



# **AMA Victoria's response to the Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017**

13 April 2017

The Australian Medical Association (Victoria)



## Introduction

AMA Victoria welcomes the opportunity to provide feedback to the *Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017* (the Bill).

The Bill amends the *Drugs, Poisons and Controlled Substances Act 1981* by inserting new part VIAB. The Bill proposes to enable the licencing and operation of one medically supervised injecting facility (MSIF) for a trial period of 18 months.

Drug use is a serious and complex issue. Apart from causing major health problems and deaths in Australia, drug use is linked with social and family disruptions, mental health issues, workplace concerns, violence and to crime and community safety issues.<sup>1</sup>

The public health threat of disease transmission and increasing community concerns about the prevalence of illicit drug use among younger Australians have resulted in considerable efforts to monitor emerging trends related to the use of heroin, methamphetamine, cocaine and cannabis in the Australian community.

The Coroner's Court of Victoria released statistics two weeks ago that 477 Victorians died of a drug overdose in 2016. This number is expected to rise to 500 as investigations are finalised. Victoria's overdose rate has been steadily rising since 2010, up almost 40 percent from 342 to 477.<sup>2</sup>

AMA Victoria supports that it is necessary to understand the effects of illicit drug use on our society and to develop policies in response.

AMA Victoria submits that policies which criminalise and demonise those dependent on drugs need to make way for measures that minimise harm. AMA Victoria submits that there is a strong evidence base to support MSIFs as a proven harm minimisation measure, supported by strong local and international evidence.

Consistent with AMA Victoria's Policy Paper (2012) [*refer Appendix 1*], AMA Victoria supports the 18-month pilot of a MSIF in Victoria.

## Recommendations in Coroner Hawkins' Finding - Inquest into the Death of Ms A

Coroner Hawkins' Finding - *Inquest into the Death of Ms A* - was delivered on 20 February 2017.<sup>3</sup>

Ms A was a 34 year old mother of 2 children. The Coroner reports that Ms A had been using heroin for the past 10 years and had been on methadone intermittently. Ms A's medical records depicted a history of regular drug abuse, mental health issues and reports of family violence.

The Coroner noted that Ms A's engagement and disengagement with drug treatment services appeared to be linked in part to traumatic events, including experience of family violence and having her children taken into the custody of the Department of Human Services.

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<sup>1</sup> Australian Institute of Health and Welfare. "Determinants of Health." 2016

<sup>2</sup> The Age. "Drug overdose deaths rise in Victoria." 2017

<sup>3</sup> Coroners Court of Victoria. "Finding – Inquest into the death of Ms A." 2017





As a consequence of heroin use, the Coroner reports that Ms A frequently came into contact with the criminal justice system and in 2015, even spent time in custody for property and heroin-related offences.

Ms A regularly attended the North Richmond area to purchase and use heroin and was known to outreach workers at North Richmond Community Health, who administered naloxone to Ms A approximately three weeks prior to her death.

Ms A suffered a cardiac arrest and died on 20 May 2015 as a result of an overdose in a Hungry Jacks restroom.

The Coroner concluded:

*"I am convinced that a safe injecting facility in North Richmond is an essential intervention that could reduce the risks of future overdose deaths occurring in circumstances similar to those of Ms A."*

### **Nature and Extent of Current and Relevant Regulations**

As the epicentre of Melbourne's heroin problems, the Bill intends that the MSIF be sited in North Richmond.

In 2011, AMA Victoria proposed a 6 month pilot facility in the inner city suburb of Richmond, recognising it was a major Victorian hotspot for public drug trading and use.<sup>4</sup>

MSIFs have been shown to:

- reduce the spread of HIV and hepatitis C;
- reduce deaths and injuries due to drug overdose;
- reduce ambulance call-outs;
- increase referral to health and social services, including detoxification and drug addiction treatment; and
- reduce public drug injecting and numbers of discarded needles.<sup>5</sup>

MSIFs produce larger financial savings, comparative to operational costs.<sup>6</sup>

General Practitioner, Dr Ines Rio, of the North Richmond Community Health Centre strongly supports a pilot trial at North Richmond:

*"There are those that disagree. We understand that. It is an illegal, sad and desperate side of our society. It makes life more comfortable not to have it thrust into our consciousness. We too would rather it didn't happen. But it does, and we, as General Practitioners, don't want people to die when we could so easily prevent it. We want the opportunity to connect with them, to form a relationship with them that can enable healing and to connect them to other services and help."*<sup>7</sup>

