

**COMMUNITY ACTION FORUM  
SUBMISSION TO THE HEALTH ACT REVIEW 1958**

**List of issues for comment**

	<b>Issue</b>	<b>Section reference</b>
3	Should the new Act recognise the importance of promoting public health, and, if so, how should the new Act aim to achieve this?	3.2
	<b>Comment:</b> Yes. It should take advertising, and education. (Doctors rooms, buses)	
4	Should the new Act recognise the need to address inequalities in the health and wellbeing of disadvantaged communities and, if so, how should the Act aim to achieve this?	3.2
	<b>Comment:</b> Yes. Extra money should find its way there, (ATSI populations, recently arrived migrants, disadvantaged). It should also be educational.	
6	Should the new Act contain a provision specifying guiding principles, and, if so, what principles should be included?	3.4
	<b>Comment:</b> Accountability, transparency, fairness, effectiveness, efficiency, flexibility, consistency.	
7	Should the new Act include a statement that the function of the Secretary is to implement policies and programs to achieve the objects of the Act?	4.1
	<b>Comment:</b> The Secretary should have a very definite view of Public Health in Victoria.	
8	Should the new Act include a power for the Secretary to conduct inquiries into matters of public health concern and, if so, who should have the power to direct that an inquiry be conducted?	4.1
	<b>Comment:</b> Yes the secretary can call an inquiry, and s/he should call on the minister who has the power to direct that an inquiry be conducted.	
9	Should the new Act retain the functions for municipal councils as set out in the current Act?	4.2
	<b>Comment:</b> Yes they can call on their own health provisions except where the Secretary says otherwise!	

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10	<p>Should the new Act recognise municipal councils' role in:</p> <ul style="list-style-type: none"> <li>➤ Planning, advocating and providing organised public health programs?</li> <li>➤ Developing and implementing strategies to promote and improve public health and promote community health and wellbeing?</li> </ul>	4.2
<p><b>Comment:</b> The new act must bring in municipal council's planning, advocating, and providing organised public health programs and developing and implementing strategies to promote and improve health and promote community health and wellbeing.</p>		
11	<p>Should the concept of partnership between state and local government, and between government and non-government, be addressed in the new Act?</p>	4.3
<p><b>Comment:</b> Yes!</p>		
22	<p>Are the current powers of the Secretary under the Health Act with respect to the collection of health information adequate to ensure access to comprehensive and reliable data necessary to monitor and assist in the protection of public health?</p>	5.1
<p><b>Comment:</b> Yes as long as their identity is NOT compromised!</p>		
23	<p>Should the new Act make more explicit the forms which such collection of comprehensive data may take? For example, should the new Act provide for the Secretary to establish registers, databases and other collections of public health information and to state some of the uses of that information?</p>	5.1
<p><b>Comment:</b> The act may make it more explicit, but in no way must a person be identified. It must be doctor-patient relationship and that as far as it goes.</p>		
24	<p>Should the provisions regarding consultative councils be consolidated in the new Act to provide:</p> <ul style="list-style-type: none"> <li>➤ General provisions regarding establishment and functions of all consultative councils?</li> <li>➤ Standard provisions regarding the</li> </ul>	5.3

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	<p>establishment of sub-committees?</p> <ul style="list-style-type: none"> <li>➤ A power to make recommendations in relation to investigations or inquiries?</li> <li>➤ An obligation to produce an annual report?</li> </ul>	
	<b>Comment:</b> Yes it should.	
25	What sort of information might each of the consultative councils need to ensure that they can carry out their functions effectively?	5.3
	<b>Comment:</b> It can receive only non – identifiable subjects	
27	Should Victoria continue to rely on a legislative requirement for HIA in EIA legislation?	6.2
	<b>Comment:</b> Yes!	
29	Should the new Act support and enhance the practice of risk management?	7.1
	<b>Comment:</b> Yes, support and enhance the practice of risk management.	
30	Should the new Act include a general statutory duty of care?	7.2
	<b>Comment:</b> Yes we believe it must.	
33	What should follow from being in breach of the duty: criminal and/or civil liability or should the consequences of breach be limited to administrative powers?	7.2
	<b>Comment:</b> In breach of duty, both criminal and or civil liability as well as breaches be limited to administrative power. Must be open to the consumers.	
34	Should failure to comply with the duty be the basis on which costs are recovered?	7.2
	<b>Comment:</b> Yes	
35	Should compliance with the duty provide a defence against some offences under the Act?	7.2

