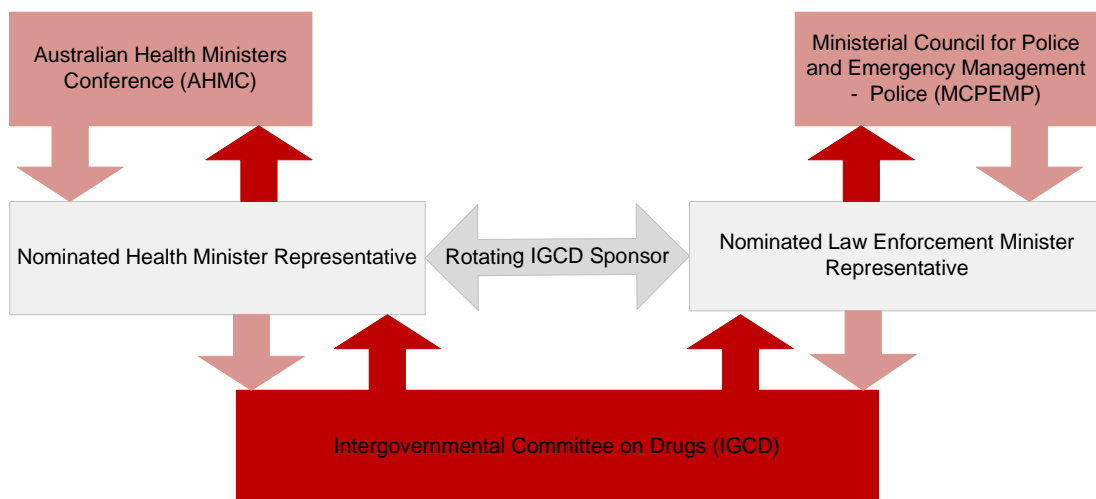
For most stakeholders the most obvious alternative structure would be that the IGCD report to the Australian Health Ministers' Conference (AHMC) and the Ministerial Council for Police and Emergency Management – Police (MCPEMP). Having considered other alternatives it is also a PwC recommendation that this would be the most appropriate arrangement should the MCDS be disbanded.

Under this approach issues that are considered essentially health related and requiring Ministerial decision or discussion would be placed on the AHMC agenda, and for law enforcement the MCPEMP agenda. Where it is a dual issue it could go to both.

A similar approach could be used to that already employed within the AHMC structure. There are a number of standing committees that sit under AHMC and are specific to different policy areas. The IGCD could become a standing committee within this structure. Although there is not a similar structure within MCPEMP, such an approach could be mirrored to ensure equal consideration is given to health and law enforcement issues.

The Ministers that are currently responsible for drug policy development would continue to be responsible, but not in a combined forum. To encourage continued collaboration between health and police Ministers, processes could be put in place. For example, a representative from each ministerial body could be given the responsibility of liaising with the other on drug and alcohol policy issues, providing a focal point for consultation and responsibility. An illustration of this 'branched' governance model is shown in Figure 3.

**Figure 3: A 'branched' governance arrangement**



The retention of IGCD would ensure that briefing would be co-ordinated and that the views of both health and law enforcement were discussed at the senior official level – policy development should therefore continue to be collaborative. A minimal number of new structures would be required as existing resources and processes would largely remain in place. IGCD would also take responsibility for the Cost Shared Funding Model (CSFM), deciding on appropriate projects and the level of funding, with briefing

provided to both AHMC and MCPEMP. We have assumed that the IGCD would be the forum where senior officials in mental health, law enforcement and education policy can contribute and receive information to be carried to their respective Ministers on an as needs basis.

There are number of risks associated with this approach, these include:

- a lack of co-ordination in Ministerial decision making – Ministers would be dependent on briefing to provide the perspective of the 'other side'. Ministers may not be as consultative with each other
- additional bureaucracy and potentially greater process issues for jurisdictions and the IGCD Secretariat in preparing briefing for Ministers
- decision making processes could become prolonged, as meetings of AHMC and MCPEMP would not necessarily occur at similar times and some decisions (of a joint health and law enforcement nature) would require a meeting of each to occur
- AHMC and MCPEMP could produce conflicting outcomes relating to the same drug policy issues
- a possibility that drug policy issues will not make it onto the agenda – both Councils have full agendas already and drug policy is not necessarily a priority for either forum.

In terms of the framework for good governance it is considered that this model would largely meet the eight principles in a manner similar to the existing model. There are changes to the supporting structures and accountability and transparency arrangements that could improve the model, but a change to this model is not considered to be detrimental. Changes to these other aspects of the MCDS and its supporting structures are dealt with in the following two chapters.

A range of other governance models that could be adopted have also been considered and these are outlined in the following section.

### *5.3.2 Other governance models*

#### **Alternative 1 – Retention of MCDS as a select council**

There is a clear preference for the retention of the existing structures. There is broad recognition that there is room for improvement in both the MCDS and IGCD but none of the literature or stakeholders that were consulted indicated that outcomes could be improved by removing either (or both) of these groups.

Therefore, there is a reasonable argument for the retention of the MCDS, with improvements aimed at improving the efficiency and effectiveness of both the MCDS and IGCD. MCDS could become a Select Council, which is likely to reduce the frequency of meetings to an annual arrangement but still provides a forum for the discussion of drug policy at Ministerial level, if required.

It is difficult to determine exactly how the MCDS would function in this environment with the forum for key issues in drug and alcohol policy to be raised and discussed significantly reduced in terms of timing.

#### **Alternative 2 – Establishment of a Ministerial forum**

Under this option it is proposed that MCDS be disbanded and that a Ministerial forum be introduced. It could meet semi regularly (potentially every second year) or on an ad hoc basis. A Ministerial forum is different to a Select Council, in that it would only meet when necessary as opposed to a set timeframe, albeit less frequently than the current MCDS. The purpose of the forum would be similar to the MCDS, to bring law enforcement and health Ministers together to make nationally significant policy decisions in relation to current and emerging drug issues. IGCD would report to this body, and could use existing arrangements, such as the annual report, to do this.

By meeting less regularly, and potentially having a larger agenda, this forum could also include broader membership. It would be possible to invite government representatives from a range of areas, potentially for single sessions, to ensure that policy decisions were fully informed and took into consideration the impacts across all portfolios and jurisdictions.

Allowing longer periods between Ministerial meetings would provide IGCD with more time to undertake major policy development and to commission and undertake research aimed at informing important, nationally significant decisions. It would reduce the briefing burden associated with Ministerial meetings. More minor policy decisions could occur out of session and through Ministerial correspondence, limiting the need for Ministers to meet.

Conversely, the lack of regularity may result in an even greater lack of focus on the issues. There is a risk that it would introduce difficulties in getting agreement on and progressing issues that are not taken to 'the forum'. There are also issues around dealing with issues by correspondence, it can be a lengthy process and may lack the co-ordination that is provided by a more focused



approach. It is also important to note the practicalities of convening a joint Ministerial Council meeting. There are difficulties in convening all of the relevant Ministers for one Council meeting, such as AHMC, that trying to co-convene this meeting with MCPMP to hold the Ministerial forum would likely prove a challenge.

### Alternative 3 – IGCD reports to COAG senior officials

As with option two, IGCD would continue essentially unchanged but would report to the COAG Senior Officials group. In circumstances where a Ministerial decision was required, COAG Senior Officials could place items on the COAG agenda or they could be dealt with by health and police Ministers in each jurisdiction through their own processes.

This approach would provide centralised Ministerial consideration and debate and high level engagement on drug policy, to the extent that issues were referred to COAG. Retention of IGCD would ensure that briefing would be co-ordinated and that the views of both health and law enforcement were discussed at the senior official level – as a result, policy development should still be collaborative and co-operative. Again this approach would require minimal changes to existing structures and processes.

Potential problems associated with this approach are the minimal knowledge of drug and alcohol issues at the COAG level relative to the large range of issues canvassed and there is already concern at the limited engagement on these issues at ministerial level. This is unlikely to improve under this model. At the very least, engagement would only occur on a very small number of issues that are considered substantial enough to warrant the attention of COAG.

