

South Australian Public Health Bill 2009
Public Consultation Response Template

Your details

Organisation (or Individual): The AIDS Council of SA Inc (ACSA)

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Name of person completing this form: : Shane Dinnison

Position of person completing this form: Executive Director

The AIDS Council of SA (ACSA) is the primary non-government HIV prevention agency in South Australia. We are a health promotion agency active in developing and supporting affected and at-risk communities and promoting the prevention of HIV. Our vision is "a future free of HIV" and we involve key groups including gay men and other men who have sex with men (gay/MSM), HIV positive people, people who inject drugs and sex workers, in our prevention and education programs that aim to improve the health and well-being of these communities

ACSA advocates for strengthening of primary health care services, such as the prevention of disease and the promotion and development of good health. We seek to protect and promote the health of our communities and to address individual and population health problems at an early stage. We promote the empowerment of individuals and communities and their greater involvement in how health care is developed and delivered, and in how their health and wellbeing is shaped. We promote continuity of care, health promotion and education, integration of prevention with care, and a concern for population as well as individual health.

Feedback

Your comments are sought on any of the following parts of the Bill. If you do not wish to make a comment on particular parts leave them blank.

NB: In addition to the Bill you may find it helpful to also consider the accompanying Explanatory Paper.

The Principles, which guide the operation of the Bill (Clauses 5 - 15)

Your response:

- That Part 14 – Specific Principles – Parts 10 and 11 contain a further overriding principle that the spread of an infectious disease should be prevented or minimised with the minimum restriction on the rights of any person and in a way that avoids stigmatising individuals.
- ACSA contends that the bill mandates coordination between the public health and criminal justice systems in cases where the law intersects.
- The language of the bill should be amended to acknowledge that the social, political, environmental, and economic conditions of people's lives affect their health. Some of the most significant conditions for populations at risk of infectious diseases such as HIV include socio-economic position, sexuality, gender, cultural background, discrimination, stigma, homophobia, userphobia, social support, education, employment, social and physical environments and access to services. There are a wide range of issues and conditions which are often beyond the control of an individual but which can have a significant impact on their health.

The role and powers of Authorised Officers and Emergency Officers (Clauses 42 - 48)

Your response:

ACSA contends that the powers of Authorised Officers are far too broad and need revision.

- Clause 46 (1) provides an avenue for the fundamental rights of individuals to be breached during investigations and should be reviewed for the purposes of the Act.
- The fact that Authorised Officers need not show reasonable grounds for inspection of premises or vehicles should be reviewed for the purposes of the Act.
- Division 7- Clause 48 is problematic in that the furnishing of information by health professionals has the potential to inhibit client willingness to disclose information about risky behaviour. This further undermines the approach that has been so successful in containing infectious diseases such as HIV in Australia. ACSA suggests that additional consultation occur with health and community service professionals to develop a more appropriate response for the purposes of the Act.

Controlled notifiable conditions - powers, orders and related matters (Clauses 69 - 80)

Your response:

ACSA recommends

- that the costs to any applicant for a review of orders under S76 would be prohibitive and that any person requesting a review of orders through the District Court should be provided with access to legal advice from a panel of solicitors conversant with the relevant legislation and that the cost of this advice and representation be paid by the Crown at the Supreme Court Scale
- that Section 72 is far too broad in the powers invested in the Chief Public Health Officer, particularly Section 72 (6)(b) which provides the CPHO with the power to renew detention for indefinite periods. This section needs to be reviewed for the purposes of the Act.

Any other comments about the South Australian Public Health Bill 2009

If you have any other comments relating to the Bill please provide them here:

ACSA supports the South Australian Government's decision to review our outdated Public Health legislation to promote and protect public health. We generally support the draft Public Health Bill; however, we have some serious concerns about the Bill's proposed impact on individual human rights, particularly for those South Australians living with HIV. This Bill invokes far more powers and invests most of those powers directly to the Chief Public Health Officer and new directions that can be given appear more and more unnecessarily intrusive and disproportionate to the risk to public health.

To protect human dignity, ACSA holds the view that the public health response to the spread of an infectious disease such as HIV should be prevented or minimised with the minimum restriction on the rights of any person. Protecting human rights and promoting public health are mutually reinforcing.