

Recommendations

	Issue	Section reference
1	That the new Act be named the <i>Public Health Act</i> .	1.1
Comment:		
2	That non-legislative mechanisms, such as a Memorandum of Understanding, be entered into with agencies administering legislation that interface with public health legislation, as required in the particular circumstance.	1.2
Comment:		
3	That the public health Act recognise the importance of promoting public health.	1.2
Comment:		
4	That the public health Act recognise the need to address inequalities in the health and wellbeing of disadvantaged communities.	1.2
Comment: <i>Recognition doesn't mean engagement (education)</i>		
5	That the initial print of the public health Act include the explanatory memorandum at the front of the Act (subject to the approval of Parliamentary Counsel).	1.3
Comment:		
6	That the term "health and wellbeing" be defined in the public health Act to include health as a positive condition, not merely the absence of disease, and be inclusive of physical, social and mental wellbeing (both individual and collective) and apply to the provisions in the public health act relating to the following: (a) objects (see 1.6) (b) guiding principles (see 1.7) (c) functions of Secretary, Chief Health Officer and municipal councils (see 1.8 to 1.10) (d) public health inquiries (see 2.1)(e) (e) municipal public health plans (see 3.1)(f)	1.4

Issue	Section reference
(f) health information management (see 3.6).	
Comment: <i>No avenues for directed behaviour and thought</i>	
7 That the term "health" apply to all other provisions and be defined narrowly, to <u>exclude</u> concepts of social and mental wellbeing.	1.4
Comment: <i>A means for mental tyranny</i>	
8 That the public health Act provide that it applies throughout Victoria (including areas that do not form part of a municipal district).	1.5
Comment:	
9 That the Governor in Council may declare that a municipal council has specified powers and functions under the public health Act in relation to an area that is outside a municipal district, as if the area was within that municipal council's municipal district. (The Minister for Health would be required to consult with the Minister administering the <i>Local Government Act 1989 (Vic)</i> , before making a recommendation to the Governor in Council in relation to this issue.)	1.5
Comment:	
10 That the public health Act bind the Crown.	1.5
Comment: <i>Complex and daunting considering the "perogatives"</i>	
11 That the public health Act include the following statement of objects:	1.6
<i>Whereas</i>	
The State of Victoria has a significant role in promoting and protecting the health of all Victorians; and	
It is accepted that health is a state of individual and collective wellbeing, not merely the absence of	

Issue**Section
reference**

disease; and

One of the ways it is possible to improve the population's health status and reduce health inequalities is through public health interventions —

The objects of the Act are:

- (a) to protect public health and prevent disease, illness, injury, disability and premature death;
- (b) to promote conditions in which the people of Victoria can be healthy; and
- (c) to reduce social and health inequalities and enable all Victorians to achieve the best possible state of health and wellbeing.

Comment:

Idealist - Nil consideration for psychological status

- 12 That the provision of evidence-based information to the public about the health of the population be incorporated into the functions of the Chief Health Officer under the new Act, rather than as an object provision. 1.6

Comment:

- 13 That the public health Act include the following guiding principles: 1.7

- (a) Principle of evidence-based decision making

Decisions as to the most effective and efficacious public health interventions and efficient use of resources to protect and promote public health are informed by reliable and relevant evidence (where available in the circumstances).

- (b) Precautionary principle

If there are threats of a serious public health risk, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk (based on section 1C of the *Environmental Protection Act 1970* (Vic)).

Issue	Section reference
(c) Principle of the primacy of prevention	
Preventing harm or damage is preferable to repairing it later. Promoting resilience and building capacity is preferable to allowing deficits or problems to otherwise undermine health or autonomy.	
(d) Principle of accountability	
Public health officials should ensure, as far as is practicable, that decisions made under the Act are transparent, systematic and appropriate. The community should therefore be given:	
(i) access to reliable information in appropriate forms to facilitate a good understanding of public health issues; and	
(ii) opportunities to participate in policy and program development (based on section 1L of the <i>Environmental Protection Act 1970</i> (Vic)).	
(e) Principle of proportionality	
Acts taken and decisions made by officials under the public health Act should be proportionate to the harm to be prevented, minimised or controlled. Where action is necessary to protect public health, the action chosen must be the least intrusive means available to achieve that goal and must not be imposed in an arbitrary way.	
(f) Principle of collaboration	
Public health is enhanced by collaborative approaches between national, state and local government, the community sector, industry and individuals.	
Comment: • Allows mind manipulation (Rand Orgn. - Delphi Technique) • Implies 'Power' to intrude in a specific way	
14 That the public health Act continue to have provisions for the Minister for Health and the	1.8