It is possible that health and law enforcement Ministers may become further disengaged from alcohol and drug policy if responsibility for drug policy was seen to be taken to COAG. Drug policy would still remain the responsibility of relevant portfolios and decisions would still be required by health and police Ministers, but particularly significant decisions would be taken by COAG.

There is also a chance that this approach would increase the administrative burden for officials and the secretariat. Processes could become duplicative if there were a need for issues to be considered at both the Ministerial level and by COAG.

### Alternative 4 – No cross-jurisdictional ministerial body

A further option, should the MCDS be disbanded, is to simply have no peak ministerial body responsible for drug policy. The ICGD would remain and its members would rely on jurisdictional arrangements to progress policy development and ministerial decisions. In many cases jurisdictions require issues to be considered through the Cabinet process prior to MCDS consideration, to reach an agreed government position, and so therefore this would not be a substantial departure from existing arrangements.

There should be continued coordination and cooperation between law enforcement and health as both Ministers would consider issues within the Cabinet process and senior officials would still meet as part of the IGCD.

This approach would eliminate a layer of bureaucracy in decision making, removing the need for jurisdictions to prepare briefings for Ministerial meetings and it would reduce the workload of the Secretariat, which would only be required to provide support to the IGCD. However, this approach would result in a loss of co-ordination across jurisdictions, as there would be no Ministerial forum that was required to consider issues from a national perspective and is considered by PwC to be the least effective governance option.

## 6 Efficiency and effectiveness

### Key findings

- MCDS and IGCD have been effective in building a strong and collaborative relationship between the health and law enforcement portfolios. This relationship is clearly valued by members of the IGCD and other stakeholders.
- The MCDS agenda should be focused on issues of national significance that require decision or debate at the Ministerial level.
- Both the MCDS and IGCD have broadly achieved the objectives set for them, but there is a growing concern that the quality of outcomes is at risk and that processes are increasingly inefficient.
- The current focus and objectives of the MCDS and IGCD are too broad and more specific outcomes may help to focus efforts on a set of core issues or actions.
- IGCD and supporting structures need to have greater transparency and accountability mechanisms as a means of reporting success and areas for improvement.
- Many of the solutions to issues of effectiveness require some responsibilities to be shifted from the MCDS to the IGCD (likely the IGCD Executive to form initial decision recommendations). As a result, some changes may be necessary to ensure the robust nature of the IGCD Executive to make decisions on behalf of the MCDS, such as reviewing proxy representation and the representatives necessary to have a quorum.

To determine the effectiveness of the MCDS and its supporting structures it is necessary to determine whether and to what extent its objectives have been met, and whether outcomes that were achieved could have been improved upon. Our assessment of effectiveness has been primarily informed through consultation with members of the IGCD as well as other stakeholders. We have also conducted a desktop review of the documented achievements of the MCDS and IGCD over the review period.

Our examination of efficiency considers the level of resourcing and inputs that are required to produce the outcomes achieved by the MCDS and its supporting structures. This analysis considers whether the Council has been fiscally prudent, has made good use of funding to achieve its stated objectives, and also the time and effort that is required to support the work of the MCDS and whether there is evidence of administrative efficiency.

As a result of our analysis we have made a number of key findings and recommendations in relation to the efficiency and effectiveness of the MCDS and its supporting structures.

### 6.1 Effectiveness

Effectiveness is determined in relation to the stated objectives and/or desired outcomes from a given process, program or organisation. Therefore, we must consider what the objectives are in this case. The stated objectives of the MCDS are to:

- provide a mechanism for regular consultation between Australian Government, State and Territory health and law enforcement Ministers on programs and policies in relation to licit and illicit drugs in Australia
- promote a consistent and coordinated national approach to policy development and implementation in relation to all drugs issues
- consider matters submitted to the Council, through individual Council members, by the Intergovernmental Committee on Drugs (IGCD).

Similarly, the objectives of the IGCD, according to its Terms of Reference, are to:

- develop proposals for and oversee implementation of the National Drug Strategic Framework
- provide policy advice to Ministers and develop proposals for recommendation to the Ministerial Council on Drug Strategy (MCDS) on licit and illicit drug matters, and implement decisions of the MCDS
- liaise with other intergovernmental agencies on matters relevant to the National Drug Strategic Framework and to consult with the non-government sector, including the Australian National Council on Drugs
- prioritise and coordinate activities across the National Expert Advisory Committees on behalf of the Ministerial Council on Drug Strategy (MCDS)
- coordinate the development, implementation and evaluation of the National Drug Action Plans.

According to the IGCD's Annual Reports to the MCDS over the period of the current NDS (2004 - 2009) there is strong evidence that it has generated outputs and outcomes that are in line with its objectives.

During this time period some of the major achievements of the IGCD have been the development and/or implementation of:

- National Tobacco Strategy 2004 – 2009
- National Alcohol Strategy 2006 – 2009
- National Cannabis Strategy 2006 – 2009
- A monitoring and evaluation framework for the NDS, as well as a full evaluation
- A review of the Cost-Shared Funding Model
- Progressed work against the MCDS priority areas for the Aboriginal and Torres Strait Islander Peoples Complementary Action Plan 2003 2009.

Many other activities have been undertaken aimed at implementing the NDS Framework. It is also clear from the annual reports that each jurisdiction has made a contribution to progressing and implementing the initiatives developed through the MCDS and IGCD. Furthermore, this work is in line with the eight priority areas that have been identified by the MCDS for further action. Some examples of this work are contained in the latest publicly available Annual Report which is summarised in Box 1.

### **Box 1: Progress by jurisdictions against the key priority areas set by MCDS**

#### **1 Prevention**

NSW committed \$1.5 million to a cannabis education program for secondary and senior primary school students

Victoria introduced a number of prevention initiatives specific to 'ice' – a community awareness campaign, a brochure aimed at parents of senior high school students and training programs for drug and alcohol workers

#### **2 Reduction of supply**

The AFP undertook a range of activities to tackle importation, trafficking and production of illicit drugs.

Queensland Police continued to proactively cultivate strong working partnerships with industry to reduce the incidence of bulk thefts of pseudoephedrine, other pharmaceutical drugs and scientific equipment diverted to the illicit market.

#### **3 Reduction of drug use and related harms**

NSW passed the *Liquor Act 2007* to introduce significant reforms to the liquor regulatory framework, focusing on the impact that licensed venues have on the local and broader community.

The NT began implementation of changes to the Tobacco Control Act to introduce comprehensive smoke-free policies.

#### **4 Improved access to quality treatment**

WA established integrated community drug services that combine a number of initiatives to provide a comprehensive service

Tasmania undertook a review of its alcohol, tobacco and other drugs sector and developed a five year plan for investment and service delivery to support people with substance abuse issues in a safe and effective manner.

#### **5 Development of the workforce, organisation and systems**

Drug and Alcohol Services South Australia conducted a series of short intensive courses for a range of health professionals and workshops on the Alcohol Treatment Guidelines for Indigenous Australians.

The Australian Government initiated a number of programs to improve coordination across mental health services and drug treatment services, to develop best practice guidelines for service delivery and increase professional education and training.

#### **6 Strengthened partnerships**

The NSW Health 2007-08 grants program funded 141 Community Drug Action Team Projects.

In WA the Drug and Alcohol Office continued to coordinate across government approaches to address alcohol and other drug use through the Western Australia Drug and Alcohol Strategy Senior Officers Group.

#### **7 Implementation of the Aboriginal and Torres Strait Islander Peoples Complementary Action Plan 2003-09**

Queensland Government Alcohol Reform initiative for 9 Indigenous communities was announced.

SA continued a pilot program to provide a systematic and specific response to assist Aboriginal and Torres Strait Islander families and communities who are concerned about young people with alcohol and other drug problems.

#### **8 Identification of and response to emerging issues**

Queensland Police and the AFP co-hosted the 4th Australasian Drug Strategy Conference in October 2007.

SA undertook research to examine motivations, behaviours, risks and physical and psychological harms associated with the use of performance and image enhancing drugs.