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	Issue	Section reference
	<b>Comment:</b> No	
37	Should a general statutory duty of care, if adopted, replace the separate nuisance provisions and, if so, should municipal councils still retain responsibility for dealing with public health risks similar to nuisances in their municipalities?	7.3
	<b>Comment:</b> Yes the municipalities have the right to call in a nuisance!!	
41	Should RMPs have a role in the regulation of public health risks under the new Act?	7.5
	<b>Comment:</b> Yes they should have a role.	
42	Who should be required to prepare RMPs: <ul style="list-style-type: none"> <li>➤ persons undertaking a registrable or licensable activity by way of a condition of registration/licence?</li> <li>➤ persons required to do so by an improvement notice?</li> </ul>	7.5
	<b>Comment:</b> Yes both!	
45	Are there any other public health risk activities that should be regulated under the new Act through the system of registration or licensing and, if so, what specific requirements should be imposed on those activities?	7.6
	<b>Comment:</b> If a person is described as the nuisance and has HIV Aids we feel that they may be confined either by police or health workers.	
46	Should there be a positive obligation on persons conducting activities subject to registration/licensing to notify authorities in event of certain types of incidents occurring?	7.6
	<b>Comment:</b> Yes a positive obligation should be warranted.	
47	Should there be an obligation placed on proprietors of non-registered premises (for example, swimming pools and brothels) to notify authorities where there has been an incident that might present a	7.6

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	Issue	Section reference
	risk to public health?	
	<b>Comment:</b> Yes should be an obligation to notify the health dept, and the police.	
48	Should all enforcement powers be brought together in one part of the Act?	7.7
	<b>Comment:</b> Yes, it would make these much easier.	
49	Should the enforcement provisions of the Health (Infectious Diseases) Regulations 2001 be broadened to cover other public health threats not involving infectious diseases?	7.7
	<b>Comment:</b> Yes they must cover other health threats not involving infectious diseases.	
51	In addition to the power to take samples and make copies of seized documents, are there any other additional powers that should be included in the new Act?	7.7
	<b>Comment:</b> No	
52	Should the power to search for and seize goods without a warrant be widened to allow the Secretary to search for and seize things other than goods, such as records, biological agents or other items?	7.7
	<b>Comment:</b> Yes: but have to have strong evidence to justify. Search, while at the same time respecting the rights of individuals and the community. Also recommend the Secretary have a strong legal background.	
53	Should the new Act contain a procedure for the issuing of improvement and prohibition notices by authorised officers?	7.7
	<b>Comment:</b> Yes	
54	Should notices cover: <ul style="list-style-type: none"> <li>➤ nuisance?</li> <li>➤ licensable or registrable public health risk activities?</li> </ul>	7.7

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	➤ where the activity may otherwise contravene the Act?	
<b>Comment:</b> Yes		
55	Should the new Act establish general criteria for issuing notices?	7.7
<b>Comment:</b> Yes		
56	Should the new Act set out an inclusive list of the types of work a person subject to an improvement notice could be required to perform?	7.7
<b>Comment:</b> Yes		
57	What method of review should apply to improvement and prohibition notices?	7.7
<b>Comment:</b> Needs a mediation process for individuals to avoid lengthy legal court case and costs. Larger companies have more resources to argue a case.		
58	Should emergency powers be general for 'public health emergencies' or be specific to infectious diseases?	7.8
<b>Comment:</b> Yes: General for public health emergencies.		
59	Should the proclamation of an emergency be extended to four weeks, with renewal periods not exceeding two weeks, to a maximum of six months?	7.8
<b>Comment:</b> Yes		
60	Should there be a fast-track mechanism for notifying a disease associated with a public health emergency?	7.8
<b>Comment:</b> Yes		
61	Should the Secretary be given powers in a public health emergency to compel examination, testing,	7.8

