NZSHS
THE NEW ZEALAND SEXUAL HEALTH SOCIETY
SEXUAL HEALTH FOR ALL

Submission to the Health Select Committee

on the Health (Protection) Amendment Bill

13 February 2015

Introduction

- The New Zealand Sexual Health Society (NZSHS) Incorporated is a group of professionals working or interested in the field of sexual health. Membership is multidisciplinary and includes doctors, nurses, counsellors, educators, health promoters and others in public health working in the field of sexually transmissible infections, including HIV/AIDS, and sexual and reproductive health.

- The NZSHS welcomes this Amendment Bill. We support the three broad objectives regarding infectious diseases. These are:
  i) improving sexually transmitted infection (STI) and HIV notification;
  ii) establishing a legal basis for contact tracing;
  iii) providing clear guidelines and just process for managing individuals posing significant risks to others.

- We ask that the Health Select Committee ("Committee") consider the following points:

Notification

- We support the ongoing surveillance of STIs by ESR including enhanced surveillance of syphilis. We support the enhanced surveillance of HIV by the AIDS Epidemiology Group.

- We support notification of gonorrhoea and syphilis.

- It is not clear in the Regulatory Impact Statement (RIS) why chlamydia has been omitted. Chlamydia is an important bacterial STI that may cause complications such as pelvic inflammatory disease and ectopic pregnancy. Lymphogranuloma venereum (LGV) can also have serious complications. There needs to be provision within the new legislation for notification of new or emergent STIs.

- New Zealand has high rates of chlamydia and gonorrhoea notifications compared with other OECD countries. The current ESR reporting of voluntary sentinel site surveillance from public sexual health and family planning clinics together with voluntarily reporting of data from hospital and community laboratories provides important information regarding the epidemiology of these two infections in New Zealand. We would recommend formalising the current voluntary laboratory surveillance system for chlamydia and gonorrhoea by legislation in order to maintain this important source of data to ESR.

- We note that the Bill seeks to improve the *number* of cases reported (i.e. reduce under-counting). However the Bill does not explicitly address which information should be collected *about* notified cases. As demonstrated with enhanced surveillance of syphilis and HIV, information such as sex, mode of transmission (heterosexual or homosexual), age and ethnicity for example enables targeted public health interventions at the community level.

- If not addressed in this Bill, we request that the Committee consider how this accompanying demographic and behavioural information can be specified, collected and reported to promote public health action and early responses to outbreaks. Of particular importance is ethnicity and sexual behaviour e.g. MSM (men who have sex with men) status as these characteristics are simultaneously less likely to be currently accurately reported, and information on these is more likely to lead to appropriate and effective interventions.

- We highlight a drafting flaw in clause 5 (3A)-(3C) that defines "identifying information" very broadly. As worded, this would prohibit the current systems of collecting data for enhanced HIV surveillance (and ESR STI surveillance) and should be redrafted.

- We support legal notification of HIV and recommend that the AIDS Epidemiology Group continue to collect and collate this data. AIDS is no longer helpful as an indicator of current trends in HIV infection.

- We also recommend that HIV infection be notifiable by NHI number. This is primarily to improve monitoring of care pathways i.e which diagnosed individuals are under specialist care and on HIV treatment and other related outcomes such as whether individuals have a fully-suppressed viral load.

- The primary rationale for using NHI is therefore to inform interventions to improve treatment and wellbeing of individuals with diagnosed HIV, and will also benefit public health by reducing onward HIV transmissions. Without the use of NHI the AIDS Epidemiology Group reports there are substantial difficulties in linking this data to a particular individual.

- We recognise that moving to the use of NHI for notification will have implications for patient privacy. HIV infection still carries stigma and some individuals may be reluctant to engage with HIV testing and care if they perceive their identity may be inadvertently disclosed to those not directly involved in their care. This may be a particular concern for at risk or infected individuals in smaller centres. Robust processes to safeguard patient confidentiality and how data are accessed (and communication of these to allay concerns) will be required if this shift were to happen.

Contact tracing

- We support the Bill's provision of a legal authority for public health agencies to engage in contact tracing of notifiable infections.