Based on the information provided in the annual reports, PwC considers that IGCD has been effective in its role. This conclusion was generally supported through stakeholder consultation. Stakeholders indicated that they thought MCDS and IGCD were valuable bodies and important to the policy development and implementation process. However, a large number of stakeholders also noted that the current objectives of the MCDS are broad in their nature and perhaps better state the purpose of creating the MCDS, rather than measurable objectives that indicate success in the drug and alcohol policy area.

It was widely agreed across all stakeholders that there is a continued need for the IGCD and that there are benefits in the retention of the MCDS. Both are considered to be valuable forums and of substantial benefit in the development of national drugs policy. A number of individuals consulted expressed the view that Australia is considered a 'world' leader in relation to drugs policy from the point of view that we have a recognised policy development forum that brings both law enforcement and health Ministers and officials together. This collaborative approach is unique not only in the Australian policy context but also internationally, a point repeatedly noted by stakeholders.

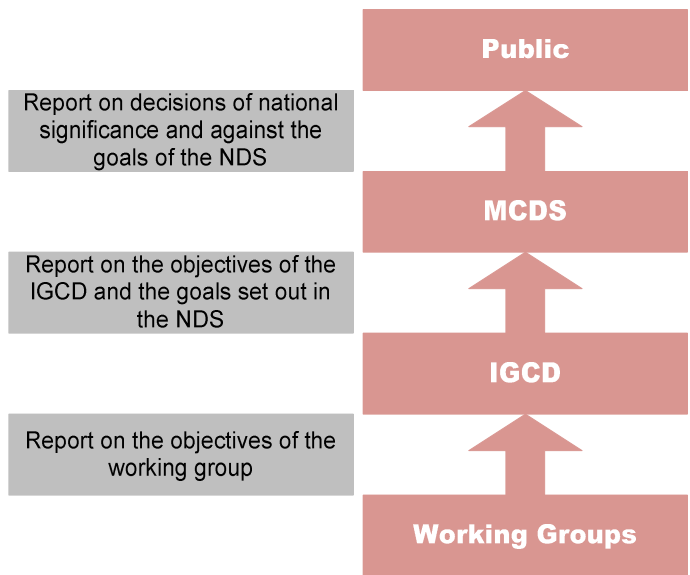
This cross portfolio approach is highly valued, with stakeholders across the board recognising the benefits that come from a policy approach that considers the implications for the range of service delivery and enforcement agencies. It is thought that this approach keeps policy development relevant and ensures that informed decisions are made.

However, there was concern that both bodies have become less effective than they once were and that possibly less is now being achieved and/or the quality of outcomes is not as high. A number of issues of concern were consistently raised throughout the consultation process that are seen to, or have the potential to, limit effectiveness. These are:

- The lack of senior minister attendance at MCDS meetings – It was noted that attendance at the MCDS has fallen, both in terms of numbers and seniority of Ministers attending. This was concerning to those consulted as it was seen as indicating a lack of engagement by responsible Ministers and also resulted in a lack of decision making ability at meetings
  - An alternative view is that this is a more efficient approach, with jurisdictions allocating responsibility to a single Minister. This is consistent with the general principles for the operation of Ministerial Councils which indicate that where a field of policy covers more than one portfolio, each jurisdiction should determine which Minister or Ministers should attend and arrange appropriate liaison.
- A lack of debate and discussion within MCDS – There is a widely held view that Ministers come to MCDS with a predetermined position rather than using the forum to debate issues and develop policy collaboratively. It is considered by a range of stakeholders that MCDS has become a forum for agreeing IGCD proposals, rather than focusing on nationally significant issues. It is thought by some that this has contributed to the MCDS agenda being 'watered down' and not including controversial or difficult items, which means these policy debates are not occurring at Ministerial level, at least not in this forum.
- IGCD representation – A number of stakeholders noted that departmental representation at IGCD previously included specialists in drug and alcohol policy but that as government departments have grown and the responsibilities of senior officers broadened the level of detailed knowledge and expertise is being lost. It was noted by a number of stakeholders that this increased the importance of expert involvement and input from other areas (this issue is dealt with in Chapter 6).
- IGCD Executive representation – A small number of stakeholders commented on the ability for IGCD Executive members to be able to make necessary decisions on the MCDS/IGCD agenda and content. Two key issues were raised:
  - That proxy attendance by representatives can only be transferred to another member of the IGCD Executive, not another member of the broader IGCD and not a person acting in the representative's position.
  - As a result of this issue, it was noted that often only a small number of the eight IGCD Executive members are able to attend executive meetings, which creates issues around the necessary quorum to be able to make representative decisions (which is currently four representatives). This method can prevent necessary decisions from being made in a timely manner. These issues will need to be resolved in order to provide the IGCD Executive with the necessary tools to be able to make decisions on behalf of the MCDS.
- Inclusion of other portfolio areas – There is general consensus that drugs policy affects a number of portfolios that are not represented at MCDS/IGCD and that there could be benefits from increasing the membership. However, this was countered by the view that the MCDS and IGCD were already large groups and increased membership could make the group unmanageable and would make decision making more difficult. However, there is a consistently strong desire among stakeholders for increased linkages with other areas of government and to be as inclusive as possible in the policy development process.
- Meeting schedule and agenda development – A number of stakeholders noted that, particularly in the case of MCDS, there is not always a clear reason to meet. It was almost universally agreed that the MCDS only needs to meet once a year, and that this would allow for a more meaningful agenda and would give IGCD time to progress issues and develop items for the consideration of MCDS
  - A lacklustre agenda, with limited national significance, was considered by a number of stakeholders to be the result of meeting too frequently. Issues were not always considered to be of strategic national importance and issues were not prioritised or clearly linked to a strategy. Issues often made it onto the agenda just to ensure the agenda was 'full'.

One other issue that was raised was concerns around accountability arrangements, in particular around working groups. There is a large number of working groups supporting MCDS and IGCD at any one time. Our consultations indicated that often these groups are formed without clearly determining what they are trying to achieve and a process for reporting findings or outcomes. There also appears to be no operational accountability mechanisms for these working groups. Similar comments were also made regarding the lack of a mechanism for translating research into concrete policy outcomes. In fact, the issue of accountability and measurable and transparent indicators to be reported against was raised across a number of levels, as illustrated in Figure 4.

**Figure 4: Areas of accountability and transparent reporting**



## 6.2 Efficiency

Under current arrangements the MCDS is scheduled to meet twice a year, with IGCD meetings prior to each. The IGCD may meet more often, depending on the work program and the need for additional meetings. It typically meets annually to conduct a strategic workshop; as a result there are three meetings of the IGCD each year. There is a degree of flexibility around meeting frequency and timing, allowing additional meetings to be added if required or meetings to be postponed if there are not sufficient issues to warrant meeting.

There are a range of working groups that have been formed over the life of the NDS to inform and support the work of the MCDS and IGCD. In the last publicly available Annual Report (2007-08) it was reported that there were eight active working groups. However, as identified in Section 3, our consultations indicate that the number is higher and that there are a number of inactive working groups still in existence. The purpose of working groups is to provide an effective mechanism to allow the IGCD to focus on immediate issues of concern while working groups address emerging issues or work that needs further development.

In theory there are a range of processes and procedures in place that should ensure that the MCDS and its supporting structures are reasonably efficient. There is a process for establishing a strategy and priority work areas and for establishing working groups to progress this work. There is a process for submitting agenda items and papers and for communication between the IGCD and MCDS. Despite this, information received during our consultations indicated that both the MCDS and IGCD had room for improvements in efficiency in this area.

Funding requirements for the MCDS/IGCD and the Secretariat are somewhat opaque. When the MCDS and IGCD were formed it was agreed that the Secretariat would sit within DoHA and that DoHA would provide funding for the five annual meetings. Funding to staff the Secretariat is additional to the funding that is budgeted for the meetings. Discussions with the Department indicate that the process for allocating funding is undertaken internally and that there is no existing documentation detailing this process. It is understood that the Budget for 2009-10 was \$85,000 and for the previous year it was \$75,000. In addition to this there are two full time staff members working within the Secretariat.