Issue	Section reference
<p>Department of Human Services:</p> <ul style="list-style-type: none"> (a) creation of Secretary (based on section 6 of the Health Act) (b) Secretary subject to direction of Minister in relation to the Secretary's exercise of powers and functions under the public health Act, or any other Act (based on section 8 of Health Act) (c) delegation by the Secretary under the public health Act or any other Act (based on section 8A of the Health Act) (d) delegation by the Minister under the public health Act or any other Act (based on section 8B of the Health Act). 	
<p>Comment: <i>Total Power to utilize other bodies/Acts to achieve ill defined outcomes.</i></p>	
<p>15 That the public health Act include the following statement of function of the Secretary under the Act:</p> <ul style="list-style-type: none"> (a) to develop and implement policies and programs to achieve the objects of the Act (b) to assist other agencies which have an impact on public health to enhance opportunities for public health (c) to support, equip and empower communities to address their health needs (d) to establish and maintain a comprehensive information system which includes information on: <ul style="list-style-type: none"> (i) the health status of Victorians and groups of Victorians including the extent and effects of illness, injury and premature death (ii) the determinants of health (iii) health system performance in Victoria. 	1.8
<p>Comment: <i>(b) is nullified by (d) 1.8 b</i> <i>(c) does empowerment contravene Terrorist/Sedition Acts</i></p>	
<p>16 That, if a statutory position of Chief Health Officer is established, the public health Act require the Chief Health Officer to ensure that a comprehensive report on the health and wellbeing of Victorians is made available to the public on a biennial basis.</p>	1.8
<p>Comment:</p>	

Issue	Section reference
<p>17 That the public health Act establish the position of the Chief Health Officer, who is a registered medical practitioner appointed by the Minister and can delegate his or her powers to an employee or officer of the Department of Human Services, who is a registered medical practitioner.</p>	1.9
<p>Comment: <i>Agree if CHO has training in civil and civic studies plus ethics and philosophy.</i></p>	
<p>18 That the public health Act include the following statement of functions of the Chief Health Officer:</p> <ul style="list-style-type: none"> (a) to develop and implement strategies to promote and protect public health (b) to advise the Minister about public health issues (c) to carry out any other functions granted to the Chief Health Officer under the public health Act or any other Act (d) to ensure that a comprehensive report on the health and wellbeing of Victorians is made available to the public on a biennial basis. 	1.9
<p>Comment:</p>	
<p>19 That the public health Act include the following statement of the function of the municipal councils: The function of every council under this Act is to seek to protect and improve public health, and promote community wellbeing by:</p> <ul style="list-style-type: none"> (a) creating environments which support the health of the local community and strengthen the capacity of communities and individuals to achieve better health (b) initiating, supporting and managing public health planning processes at the municipal level (c) developing and enforcing up-to-date public health standards and intervening if the health of people within the municipal district is, or may be, affected (d) facilitating and supporting the efforts of other local agencies whose work has an impact on public health to improve public health status of the local community 	1.10

Issue	Section reference
(e) coordinating and providing immunisation services to children living or being educated within the municipal district.	
Comment: <i>(c) Enforcing not educating is ominous</i>	
20 That the public health Act not re-enact the requirement for municipal councils to report annually to the Secretary, but the requirement to report as required by the Secretary be retained.	1.10
Comment: <i>Cost transfer to rate payers is daunting</i>	
21 That the public health Act provide that the exercise by a delegate of council's power to refuse an application for registration under the Act is only valid if the council later ratifies that refusal.	1.10
Comment: <i>To whom goes the ratified refusal? Not specific</i>	
22 That the Secretary retain the power to perform the functions of municipal councils in emergency situations where there is a serious risk to public health (based on section 36A of the Health Act).	1.10
Comment:	
23 That the public health Act not include the legislative requirement that every municipal council appoint a medical officer of health.	1.12
Comment: <i>Fraught with potential problems</i>	
24 That non-legislative mechanisms be employed to assist municipal councils obtain public health expertise.	1.12
Comment: <i>Why? An abrogation of state responsibility</i>	
25 That the public health Act re-enact the requirement for every municipal council to appoint one or more environmental health officers, and allow environmental health officers to be shared between councils.	1.12
Comment: <i>An open ended clause for cost shifting Council to Council</i>	