  Section 92ZU (1) states that contact tracing may be undertaken if the purpose of contact tracing (defined in 92ZR) is satisfied. Section 92ZZC notes that it will now be an offence for the patient not to comply, with a maximum fine of $2000. Although we support both the initiation of contact tracing and penalties for non-compliance, the duties of the patient to comply appear to be better described in the Bill than the duty (as opposed to the ability) of all health practitioners to initiate contact tracing. We support the inclusion of a clause requiring contact tracing.

- For example, the decision of whether or not to engage in contact tracing appears to be subjective and consequently open to biased or inconsistent application. We wonder if this might be resolved by referring to contact tracing guidelines in 92ZU?

- However it is important to note that the use of penalties needs to balance the need for a relationship of trust between an individual and their health practitioner and the need to protect public safety and this will depend on the seriousness of the specified infection.

- We note that contact tracing is resource intensive. This is likely to be exacerbated if the authority to initiate contact tracing is delegated to sexual health specialists or regional public health services. DHBs have financial constraints and are not performance monitored against sexual health targets by government, hence sexual or public health services are unlikely to receive additional DHB funding to increase contact tracing capacity.

Case management

- We support the stepped and transparent process for managing individuals who place others at significant risk of infection. We believe this is preferable to the previous options which were either voluntary change (or criminal prosecution) or indefinite detention.

- The proposals favour the least restrictive and voluntary intervention, graduating through a series of defined steps, with court orders at the higher end that are time limited with patient rights of review. These provisions appear to be more consistent with the principles of natural justice.

- We note however that the definition of "public health risk" in 2(1) is broad and we ask the committee to consider whether this is appropriate.

Contextual issues

- Although overall the New Zealand population enjoys relatively good health, we have poor sexual health outcomes.

- Furthermore the burden of disease is unequally experienced with young people, Maori and Pacific and MSM disproportionately affected, and some regions (Tairawhiti) faring worse. The lack of any formal policy to deal with outbreaks of STIs such as syphilis and the threat of multi-drug resistant resistant gonorrhoea pose immediate challenges to our claim of being a developed nation.

- The current situation reflects longstanding strategic inaction by successive governments towards the sexual health of New Zealanders. The *Sexual and Reproductive Health Strategy Phase 1* (Ministry of Health, 2001), *Sexual and Reproductive Health Resource Book* (Ministry of Health, 2003) and *HIV/AIDS Action Plan* (Ministry of Health, 2003) are outdated and do not provide an effective framework for improving outcomes in the current era.

- Since then there has been a *Surveillance sector review of infectious diseases* (Baker et al, 2009), and a *Sexual and Reproductive Health Value for Money Review* (Ministry of Health, 2012) but no national goals, targets or key indicators to improve STI control.

- New Zealand now lags behind many jurisdictions such as WHO (2007), Scotland (2008), the United States (2011), England (2013), the European CDC (2013) and Australia (2014) that have updated action plans for planning, prioritising and evaluating sexual health interventions (attached as Appendix 1).

- We welcome this Bill and support its broad objectives. However, without a government sexual health strategy, rational and evidence based monitoring and adequate commissioning of sexual health services we question how the Bill alone will realistically improve sexual health outcomes for New Zealanders.

- The NZSHS has raised these concerns recently in our *Request for Action on the Development of a National Sexual Health Strategy and Action Plan* (NZSHS, 2011), and in correspondence following the Parliamentary Select Committee on Health report *Inquiry into improving child health outcomes and preventing child abuse, with a focus on preconception until three years of age* (report 1.6A, Nov 2013) (attached as Appendix 2).

- In particular relation to this Bill, the collection of basic data on sexual behaviour (MSM status) and complete data on ethnicity of notified cases would mean that surveillance data can be analysed meaningfully and public health action directed to populations in most need.

- Lack of resourcing for sexual health services and lack of workforce planning for the sexual health sector are also directly related to the potential of this Bill to improve public health outcomes in the real world.

- We hope that the Committee will consider these contextual issues surrounding the Bill and maximise the opportunity presented to improve the sexual health of all New Zealanders.

  Thank you for receiving our submission.

  We would also like to present our submission orally to the Select Committee.

  Yours sincerely,

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