As discussed in the previous section there is a general feeling among stakeholders that MCDS meetings are occurring simply for the sake of meeting, or simply because they are scheduled to occur. Although we note that even though the MCDS is scheduled to meet twice annually, over the last four years or so it has only met once each year. However, concerns over relevance and need remain. It is considered that a meeting should only take place if there is a policy decision that needs to be made and that cancelling a meeting should not be seen as bad outcome or something to be avoided.

A number of stakeholders also expressed the view that the lack of relevance and interest was a key driver in Ministers not attending. Jurisdictions considered that the work of the MCDS did not warrant such a substantial amount of time from two Ministers, it is simply not viewed as a good use of their time.

It is also thought that two meetings a year does not allow sufficient time for IGCD to develop policy proposals and for the work that is required to inform the MCDS meeting to be undertaken. A lot of work is generated by the MCDS meeting, but much of this is not about processing issues it is simply putting agendas together and briefing for Ministers, but potentially little has changed since the previous meeting. A large amount of effort is put into adhering to the meeting process rather than progressing policy.

A single meeting each year would be in line with the COAG principles for the operation of Ministerial Councils. These same principles also indicate that agendas should be checked prior to meetings to ensure that a face-to-face meeting is necessary and cannot be replaced with out-of-session communication. There may also be a consideration in the future to determine if attendance by both a police and health Minister is necessary from each State and Territory. Removing this level of duplication may have an impact on the efficiency of the MCDS, but this needs to be balanced with the cost of non-attendance by police and health Ministers.

There was a view expressed that a lot more could be done out-of-session and that the meeting agenda for both MCDS and IGCD could be more focused on those items that required joint consideration or discussion. There was a view that the agenda was being filled with items of a more administrative nature that could be dealt with through correspondence or discussions outside the meetings themselves, such as projects to be funded through the cost shared funding model.

It was suggested that the MCDS and its supporting structures are costly and resource intensive. Not only in terms of the direct costs of each meeting, such as travel and meeting venue, but also in terms of the hours dedicated to briefing and preparing for meetings and attending meetings. It was thought that the outcomes from the MCDS and IGCD meetings were not commensurate with the inputs.

There was frustration expressed at the pace at which the MCDS and IGCD moves and the time that is taken for decisions to be made and action to be taken. This was considered to be partly a result of the consensus approach that has been taken, whereby general agreement is required before issues are progressed. It is also thought that this process can result in an agenda that is somewhat 'dull' as jurisdictions are reluctant to bring anything controversial to meetings as consensus is unlikely.

One of the areas that received the greatest criticism during our consultation was the organisation and running of working groups. While there appears to be a clear purpose and process behind the establishment of working groups, feedback from stakeholders indicated that this is not the case. It was considered that working groups were simply used as a way to progress issues at meetings, and that if an issue could not be resolved it would simply be given to a working group to resolve.

However, working groups rarely have clearly defined terms of reference that provide guidance on the task/s to be undertaken, the timeframe in which this is to be done, reporting arrangements back to IGCD/MCDS or whether there are any deliverables. It is also thought that consideration is not always given to the membership of working groups, with the Chair being whichever jurisdiction raised a particular issue. It was also noted that experts are not used as well as they could be in the working groups' process and that one of the primary ways that IGCD/MCDS could better engage with a broader body of expertise and knowledge is through representation on working groups.

Concern was also expressed over the lack of a clear strategic approach to the development of the IGCD/MCDS agenda. Some of the stakeholders consulted agreed that there were clearly items on the agenda that were not of national importance and in some cases were only of interest to a single jurisdiction. There was a general impression that anything could be placed on the agenda and there was limited scope to refuse proposed items or a lack of focus on what should be discussed at meetings.

## Cost shared funding model

Within the consideration of efficiency, effectiveness and governance arrangements is the administration of the cost shared funding model (CSFM). This model is used to fund projects that are considered to be of national significance in the drug and alcohol field and to assist the MCDS and IGCD in decision making processes. Any jurisdiction is able to put forward a proposal; IGCD vets CSFM project approvals, which go to MCDS for endorsement.

The CSFM was introduced as a resolution of the MCDS in 2002 and is funded through the Commonwealth and State/Territory Governments through a shared cost function where the total funding of \$750,000 per year is made up of Commonwealth funds (50%) and State and Territory contributions (50% contributed by population size). The New Zealand Government also provides a fixed annual contribution. Examples of the projects that have been funded through the cost shared funding model are:

- National Pharmaceutical Drug Misuse Strategy – To develop a strategy to reduce the diversion and misuse of pharmaceutical drugs and associated harms.
- Development of Australian alcohol aetiologic fractions for emergency department presentations – To develop reliable estimates of alcohol attributed illness and injury presentations to emergency departments.

- National police training program, risk identification and management of substance abuse – To examine the capacity of police to detect and respond to substance related risk to minimise its impact on police, the community and the offender.
- Monitoring of alcohol advertising committee – To monitor the self-regulatory system for alcohol advertising to ensure the industry complies with recommendations from the National Committee for the Review of Alcohol Advertising report.

The endorsement of CSFM projects lies with the MCDS – however, the nature of MCDS meetings means that Ministers are making decisions around specific projects (with relatively small budgets), which have already been selected and approved by the IGCD and the timing of MCDS meetings means that researchers may wait long periods of time for endorsement to be received and for the final approval of completed projects to be received. The impact of this arrangement is twofold:

- Ministers do not have the opportunity or time to focus on the overall strategic direction of the CSFM research and its alignment with the priorities in the NDS; and
- Research projects may sit in finalisation for some time (some stakeholders identified timeframes of up to 1 year), which restricts the release and use of the research and may have an impact on the currency or timeliness of the results.

There was a mixed response from stakeholders in relation to the work that is funded through CSFM and the process for deciding which projects will be funded. It is considered that funding could be more strategically linked to issues. A view was expressed that the principles guiding funding allocations were not necessarily ensuring that the best projects were funded – there was a sense that ‘everyone gets a project’, which does not always result in the best projects receiving funding.

The issue of whether it was necessary for funding to be approved at Ministerial level was also raised. The majority of stakeholders were of the view that this was not necessary, and that it was essentially a procedural task that could be handled by the IGCD Executive or the IGCD as a group. It was considered that Ministers could potentially set priorities for the funding, to guide decisions made by the IGCD but that accountability and probity structures were sufficient that Ministerial approval of actual funding allocations for specific projects was not required. We propose that the IGCD Executive be responsible for an initial set of recommendations on CSFM projects, which are presented and agreed by the IGCD group. Potentially, where necessary, this process could also be done out of session to improve the timeliness of decision making on CSFM projects.

## 6.3 Recommendations to improve effectiveness and efficiency

It is recommended that:

- Ministerial meetings should only occur once a year, and that any additional meeting should be scheduled only when there is a clear reason and agenda for Ministers to meet.
- There needs to be greater discipline around the development of the agenda ensuring that only issues of strategic national importance are being considered and that agenda items are in line with the strategic objectives that have been established by the IGCD and priority areas identified by MCDS.
- Objectives for the MCDS and the IGCD should be more specific, clear and measurable, so that future accountability and reporting against objectives can be transparent and understandable, including to:
  - Develop more specific objectives or outcomes so that there is a mechanism for greater accountability allowing a judgement to be made on whether objectives/outcomes have been achieved
  - Provide greater clarity to members of both IGCD and MCDS on what the objectives of both groups are
  - Provide more information publicly on the work plan and strategy for both groups and outcomes of meetings. This could be aided by ensuring the latest information is available on the National Drug Strategy website.
- Clear objectives and accountability arrangements should also be introduced for the IGCD’s working groups, including clear terms of reference that:
  - Define the task to be undertaken and any deliverable that is to be produced
  - Set the timeframe in which the work is to be undertaken
  - Establishes membership of the working group, including a Chair who would preferably be a member of the IGCD Executive
  - Outline a process for reporting back to the IGCD on progress, preferably a report on progress would be provided at each IGCD meeting
  - Provide a mechanism to review the continued appropriateness of the working group or a set time when the working group would cease to exist
  - Eliminate the requirement for the MCDS to endorse the membership and terms of reference for Working Groups and have these decisions made by the IGCD Executive.

