

Opening a can of worms.
Regulations affecting hepatitis C transmission
through needle and syringe programs

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Regulating Hepatitis C: Rights and Duties

- Project Aims

1. Identify regulations ...which govern harm reduction strategies and risk practices associated with hepatitis C transmission
2. Identify where regulations are missing and where conflicts and inconsistencies exist
3. Document implementation
4. Identify best practice



The can of worms

- The Project
- The Audit
- The Perspectives
- A Model?



Defining Regulations

- ‘a rule prescribed for the management of some matter.’ Oxford Dictionary
- The law supporting ‘the public health process ... do the things that are necessary to help people to live longer and healthier lives.’ Reynolds, C. New Directions in Public Health Law, in Disputes and Dilemmas in Health Law. p118.



The Regulatory Framework



The audit – International/National

International treaty	National Legislation
United Nations Single Convention on Narcotics Drugs, 1961	Narcotics Drugs Act 1967
United Nations Convention on Psychotropic Substances, 1971	Psychotropic Substances Act 1976
United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988	Crimes (Traffic in Narcotics Drugs and Psychotropic Substances) Act 1990

The audit – state/territory regulation

Jurisdiction	Primary Legislation	Secondary (Subordinate) Legislation
ACT	Public Health Act 1997	
NSW	Drugs Misuse Act 1985	Drug Misuse and Trafficking Regulation 2006
NT	Misuse of Drugs Act	Misuse of Drugs Regulations
Q	Drugs Misuse Act 1986/ Queensland Criminal Code 1995	Drugs Misuse Regulations 1987
SA	Controlled Substances Act 1984	Controlled Substances (Exemptions) Regulations 2004
Tas	HIV/AIDS Preventive Measures Act 1993	Misuse of Drugs Act 2001/Poisons Act 1971
Vic	Drugs, Poisons and Controlled Substances Act 1981	Drugs, Poisons and Controlled Substances Regulations 1995
WA	Poisons Act 1964	Poisons Regulation 1965



The audit – state/territory guidelines

Jurisdiction	NSP Guidelines	Police Guidelines
ACT	NSP Reference Booklet for ACT NSP Workers	
NSW	Needle and Syringe Program Policy and Guidelines for NSW (Policy Directive PD2006_037)	Needle and Syringe Program Guidelines for Police
NT	Agency based	
Q	Needle and Syringe Program Policy	Operational Procedures Manual 14.28.3
SA	South Australian Clean Needle Program Operational Guidelines, 2006	(included within NSP Guidelines)
Tas	Operational Guidelines for Primary and Secondary NSP Outlets	
Vic	Victorian Needle and Syringe Program Operating Policy and Guidelines 2001	Victoria Police Operating Procedure 5.4.6.2: Needle and Syringe Program
WA	Guidelines for the Establishment and Operation of a Needle and Syringe Program	



The audit - gaps

Jurisdiction	Safe injecting information	Other injecting equipment	Secondary distribution	Self administration
ACT	X	X	X	X
NSW	✓	✓	X	X
NT	X	X	✓(?)	X
Queensland	X	X	X	✓
South Australia	✓	✓	X	X
Tasmania	X	X	✓	X
Victoria	X	X	X	X
West Australia	✓	X	X	X

The audit – indirect legislation

- *In terms of Aboriginal people accessing the (program) ... The 1905 Act ... is still the most significant piece of legislation and ... it's inter-generational stuff of people being disempowered.*

The audit – indirect regulation

- Planning laws
- Correctional practices
- Registration of 'drug addicts' (WA/Vic)
- Public Transport
- Agreements with pharmacy representatives
- Media
- Alternative forms of drug administration



Some perspectives

- Policy makers and key service providers
 - Which legislation, regulations or guidelines affect the work you do?
 - What legislation, regulations or guidelines directly affect the work you do in reducing hepatitis C infection?
 - Can you tell me when legislation has limited/supported any activity you wanted to do in preventing hepatitis C transmission ?



Some perspectives

- *NSP is a very risky area. It's perceived as being a very risky area ... the risks are political risks. We keep it a very low profile.*
- *Every coordinator has come into this position interpreted the legislation in a different way*
- *We find out about legislation ... when things go wrong*



Why regulate

- *The Act governs what we do ... through the need for an agency to be registered and gazetted to be allowed to distribute needles and syringes without being at risk of being charged with aiding and abetting*
- *Articulate good practice and the priorities for the needle and syringe program*
- *The task was to have them in place as a reference point so that when things go wrong they are there.*



Self administration

- *The Act ... means we can't show people how to inject safely ... we should be able to sit people down and ... visually step by step work through with them to teach them, to help them learn how to inject safely which we can't do because of the self administration laws.*

Secondary Distribution

- *We give out bulk equipment to people because we know they distribute it to other people. In terms of planning ... and letting the funding bodies know what we're doing, ... it is a problem.*
- *I remember once an elder woman said to me, "No, I carry them around in the back of the car but I hope I never get picked up by the coppers one day for having them."*



Local Planning

- *I can't believe the hurdles we have to get through ... to run an NSP. ... You need owners, neighbours, local community, planning permit, and then governor and fucking council.*



Local Planning and the Media

Council steps in to query the 'injectors network' facility

Betts jab in needle row

Needle supply service
may breach town plan



Meeting to
tackle issu



Media Regulation

- *The media is a ... powerful influence on what we do. ... The media is stronger than the legislation, and stronger than Finance and Treasury.*



Media Regulation

Robertson backs needle supply

**In my back yard
is fine: Minister**

Gold Coast Sun, 17 Jan 2007



Changing legislation

- *It might open up a can of worms and if it does well, you know, maybe it's something that just needs to be addressed at some stage anyway.*
- *Whenever you start looking at the legislation you create unexpected possibilities, and they're not always possibilities that are good for our program*



Legislation should

- Permit secondary distribution
- Clear about possessing new and used syringes
- Health rather than criminal law
- Less proscriptive, more principled
- Include disposal

Summary

- How critical is legislation to an effective NSP?
 - Needle and syringe programmes work
 - Legislation exists unchanged in response to hepatitis C
 - Broad range of legislation affecting the operation of NSPs
- Silence is Golden



Acknowledgements

- Chief investigators

- Prof Marian Pitts, Prof Anthony Smith, Dr Stephen McNally, ARCShS
- Dr Meredith Temple-Smith, University of Melbourne
- Prof Ian Malkin, University of Melbourne, Law School

- Associate Investigators

- Michael Levy, ACT Health
- Helen Tyrrell, Hepatitis Australia
- Annie Madden, Australian Injecting and Illicit Drug Users League
- John Ryan, ANEX