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	Issue	Section reference
	vaccination, treatment (including preventative treatment), isolation and quarantine?	
	<b>Comment:</b> Yes: but with safeguards to protect individuals	
62	Should the Secretary be given a 'catch all' power in a public health emergency such as 'any other order deemed necessary'?	7.8
	<b>Comment:</b> No	
63	Should compliance with demands from the Secretary during an emergency or outbreak of an infectious disease be specifically exempted from confidentiality?	7.8
	<b>Comment:</b> Only where there is a threat to individuals or the general population.	
64	Should the Secretary's power to act when local government is in default be limited in any way?	7.8
	<b>Comment:</b> Only where there is a serious risk to public health	
65	Should the new Act include a provision for cost recovery where a person: <ul style="list-style-type: none"> <li>➤ has been convicted of an offence?</li> <li>➤ has contravened the Act, but there has been no conviction?</li> <li>➤ has caused a risk to public health?</li> </ul>	7.9
	<b>Comment:</b> Only where it has been proven a person/company has acted in a deliberate manner putting the public at risk.	
66	Should the new Act include a new offence of 'risk to Health'?	7.10
	<b>Comment:</b> Yes	
67	If so, what should amount to a 'risk to health'?	7.10
	<b>Comment:</b> Pollution of the waterways, land, air and the spread diseases	

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68	If adopted, what should be the defences, if any, to the offence of 'risk to health'	7.10
<b>Comment:</b> Where there are safeguards in place and taken proper steps to notify the authorities.		
69	What should be the scope of the offence?	7.10
<b>Comment:</b> The scope of the offence is dependent on how serious and the degree it impacts on the public.		
70	Should the 'risk to health' offence subsume the offence for knowingly and recklessly infecting another person with an infectious disease?	7.10
<b>Comment:</b> No		
72	Should the new Act introduce PERIN for suitable offences?	7.11
<b>Comment:</b> Yes		
73	Should public health offences attract similar penalties to those attracted by offences under environment protection legislation?	7.12
<b>Comment:</b> Yes		
77	Do the current provisions appropriately address the public health risk associated with hairdressing, beauty therapy and skin penetration?	8.1
<b>Comment:</b> Yes		
78	Should the brothels provisions be transferred to the Prostitution Control Regulations 1995, and Department of Human Services officers exercise their inspectorial powers in relation to infection control issues under the <i>Prostitution Control Act 1994</i> ?	8.1
<b>Comment:</b> Yes		
79	Do the current provisions appropriately address the public health risk associated with prescribed accommodation (for example, hotels, motels,	8.2

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	hostels and holiday camps)?	
<b>Comment:</b> NO		
80	Should an additional guiding principle for provisions in relation to the management and control of infectious diseases be that, wherever practicable, the least coercive power should be used first?	8.3
<b>Comment:</b> Yes		
81	Should the new Act clearly set out the action that may be taken when contact tracing is authorised and the protections provided to individuals that may be required to provide personal information under these provisions?	8.3
<b>Comment:</b> Yes		
82	Should the Secretary to the Department of Human Services have the power to authorise an autopsy where they believe there is a risk to public health and the Coroner does not have jurisdiction over the body?	8.3
<b>Comment:</b> Yes		
83	Should the new Act continue to outline the procedures for non-consensual testing orders where consent for testing has been refused?	8.4
<b>Comment:</b> Yes		
84	Should the new Act introduce a system for the authorisation of non-consensual testing where consent cannot be given to testing?	8.4
<b>Comment:</b> No. Consult with other authorities, i.e. Office of the Public Advocate etc.		
85	Should the provisions in the new Act be extended to beyond the care giver or custodian situation and, if so, to what situations?	8.4
<b>Comment:</b> No		

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	<b>Issue</b>	<b>Section reference</b>
86	Should public health orders under the new Act apply to any infectious disease or condition where there is a serious risk to public health?	8.5
<b>Comment:</b> Yes		
87	Should the new Act provide a power for involuntary testing with reasonable use of force? If so, should it be exercised by 'an authorised officer', a delegate of the Secretary and/or the police?	8.5
<b>Comment:</b> No		
89	Should the new Act introduce a power to order that a person undergo treatment where treatment is refused? If so, what limits should be placed on the use of the power?	8.5
<b>Comment:</b> No		
91	Should any or all public health orders require court/tribunal confirmation?	8.5
<b>Comment:</b> Yes		
92	Should there be a power for the police to apprehend a person who fails to comply with a public health order, rather than merely the ability to provide 'assistance' to the medical officer? If so, should there be a requirement to obtain a warrant to apprehend the person?	8.5
<b>Comment:</b> Yes, under exceptional conditions where the public is at risk.		

*Comments by the Community Action Forum (CAF)*

CAF is a diverse group of concerned health consumers who act as advisors to the North West Melbourne Division of General Practice. It gives consumers a voice regarding local health and general practice issues. This is achieved by drawing on its members' experiences as individual consumers and as representatives of a wide variety of local community groups.

The comments made are those expressed by CAF and do not necessarily reflect the opinions of the North West Melbourne Division of General Practice.