- The number and responsibilities of existing working groups should be reviewed, with an aim to streamline the existing working groups and implement measurable objectives and timeframes. One option is to introduce a core set of working groups that are structured thematically, such as alcohol, illicit drugs, tobacco and pharmaceutical misuse. There may also be scope for additional time-limited working groups (such as responsibility for the writing of the NDS), but these should be introduced sparingly and only if they cannot sit within an existing themed working group.

The CSFM guidelines should be revised and updated to make them more relevant to the current priorities of the NDS and implement an annual update of relevance. Responsibility for recommendations on decisions in relation to CSFM projects should be undertaken by the IGCD Executive, which will be presented and agreed with the IGCD group. The role of the MCDS would shift to a role of providing guidance on priorities and necessary national research.



## 7 Stakeholder engagement

### Key findings

- There is limited opportunity for NGOs to engage with MCDS/IGCD – as a result the advice provided to Ministers is not sufficiently challenged and representative of the full range of views within the drug and alcohol sector.
- Where mechanisms do exist for stakeholders to participate in the policy development process, experts are not always being brought in at appropriate times and given sufficient information and time to provide genuine input.
  - The MCDS has established a series of expert organisations and bodies, including the national research institutes, the ANCD and the NEAP, and there are therefore a wide range of experts that are willing and able to contribute but are not currently being sufficiently utilised.
- There is further scope to involve external bodies in meetings on an *ad hoc* basis, depending on the issues covered on each meeting agenda. However, expanding membership to the IGCD would likely result in the group becoming too large and unmanageable
- However, stakeholders could be engaged at a forum to be convened to coincide with the IGCD strategic workshop and some of the key experts could be representatives on the IGCD working groups

Stakeholder engagement has the ability to affect both the efficiency and effectiveness of the MCDS and its supporting structures. The way in which MCDS engages with stakeholders outside government and the impact that this has was considered of sufficient importance that we have considered it as a separate issue.

Of vital importance to the development of high quality drug policy in Australia is the nature and degree of stakeholder and expert engagement. Given the complexity of drug issues and the wide range of interested parties, it is critical that those individuals and organisations with expertise and experience are appropriately engaged and consulted and that MCDS governance structures should ensure that the legitimate interests of a range of stakeholders are properly and appropriately considered.<sup>20</sup>

Effective stakeholder engagement has three key objectives:

- Information gathering – By building on stakeholder expertise and experience, the government can access a wide range of ideas and evidence to help inform its policy development.
- Solution testing – Given that many policy ideas have been previously trialled, either across Australia or internationally, external stakeholders can play an invaluable role in advising on the likely effectiveness and challenges associated with implementing different policy ideas.
- Ensuring buy in – Given the wide range of government and non-government organisations involved in delivering drug outcomes in Australia, it is important that stakeholders are broadly in support of the government's policy direction and feel that they have an opportunity to influence and shape policy developments.

It is important to consider how far the MCDS governance structures enable these three objectives to be met for its range of stakeholders. In particular, the National Drug and Alcohol Research Centre includes appropriate participation as one of its key principles of good governance, as demonstrated by the following indicators:

- All relevant stakeholders have been identified and given opportunities to participate
- There are structures/mechanisms to enable participation
- Desirable levels of participation have been considered for different issues, circumstances and participants
- Each participant clearly articulates who they represent and nominates how the voices of their constituents are heard and represented.

The membership of the IGCD is limited to officials representing the Commonwealth, State and Territory governments. There are a range of processes by which the MCDS and IGCD engage with external stakeholders to both gather information and test policy ideas. For example, for the development of the latest NDS, IGCD members worked together to organise and host a series of round table public consultation events.

<sup>20</sup> Australian National Audit Office 2006, *Implementation of Programme and Policy Initiatives: Better Practice Guide*

Most jurisdictions have established their own peak drug bodies and consultation processes to engage non-government organisations on policy issues. However, there is not a formal structure for engagement with these organisations at the national level.

While the ANCD's role is to report directly to the Prime Minister, the ANCD is regularly invited to MCDS and IGCD meetings to update the Committees on their latest thinking on current developments and challenges. To support the development of its evidence base, the ANCD undertakes a consultation process four times each year to engage with community representatives, including policy makers, service delivery bodies and service users in different jurisdictions.

The IGCD also regularly engages with the national research centres by inviting them to provide expert advice (in the form of presentations, papers and briefings) to the IGCD and occasionally directly to the MCDS. For example, the NDRI recently prepared a paper on patterns of alcohol use in Australia for the MCDS. Further, the research centres as well as other key stakeholders – including the Australian Institute of Criminology, Australian Crime Commission and the Australian New Zealand Policing Advisory Agency – are invited to participate in the IGCD's two day strategic planning workshop each year.

In 2004, the National Expert Advisory Panel (NEAP) was established to provide the MCDS with ready access to a series of experts across all drug issues. While there is little public information available about the role and use of the NEAP, anecdotal evidence suggests that the NEAP has not been widely utilised by the MCDS or IGCD and it does not appear to have been an effective mechanism for achieving engagement with drug and alcohol experts.

There was a strong consensus throughout the consultation process that the IGCD could do more to engage stakeholders more effectively in the policy making process. Both members of the IGCD and non-government organisations felt that the expert community was not being adequately involved to ensure the effective development of drug policy.

This lack of external involvement was seen as a key limitation of the existing MCDS governance arrangements as it was hindering the ability of the IGCD to provide the MCDS with comprehensive and high quality policy advice.

While the broad representation of the IGCD was welcomed, there was some concern that the nature of IGCD representatives had changed over the past decade, shifting from drug and alcohol experts to high level government officials with a range of experience but not necessarily specifically in the drug and alcohol sectors. This was not necessarily perceived to be a problem but highlighted the need to ensure that external experts were properly engaged.

Stakeholders felt that the current engagement of the national research institutions (particularly at the planning workshop) was valuable and should be continued and built on. It was felt that these organisations could potentially take on a greater role in the research and development of ideas (but any additional work for the research centres would require additional funding from the Department).

Views were mixed on how expert bodies could be better engaged. Some stakeholders advocated a fully open approach to policy making with a number of non-government representatives becoming members of the IGCD. However, a large number of respondents felt that it was important to maintain the confidential nature of internal government decisions to enable full and frank discussions.

The involvement of the ANCD in MCDS and IGCD meetings was welcomed but it was felt that this engagement could be conducted in a more transparent and structured way. In particular, the ANCD is regularly invited to present to MCDS and IGCD meetings but is not given sight of the meeting agenda in advance which limits the value that they can add in ensuring their presentation aligns with the current issues facing the Committees.

Stakeholders recognised the value of the ANCD but views were mixed on how best the IGCD could interact with the ANCD. Suggestions ranged from informing the ANCD of the relevant agenda to inviting the ANCD to attend full meetings of the IGCD without voting rights. Certain stakeholders felt that the existence of parallel structures was confusing and unconstructive for the drug community.

There was a common theme throughout the consultation process that experts should be drawn on in a more structured and comprehensive manner to contribute to the strategic direction of drug policy. One suggestion was that a wider range of expert stakeholders could be invited to attend the annual planning workshop. Ad hoc attendance of specific stakeholders to discuss key agenda items should continue to be used.

There was significant support for the objectives of the NEAP but recognition that it had not been set up in the most efficient and cost-effective way and had not worked as intended. Given that the experts had been appointed, a number of stakeholders suggested that this process could be revitalised to enable the IGCD to draw on expert advice at appropriate points in time. However, considering the recommendations below (in particular, the introduction of the annual stakeholder forum) the current NEAP and the need for such a panel may become redundant.

## 7.1 Recommendations for improved stakeholder engagement

It is recommended that the IGCD considers mechanisms that could improve the level of expert stakeholder input into the policy process. Two options could be pursued. These options are not mutually exclusive and both approaches could be implemented by the IGCD. Both options aim to provide a clear avenue for expert input into the development of drug policy and its implementation. However, it is considered that increasing membership of the ICGD to include additional stakeholders would result in the group becoming too large and unmanageable. There is also the potential for the agenda to become diluted, or to struggle to remain relevant to all members. This could then result in disengagement by new members, as they may only be interested in a small number of the issues considered by IGCD.