The case of Ms A clearly demonstrates that drug abuse problems often present alongside other health problems, including mental health concerns, social and family problems. Severe mental health and physical problems can lead to social isolation. Where domestic

<sup>4</sup> AMA Victoria. "Whole of government Victorian alcohol and drug strategy." 2016

<sup>5</sup> European Monitoring Centre for Drugs and Drug Addiction. "Drug consumption rooms: an overview of provision and evidence." 2015

<sup>6</sup> Drug Policy Australia. "Why Australia needs drug consumption rooms." 2017

<sup>7</sup> In press - Medical Journal of Australia



violence is concerned, abusive partners may in some circumstances prevent the victim from leaving their home, which is a barrier to the victim accessing social support and health services.

The most important social benefit of MSIFs is that these facilities attract isolated people with almost no contact with other health, social or welfare services.

The Uniting Medically Supervised Injecting Centre has now been in operation at Sydney's King Cross for ten years. Up to 70% of the people visiting Sydney's facility had never accessed any local health services prior to visiting the facility. This clearly supports that a significant portion of Australian society is isolated from access to primary care services.<sup>8</sup>

Since its inception in 2001, more than 12,000 referrals have been made to external health and social welfare services.<sup>9</sup> This Sydney facility has managed more than 5,925 overdoses without a single fatality, and has reduced the number of ambulance call-outs to Kings Cross by 80% since it opened.<sup>10</sup>

The Sydney facility has been independently evaluated multiple times and all results show the facility is successful and cost-effective.<sup>11</sup>

AMA Victoria supports that MSIFs are an evidence-based measure to protect the lives of a vulnerable cohort of Australian society.

### **Nature and Extent of Associated and Relevant Policing Policy**

The proposed Bill provides that the Secretary of the Department of Health and Chief Commissioner of Police may impose a fine for contraventions of the new Part VIAB of the Act or the Regulations, relating to statutory conditions of licences of the pilot injecting facility.

AMA Victoria acknowledges a potential risk of civil and criminal liability associated with the supply of illicit substances by a medical practitioner.<sup>12</sup>

The Statement of Compatibility prepared in respect of the Bill and tabled in the Victorian Parliamentary Council by Fiona Patten MLC<sup>13</sup> provides an exemption from criminal liability for the use and possession of a 'small quantity' of a drug of dependence within the centre. The Bill refers to exemptions from criminal and civil liability for management and staff of the facility.

AMA Victoria supports that medical practitioners should be exempt from any criminal and civil liability, as the Bill promotes the right to life under section 9 of the *Victorian Charter of Human Rights and Responsibilities Act 2006* (the Charter) by reducing the number of deaths from drug overdoses.

The concern for AMA Victoria is that possessing a drug of dependence for the purposes of supply in a quantity that is 'greater than a small quantity' remains an offence. It is important to note that a penalty might be determined a criminal penalty for the purposes

<sup>8</sup> Alcohol and Drug Foundation. "Medically supervised injecting centres." 2017

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> Ss. 21- 27 of the Victorian Charter of Human Rights and Responsibilities Act 2006

<sup>13</sup> Fiona Patten, MLC. "Statement of Compatibility." 8 February 2017





of the Charter, even if Victorian law characterises it as a civil, disciplinary or a regulatory penalty.<sup>14</sup> Small quantity is not defined in the Bill.

AMA Victoria proposes that the safeguard to supply a small quantity of a drug of dependence needs to be further defined, to indemnify the medical profession and other staff at the pilot facility from potential criminal and civil liability.

**AMA Victoria supports that:**

- 1. A medically supervised injecting facility should be piloted for a period of 18 months in North Richmond.**
- 2. Supply of a 'small quantity' of drugs of dependence must be clearly defined in the amended Act.**

Refer to attached document (overleaf): *AMA Victoria Policy Paper 2012 – A Trial of Supervised Injecting Facilities in Victoria.*

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<sup>14</sup> Parliament of Victoria Scrutiny of Acts and Regulations Committee. "Practice Note – 21 June 2016." 2016



## **AMA Victoria Policy Paper (2012)**

### **A Trial of Supervised Injecting Facilities in Victoria**

#### **Background**

During 2011, AMA Victoria made a submission to the whole of government Victorian alcohol and drug strategy.

In the submission we called for consideration to be given to a trial of Supervised Injecting Facilities in Victoria. Our recommendations, which included that the Government conduct a review of the evidence relating to the trial in NSW, were developed after extensive consultation with our members and Board.