	Issue	Section reference
26	That an environmental health officer who is appointed by a council automatically be an authorised officer for the purposes of the public health Act (see paragraph (b) of the definition of "authorised officer" in section 4(1) of the <i>Food Act 1984</i> (Vic)).	1.12
	Comment:	
27	That the public health Act require that a council only appoint as an environmental health officer a person who has qualifications and/or experience nominated by the Secretary, or by a person approved by the Secretary.	1.12
	Comment: <i>No qualification safeguard to an Australian Standard.</i>	
28	That the provision of the Health Act that provides that, in addition to any other duties, the Secretary, "health officers", environmental health officers and "engineers" have the same powers and duties as environmental health officers and medical officer of health appointed by municipal councils not be re-enacted.	1.12
	Comment: <i>Agree provided said engineers have medical/health training</i>	
29	That the public health Act provide that: (a) the Secretary may appoint Departmental officers as authorised officers (b) a municipal council may appoint employees or officers of the council as authorised officers.	1.12
	Comment: <i>An open ended clause for non qualified/trained persons to be empowered as authorised officers</i>	
30	That the Secretary or municipal council (as appropriate) may only appoint a person to be an authorised officer if the Secretary or municipal council (as appropriate) is satisfied that the person has the qualifications or experience required to perform his or her functions. Those competencies regarding qualifications or experience would not be specified in the public health Act.	1.12
	Comment: <i>Why?</i>	

Issue	Section reference
31 That consideration be given to the development, in consultation with stakeholders, of non-legislative guidelines as to competencies and minimum standards of training required to fulfil particular statutory functions.	1.12
Comment: <i>Stake holders doesn't define community/people.</i>	
32 That the public health Act include a provision allowing the Secretary to appoint analysts for specified purposes under the Act.	1.13
Comment: <i>Analysts assumes but doesn't define qualifications/competence.</i>	
33 That where an analyst carries out an analysis, the analyst may prepare and sign a certificate in writing of the analysis.	1.13
Comment: <i>Only if qualified, competent and accredited</i>	
34 That any such certificate of analysis may be produced as evidence to a court of the thing in relation to which the certificate is issued, and is presumed to be accurate and precise, unless evidence to the contrary is presented.	1.13
Comment: <i>Presumed to be accurate and precise - is an escape clause.</i>	
35 That the public health Act provide for a broad power to conduct inquiries into matters of public health concern (modelled on the modern public health inquiries powers in other jurisdictions' public health Acts), including the power to appoint independent experts to conduct the inquiry.	2.1
Comment: <i>"Independent experts" doesn't define area of expertise</i>	
36 That the public health Act continue to provide that such an inquiry can be initiated at the direction of the Governor in Council, the Minister or the Secretary, or on the initiative of the Secretary.	2.1
Comment:	

	Issue	Section reference
37	That, if a statutory position of Chief Health Officer is established, the public health Act provide that the Chief Health Officer may conduct and initiate an inquiry.	2.1
Comment:	<i>C.H.O. shouldn't be given statutory status</i>	
38	That there be a requirement that a report on any inquiry be made available to the public (subject to exceptions relating to privacy and confidentiality).	2.1
Comment:	<i>Transparency in matters of health reports is essential especially suicides</i>	
39	That the public health Act provide that, when conducting an inquiry, the Secretary, Chief Health Officer, person or panel: (a) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues. (b) is not bound by the rules of evidence; (c) may inform itself in any way it considers appropriate, including by holding hearings; (d) subject to any directions, may decide the procedures to be followed for the inquiry; and (e) may allow or refuse to allow a person, including a lawyer, to represent someone else at the inquiry.	2.1
Comment:	<i>(b) & (c) passages to legalise torture</i>	
40	That the public health Act require that, when conducting an inquiry, the Secretary, Chief Health Officer, person or panel must <u>observe</u> the principles of natural justice.	2.1
Comment:	<i>Natural justice cannot occur if 39 & 40 are applicable</i>	
41	That the provisions regarding the <u>constitution</u> , procedures and functions of all consultative councils be consolidated in one part of the public health Act.	2.2
Comment:	<i>What constitution? 1901 Australian constitution</i>	
42	That the public health Act retain separate provisions for the establishment, functions and	2.2