### (i) IGCD convenes regular stakeholder forums

To improve engagement with a broad range of stakeholder groups, outside government, the IGCD meeting could coincide with a stakeholder forum at which drug policy related issues are openly discussed. This approach would promote engagement with the NGOs and other organisations that work in the area but are not represented on the IGCD or other supporting structures.

It could allow engagement with a range of experts and organisations that have extensive experience and expertise that can inform policy debate and decision making. The IGCD could draw on a broader pool of information and views in developing advice for Ministers. Such a forum would provide an opportunity for the presentation of research and evidence to support policy development and to debate the implications of policy proposals across all stakeholders.

One of the criticisms of the current approach and supporting structures is a lack of engagement with NGOs and also to some extent the research community. A stakeholder forum would provide a mechanism for the involvement of these groups.

Organisation of such a forum would place a degree of pressure on the Secretariat and IGCD Chair as they would be responsible for setting the agenda, identifying potential participants and organising the forum. There is the potential for such a forum to lack focus and to simply become an opportunity for stakeholders to criticise existing policy rather than have a meaningful debate/discussion. There are two key groups that should attend the stakeholder forum – drug and alcohol experts and broader stakeholders (such as consumer representative groups and other peak bodies). A balance of both groups at the stakeholder forum will ensure a balance in the views that are expressed and raised with IGCD members.

When this option was raised with stakeholders that we consulted with there were also questions raised in relation to the ability of public servants to engage meaningfully with stakeholders. This was not an issue of capability but rather that IGCD members are limited in their ability to make binding decisions or agreements, which would limit the forum to being a discussion of policy issues only.

### Expert membership on working groups

Experts in given areas or that represent certain groups could be invited to participate in IGCD working groups. This is meant to occur under current arrangements but consultation indicates that it is not done effectively. In addition, experts could be invited to attend IGCD meetings on an ad hoc basis to contribute to discussions and the development of policy advice. Again, this happens currently but is not considered to be done in a particularly effective manner.

Such invitations could also be extended to other government departments and agencies where the issues being considered cover areas for which they have responsibility.

This approach would fill knowledge gaps and ensure that policy development was more fully informed. It would allow expertise to be drawn upon at appropriate times without adding unnecessarily to the complexity and management of the IGCD membership.

Identifying the 'right' experts, ensuring there is a balance in representation from across stakeholder groups, and that the process is not seen to be exclusive or only seeking expert advice where it is likely to be complimentary to the 'government' approach will be a challenge. It would also require a more structured and disciplined approach to working group structures.

## 8 Conclusion

This efficiency review of the MCDS and its supporting structures has focused on three key areas – future governance arrangements, efficiency and effectiveness and stakeholder engagement. The key findings across these three key areas show that the MCDS and IGCD have been effective in building a strong and collaborative relationship between the health and law enforcement portfolios. This relationship is clearly valued by members of the IGCD and other stakeholders. However:

- Attendance at the MCDS has fallen, both in terms of numbers and seniority of Ministers attending. Stakeholders identified that the forum has focused on decision items put forward by the IGCD, including the spending of CSFM monies and the approval and acceptance of projects;
- Objectives for the MCDS and the IGCD should be more specific, clear and measurable, so that future accountability and reporting against objectives can be transparent and understandable;
- The MCDS agenda should be focused on issues of national significance that require decision or debate at the Ministerial level. Meetings of the MCDS should be annual; leaving sufficient time for a full agenda with a focus on national significance to be developed; and
- Future governance arrangements need to be considered given the possibility that the MCDS may or may not be in operation in the long term and appropriate arrangements are necessary to ensure the continuance of the IGCD and the meeting of key stakeholders across health, law enforcement and other drug and alcohol experts to ensure the objectives of drug and alcohol policy continue to be guided at a national level.

As a result, PwC recommends a series of changes to the current structures and processes of the MCDS and IGCD, including under scenarios where the MCDS continues and where it is disbanded.

- A ‘branched’ governance option, where drug policy issues are dealt with through the AHMC and MCPEMP. PwC suggests that one Minister from both AHMC and MCPEMP are charged with responsibility for drug and alcohol policy issues, for collaborating with each other and for informing the IGCD to frame future policy development.
- Changes to the content of the MCDS agenda and the frequency with which the MCDS meets, a review of existing working groups, the revision and update of the CSFM guidelines and a shift in responsibility for initial decision recommendations in relation to CSFM projects to the IGCD Executive, with guidance from the MCDS on priorities and necessary national research.
- An increase in stakeholder engagement through the introduction of an annual stakeholder forum to coincide with a meeting of the IGCD and more active involvement of experts in the drug and alcohol sector in IGCD working groups.

These changes are recommended as a means of improving the ongoing effectiveness and efficiency of the MCDS and IGCD, in whatever form they may be structured in the future, as the key government forum to ensure continued demand reduction, supply reduction and harm reduction as a result of drug use and to address Australia’s harmful binge drinking culture, especially among young Australians.

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## Appendix A List of stakeholders consulted

List of stakeholders consulted



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# Appendix B Protocols and principles for the operation of Ministerial Councils

## Broad protocols for the operation of Ministerial Councils

### Preamble

Ministerial Councils are a means of coordinating national approaches to issues across jurisdictions. It is important that Ministerial Councils operate as efficiently as possible to achieve this objective. One of the aims of these Broad Protocols is to facilitate high-quality consultative decision-making, through a robust framework that is accountable, fiscally prudent, and administratively efficient.

### Representation of constituent governments

It is the responsibility of Ministers to ensure they are in a position appropriately to represent their governments at Council meetings. This is of particular importance where resolutions require commitment, especially financial commitment, from respective governments.

Issues with cross-portfolio or whole-of-government implications or of a highly controversial nature may require prior consideration by governments at Cabinet level.

Where new issues or alternative proposals arise at meetings on which a Minister believes further consideration by Cabinet is required, it is the responsibility of that Minister to make this clear to the Council.

Ministerial Councils exercising formal decision-making responsibilities must submit a report on decisions taken on an annual basis to the Council of Australian Governments.

### Development of agendas

Council arrangements should include processes for ensuring that all parties have input to the development of agendas and that agendas are agreed at the earliest possible date prior to meetings. It is desirable that the agenda setting process is commenced sufficiently ahead of the proposed Ministerial Council meeting to ensure that final agendas and papers are circulated no later than three weeks prior to the meeting.

If additional items are proposed for discussion after the agenda is finalised the Ministerial Council Chair must seek the views of jurisdictions prior to the inclusion of any proposed additional items. These additional items may be included formally on the meeting agenda only if they are unable to be handled out-of-session and only following the agreement of a majority of members. No individual jurisdiction shall have the power of veto.

Agendas for Ministerial Council meetings should focus on items of strategic national significance and, where possible, Ministerial Councils should avoid having standing discussion items. To this end, out-of-session consideration of these types of items may be appropriate, to assist Ministerial Councils in maintaining their focus on items of national significance.

### Provision of agenda papers

Council arrangements must include processes for ensuring that agenda papers are circulated sufficiently in advance to allow appropriate prior consideration by the constituent governments, particularly where there are budgetary implications.

It is desirable that the agenda-setting process is commenced sufficiently ahead of the proposed Ministerial Council meeting to ensure that final agendas and papers are circulated a minimum of three weeks prior to the meeting. Ministerial Councils should ensure that members are notified of the status of document versions circulated for consideration.

However Ministerial Councils should be aware that additional time should be allowed if Cabinet consideration is required for approval of jurisdictional positions.

## Arrangement of officials' meetings

Officials' meetings held to develop issues for the consideration of Ministers should be held a minimum of five weeks prior to the meeting, to allow proper consideration of the issues. It is desirable that the agenda-setting process is commenced sufficiently ahead of the proposed Officials meeting to ensure that final agendas and papers are circulated no less than three weeks prior to the meeting.

## Record keeping arrangements

Processes for record keeping and minute taking are the responsibility of individual Councils. Copies of Minutes from Ministerial Council meetings should be forwarded to the Department of the Prime Minister and Cabinet (PM&C) after each meeting. PM&C will circulate these minutes to other First Ministers' Departments.