#### **Heroin use in Victoria**

Serious and ongoing harm continues to arise in our state as a result of heroin use.

In Victoria there were 2033 heroin related ambulance attendances in 2009/10 (an increase from 1903 in 2008/09) with 60% of the attendances occurring in a public space.

Attendances were also concentrated in certain areas with more than one in five attendances (22%) in Yarra City Council.<sup>1</sup>

These statistics are cause for serious concern and point to the need for a new approach for Victoria in order to minimise the harm resulting from drug use.

#### **A Victorian model**

A trial of Supervised Injecting Facilities in Victoria would provide:

- sterile injecting equipment and associated material;
- a means of safe disposal of injecting equipment;
- medical and counselling services;
- trained personnel in attendance to provide assistance in case of overdose;
- a direct telephone line to an ambulance service; and
- drug rehabilitation services.

A trial has significant potential to:

- lessen the public impact of street-based injecting;
- improve clients' access to primary medical care, drug treatment and health and other welfare services;
- reduce the incidence of fatal heroin-related overdose; and
- assist in reducing blood-borne viral transmission.

The trial would occur, with local community support, in areas with a high level of injecting drug users.

#### **The NSW trial**

The Supervised Injecting Facility in Sydney has now been in operation for ten years. Legislation to lift the trial status of the facility was passed in November 2010 and received bipartisan support in NSW.

<sup>1</sup> Turning Point Alcohol and Drug Centre, *Trends in alcohol and drug related ambulance attendances in Melbourne: 2009/10*, Annual Report 2010.



The facility is supported by AMA (NSW) as well as the NSW Police Service, NSW Ambulance, and Royal Australasian College of Physicians.

Independent evaluation by KPMG in 2010 found it had successfully managed 3,426 overdose-related events, helped more than 12,000 injecting drug users and referred more than 8,500 drug users for help, including 3,870 to drug treatment. It has also distributed more than 300,000 clean needles and syringes to users.

### **Evidence**

A number of reports suggest that Supervised Injecting Facilities have the capacity to reduce the number of deaths from drug overdose, reduce ambulance call-outs and hospital admissions, improve patient outcomes, enhance referral to drug treatment programs, and improve public order (e.g., by reducing injecting drug use and syringe disposal in public locations).<sup>2</sup>

The National Drug Strategy Household Survey 2010 indicated that the majority of the Australian population support Supervised Injecting Facilities.<sup>3</sup>

There have been no overdose deaths at any supervised injecting centre to date, and the number of non-fatal overdose episodes relative to the number of supervised injections is very low.

Research in Frankfurt has shown that the likelihood of an overnight hospital admission for one night is 10 times greater for a person who overdoses on the street compared with one who overdoses in a safe injecting centre.<sup>4</sup>

### **International facilities**

There are now more than 80 similar Supervised Injecting Facilities in eight countries.

In September 2011, the Supreme Court of Canada unanimously ruled in favour of the continued operation of Vancouver's supervised drug injection site.

Chief Justice Beverley McLachlin, writing for the court, stated: "Where, as here, the evidence indicates that a supervised injection site will decrease the risk of death and disease, and there is little or no evidence that it will have a negative impact on public safety, the Minister should generally grant an exemption (from the law prohibiting possession of controlled substances)."

The Canadian Medical Association supported the ruling.

### **AMA Victoria policy**

Prior to 2012, AMA Victoria did not have a formal position on this issue however on 21 August 2012, formal approval was sought and granted from the AMA Victoria Council that AMA Victoria support a Victorian trial of Supervised Injecting Facilities.

<sup>2</sup> A Ritter & J Cameron 'A review of the efficacy and effectiveness of harm reduction strategies for alcohol, tobacco and illicit drugs', (2006) 25 *Drug and Alcohol Review* (2006) 611, 615-616.

<sup>3</sup> Australian Institute of Health and Welfare, 2010 National Drug Strategy Household Survey report (2011) Drug statistics series, AIHW Cat. No. PHE 145.

<sup>4</sup> Wright, Nat M.J., Charlotte N.E. Tompkins, "Supervised Injecting Centres," *British Medical Journal*, Vol. 328, Jan. 10, 2004, p. 101.





Supervised Injecting Facilities are consistent with the AMA Victoria policy position on blood borne viral infections which supports programs which protect against these infections including needle exchange programs and the availability and proper use of condoms.