## Resolutions

Decision-making procedures such as voting rules are the responsibility of individual Councils, unless specific rules are included in relevant legislation or included in the establishment criteria/charter of the Ministerial Council. Arrangements for announcing resolutions reached by Ministerial Councils should be agreed by all members of a Council. When matters require further consideration, any Ministerial Council announcements should not pre-empt this further consideration, particularly where matters involve financial implications that have not been settled by Councils.

## Liaison between councils

When considering intergovernmental matters which have implications beyond the areas of responsibility of a Ministerial Council, other relevant Councils should be consulted through liaison between the Chairs in the first instance. Ministerial Councils should also refer such issues to Heads of Government where they have major cross-portfolio or whole-of-government implications.

## Involvement of the Australian Local Government Association (ALGA)

Except for matters where membership is explicitly set out by statute or agreement, it is up to individual Ministerial Councils to decide (and regularly review) whether ALGA should be a member or attend proceedings.

## Involvement of other countries

Except for matters where membership is explicitly set out by statute or agreement, it is up to individual Ministerial Councils to decide whether other countries or any other parties should be members or attend proceedings. The continued involvement of other countries with individual Ministerial Councils should be regularly reviewed.

## Efficiency of council operations

Each Ministerial Council should regularly review the efficiency of its administrative arrangements, including the frequency of meetings. This review should include the structure of the secretariat and funding issues and should take place, at a minimum, every three years. One issue it should consider is whether a rotating secretariat or a permanent secretariat is more appropriate.

All Ministerial Councils should ensure that they comply with the Broad Protocols and General Principles.

In this respect, arrangements for the operation of individual Councils should also take account of the involvement of its members in other Ministerial Councils, including the possibility of joint back-to-back meetings where appropriate, and the use of teleconferencing and/or videoconferencing.

Ministerial Council Secretariats should submit no later than September each year to PM&C an update on key issues and associated outcomes deliberated by the Ministerial Council during the preceding financial year.

## Consultation with interest groups

In any consultations with interest groups, Ministerial Councils should ensure that consideration of major policy initiatives by their constituent governments is not pre-empted or precluded. The status of any documents released to those groups or the general public should also be made clear.

## Information about Councils

Each Ministerial Council should make available in a convenient form, and provide annually to PM&C for inclusion on its COAG website, information on its:

- title and membership
- role and responsibilities, including any pursuant to statute or agreement
- administrative arrangements
- contact officer and address.

## Reports to COAG

On an annual basis, all Ministerial Council Secretariats should provide a copy to PM&C of their:

- minutes
- a list of all resolutions
- any other relevant documents.

This will allow the preparation of a consolidated report of Ministerial Council activities for COAG if requested.

## COAG principles and guidelines on National Standard Setting by Ministerial Councils and National Regulatory Bodies

Under the 1995 COAG Principles and Guidelines, COAG and Ministerial Councils are required to prepare Regulatory Impact Statements (RISs) for all regulatory proposals which would affect business or impact on competition. The RIS obligations complement similar requirements at the Commonwealth and State/Territory levels and can be used to satisfy those obligations. Regulatory proposals must satisfy the principles for good regulatory practice and the guidelines for the preparation of RISs set out in the COAG Principles and Guidelines.

Under the amendments to the COAG Principles and Guidelines endorsed by Heads of Government in November 1997 and amended in 2004, draft RISs should be provided to the Commonwealth Office of Regulation Review (ORR) for comment prior to finalisation. The ORR's role is to assist Ministerial Councils and national (that is, intergovernmental) regulatory bodies to prepare RISs which comply with the COAG Principles and Guidelines. The ORR will report annually on compliance with the COAG Principles and Guidelines and can at any time bring concerns it may have about particular regulatory proposals to the attention of Heads of Government through the COAG Committee on Regulatory Reform.

## The Trans-Tasman Mutual Recognition Arrangement (TTMRA)

Ministerial Councils have statutory decision-making functions under the TTMRA. Councils can be required to make determinations in relation to the Temporary Exemption, Special Exemption and Referral mechanisms. When Ministerial Councils are considering TTMRA-related issues, determinations are made on a vote in favour by at least two-thirds of Participating Parties. This requirement, effective only for TTMRA issues, supersedes any existing voting arrangements of Ministerial Councils. New Zealand will not vote on issues that are relevant to Australian jurisdictions only. When considering TTMRA issues, New Zealand is to have full membership and voting rights on Ministerial Councils. Any proposed standards or regulations considered under the TTMRA are to be developed consistently with the COAG Principles and Guidelines.

## General principles for the operation of Ministerial Councils

The following are principles for the efficient and effective operation of Ministerial Councils.

- 1 Membership by local government and New Zealand (and/or other regional governments) should not intrude on the central functions of the development and coordination of policy, problem-solving and joint action by jurisdictions within the Federation. However, such membership may often be desirable to facilitate consultation and national policy development and should be reviewed on a regular basis.
- 2 Every three years, as a minimum, each Ministerial Council should review its structure, objectives and performance, and evaluate the implementation of its decisions. This will be assisted by procedures for tracking the implementation of decisions and agreements made between the Ministers. The review should include an assessment of the Council's structure and relationship with other Ministerial Councils, identify any areas of overlap and include recommendations and timelines for addressing any issues in the report. The outcomes of the review process should be made available in a report to COAG Senior Officials and COAG if requested.
- 3 Each Ministerial Council should clarify annually its field of coverage and the powers it exercises, consistent with the brief that Ministers hold from their governments.
- 4 The locations of Ministerial Council meetings will generally be restricted to the capital cities of Australia and to Alice Springs, although Ministerial Councils may choose to opt for other locations if necessary, giving serious regard to economy, convenience and relevance to the matters being discussed. Meetings of Ministerial Councils should consider rotation of venues to ensure that the burden of travel does not fall disproportionately on some jurisdictions.
- 5 Every three years, as a minimum, Ministerial Councils should review the structures of their committees of officials and working parties to ensure they are reduced in number to those which are essential, that those retained are clearly focussed, given a fixed time to achieve their objectives and that their terms of reference include a sunset clause. The outcomes of the review process should be made available in a report to COAG Senior Officials and COAG if requested.
- 6 Ministerial Councils should meet annually. Councils may meet more than once a year in exceptional circumstances, or where the work program of the Council clearly demonstrates a need. In all cases, when Ministerial Council meetings are scheduled, Ministers should check the agendas to ensure that a face-to-face meeting is necessary. Ministerial Councils should make full use of the technology available to increase the efficiency of their operations, including to reduce the need for face-to-face meetings to one a year, where possible. Ministerial Councils should implement out-of-session arrangements, discussing items at other scheduled Ministerial Council meetings and discussions via teleconferencing and videoconferencing.
- 7 Council agendas should focus on items of strategic national significance. Items should only be included on the agenda where there is:
  - a referral by COAG
  - b legislative requirements
  - c interest or potential interest for all jurisdictions
  - d seen to be a benefit in sharing information, innovations and experience
  - e a need to resolve areas of disagreement on key issues of Australia-wide concern
  - f a need to ensure effective Ministerial control and accountability to Ministers at a national level of key activities and matters subject to funding agreements.
- 8 Items of a procedural and technical nature should be delegated as far as possible to standing committees of officials to determine, or be dealt with out-of-session (for example, by correspondence).
- 9 Where items cover the remit of more than one Ministerial Council, the Council should identify a process for involving the other relevant Ministerial Councils in discussions and policy development. Relevant Ministerial Council decisions should be discussed and/or ratified by other Ministerial Councils where appropriate.
- 10 A list of Ministerial Councils should be published and regularly updated on the COAG website ([www.coag.gov.au](http://www.coag.gov.au)), including where possible for each, details of its field of policy, roles and functions, operational objectives, membership, standing committees of officials, secretariat arrangements and contact points. This website should also include the Protocols for the Operation of Ministerial Councils, and the COAG Guidelines for the Creation of New Ministerial Councils. A printed copy of this publication should also be prepared and made available if requested. Individual jurisdictions should ensure that this publication receives wide circulation among their agencies.
- 11 A Ministerial Council should only be formed or abolished with the endorsement of Heads of Government. The COAG Guidelines for the Creation of New Ministerial Councils should be applied in all cases. To achieve consistency of nomenclature, it is desirable that, as far as possible, continuing, multilateral meetings of Ministers from the various jurisdictions should be called Ministerial Councils. Groups of senior officials which support Ministerial Councils should be called Standing Committees.

- 12 In cases where the field of policy covered by a Ministerial Council covers more than one portfolio in any jurisdiction, each jurisdiction should determine which Minister or Ministers are to attend and arrange appropriate liaison. The use of a standardised consultation process across Departments on Ministerial Council issues, particularly when issues cover the remit of more than one Ministerial Council, would also be beneficial.
- 13 Each Council may wish to review its arrangements for chairing with a view to considering the option of rotating the chair. Ministerial Councils may wish to examine their secretariat arrangements along with the chairing arrangements, to ensure that they have the arrangement which is the most effective for that Council. Ministerial Councils with rotating secretariats could investigate the option of establishing a permanent secretariat.
- 14 All Councils should formalise their procedures so that they are consistent with the Protocols for the Operation of Ministerial Councils. These procedures should be reviewed at least triennially.
- 15 Subject to the applicability of the relevant Commonwealth, State or Territory freedom of information legislation, unless Council approval is received, any discussion by, or document of the Council, or any committee, sub-committee, working party, officer or agent of the Council, shall be confidential.

## Appendix C Research questions

The following table outlines the range of questions that have been used to guide our review and to make an assessment of the efficiency and effectiveness of the MCDS and its supporting structures.

**Table 6: Research questions**

Key theme	Questions to be addressed
Efficiency	<ul style="list-style-type: none"> <li>• When was the last review of the MCDS conducted and what were the findings?</li> <li>• Have any issues/findings raised in previous reviews of the MCDS been addressed? Have changes resulted in positive outcomes or more efficient processes?</li> <li>• What was the extent of funding required (by financial year) to continue the work of the MCDS (including secretariat costs, travel costs, meeting costs, etc)?</li> <li>• Have the MCDS and associated structures been fiscally prudent with funding received? What accountability measures have been put in place to ensure efficient use of funds?</li> <li>• How many meetings of MCDS and the IGCD were held?</li> <li>• Were MCDS meetings held with the location being determined with regard to the economy, convenience and relevance to the matters being discussed?</li> <li>• Do the roles and responsibilities of the MCDS, IGCD and the ANCD overlap? What are the areas of overlap?</li> <li>• Could the objectives of the MCDS be achieved more efficiently through an amalgamation with another Council?</li> </ul>
Effectiveness	<ul style="list-style-type: none"> <li>• Were the MCDS work plan tasks in line with the objectives of the Council? Is there a focus on items of strategic national significance?</li> <li>• Have the objectives of the MCDS been realised? If so, to what extent have they been realised?</li> <li>• Of decisions taken by the MCDS, how many have been successfully implemented? Have they been implemented across all jurisdictions?</li> <li>• Were relevant State and Territory outcomes in line with the policies set by the Council, ie were State and Territory outcomes coordinated, integrated and collaborative?</li> <li>• Were the relevant portfolios represented by each State and Territory?</li> <li>• Have frameworks been used to guide decisions taken by the MCDS?</li> <li>• What is the impact of the ANCD on the outcomes of the MCDS?</li> <li>• If there was work that overlapped with another Council, has the MCDS worked with that Council collaboratively to achieve work plan objectives?</li> </ul>
Appropriateness	<ul style="list-style-type: none"> <li>• Does the original rationale for the formulation of the MCDS remain valid?</li> <li>• Do the objectives of the MCDS and IGCD continue to be in line with government priorities and licit and illicit drug policies?</li> <li>• Was the field of coverage of the MCDS clearly defined?</li> <li>• Should the stated objectives of the MCDS be revised in any way?</li> <li>• Do States and Territories support the continuation of the MCDS?</li> <li>• Was there overlap between the work of the MCDS and any other Council?</li> </ul>
Governance	<ul style="list-style-type: none"> <li>• Were all jurisdictions represented at MCDS meetings/teleconferences?</li> <li>• Were all jurisdictions represented at IGCD meetings/teleconferences?</li> <li>• Did the MCDS Secretariat arrangements meet the needs of the Council?</li> <li>• How many groups of officials and working parties support the MCDS?</li> <li>• Does the IGCD and working parties have continued relevance to the work of the MCDS? Do the meetings meet the needs of the MCDS?</li> <li>• Are current chairing arrangements appropriate and meet the needs of the MCDS?</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>• Had MCDS work been progressed out of session?</li> <li>• How were decisions taken by the MCDS communicated to the public?</li> <li>• How were decisions taken by the MCDS communicated to other councils?</li> <li>• How were outcomes of the IGCD meetings recorded and distributed?</li> </ul>

- Were meeting outcomes and annual reports submitted to PM&C?
- When is it appropriate to review the MCDS again?

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Process

- Were agenda items circulated with adequate time for consideration?
  - Does the MCDS have a website? Does it require one? Is the website up to date?
  - Were meetings of the IGCD held with appropriate frequency and well in advance?
- 

## *Secondary research questions*

### MCDS and IGCD meeting schedule:

Two MCDS meetings are scheduled each year (usually in May and November). The IGCD also meet twice a year (usually in February and September). They also hold a strategic workshop (usually in July). The schedule and status of meetings for 2010 is as follows:

- 23 and 24 March – IGCD meeting
- 25 March – Joint Executive meeting between IGCD and ANCD
- May – MCDS meeting, postponed to July
- 16 and 17 June – IGCD strategic workshop
- 30 July – MCDS meeting, cancelled because of Federal caretaker
- 25 and 26 October – IGCD meeting scheduled
- 10 December – MCDS meeting scheduled.

The notional planning of IGCD meetings in February and September, and MCDS meeting in May and November should allow adequate time for preparation. In reality, the amount of time between meetings sometimes does not allow enough time to progress implementation of decisions/policy or other agreed actions before the time comes to prepare for the next meeting.

Further, for both MCDS and IGCD meetings the agenda is finalised 5 weeks prior to the meeting date, and the agenda papers are lodged 3 weeks before the meeting. Often the timeframe for agenda papers is not met and often papers are lodged late (up to a week before the meeting). Members have commented that this does not provide adequate time for consideration of the issues.

The locations of the MCDS meetings are chosen on a rotational basis, to equally distribute meetings around each capital city and Alice Springs. The locations are not generally determined based on the economy, convenience or relevance to matters being discussed.

### Communication of MCDS decisions and IGCD resolutions

During each MCDS meeting a communiqué is drafted and agreed to. The communiqué is then lodged by the secretariat on the National Drug Strategy website ([www.nationaldrugstrategy.gov.au](http://www.nationaldrugstrategy.gov.au)). The media are often advised that an MCDS meeting is occurring. Occasionally, following a meeting a short media conference takes place. The ANCD often disseminates the MCDS communiqué through 'Update' (an AOD email subscription posting site). Resolutions from MCDS meetings are in-confidence to the Council and are not publicly released. Resolutions from the MCDS are not disseminated to other councils. However, where a resolution from a meeting includes liaising/communicating with another council, then the specific issues are raised with the relevant council through an exchange of letters between the Chairs.

As with MCDS meetings, minutes are not recorded from IGCD meetings – instead resolutions are recorded by the secretariat against each agenda item. The resolutions are disseminated to IGCD members for endorsement after the meeting. Once endorsed, they are then placed on the MCDS/IGCD secure website. The secure site is embedded within the NDS website. No outcomes from IGCD meetings are communicated to the public or other stakeholders.

### Progression of work out of session

Work of the MCDS is predominantly dealt with at face-to-face meetings. Where this is not possible (often due to an MCDS meeting being cancelled) items are progressed out-of-session via email. This process usually involves the IGCD Executive agreeing to seek out-of-session consideration of the MCDS; the MCDS Chair (via the Secretariat) sends a letter to all MCDS members asking for their consideration of items which are attached as out-of-session agenda item papers. Often items progressed out-of-session are issues that require the MCDS to review and endorse a report etc. Over recent times, no major policy debates/views have been sought out-of-session.

