



POLICY STATEMENT ON LEGISLATIVE BARRIERS TO PEER DISTRIBUTION OF STERILE INJECTING EQUIPMENT

Background:

Australian Needle and Syringe Programs (NSPs) have been highly effective in reducing the transmission of blood borne viruses among people who inject drugs and ensuring wide access to sterile injecting equipment forms a key part of Australian governments' responses to blood borne viruses.

Despite the absence of legislative support, the distribution of sterile equipment also occurs within the community. Research illustrates that this type of engagement reaches groups that face barriers in accessing formal NSPs, including people who use drugs and live in regional, rural and remote settings and Aboriginal and Torres Strait Islander people who use drugs.

The acquisition of sterile injecting equipment from personal sources, such friends or acquaintances, (known as 'peer' or 'secondary distribution') is a common way that people who inject drugs access sterile injecting equipment. While these acts of goodwill extend the benefits of NSPs, this practice has varying legitimacy across Australian jurisdictions and its inconsistent legal status undermines governments' goals to reduce new blood borne virus transmissions.

Each state and territory provides legislation allowing for the distribution of sterile injecting equipment in its jurisdiction. At present two jurisdictions (ACT and Tasmania) explicitly allow the supply of sterile injecting equipment by non-health professionals, while the Northern Territory allows for peer distribution as a defence in cases where a person is not able to obtain sterile injecting equipment from a registered provider, such as a pharmacist.

The table below provides an overview of legislation in each state and territory.

Jurisdiction	Relevant Act & Section	Legality of Peer Distribution
Australian Capital Territory	<i>Medicines, Poisons and Therapeutic Goods Act 2008 – Section 37</i>	Legal Peer distribution allowable as a means to prevent blood-borne virus transmission
Tasmania	<i>Public Health Act 1997 – Section 56K(4)</i>	Legal A person supplying sterile injecting equipment is not guilty of an offense under the <i>Misuse of Drugs Act 2001, Poisons Act 1971 or Criminal Code</i>

Northern Territory	<i>Misuse of Drugs Act</i> – <i>Section 12(3)</i>	Legal through defence Section 12(2) makes the provision of sterile injecting equipment by an unauthorised person illegal, however Section 12(3) can be used as a defence for peer distribution if sterile injecting equipment is obtained from an authorised source
Victoria	<i>Drugs, Poisons and Controlled Substances Act 1981</i>	Illegal Only specified people, classes of people or authorised organisations are able to supply sterile injecting equipment
South Australia	<i>Controlled Substances (Prohibited Substances) Variation Regulations 2007</i>	Illegal Only medical practitioners, pharmacists or people acting in the course of a health risk minimisation program can supply or sell sterile injecting equipment
New South Wales	<i>Drugs Misuse and Trafficking Act 1985</i> – <i>Section 11(2)</i>	Illegal Only health professionals and other authorised persons can supply sterile injecting equipment
Queensland	<i>Drugs Misuse Act 1986</i> - <i>Section 10(3)</i>	Illegal Only health professionals and other authorised persons can supply sterile injecting equipment
Western Australia	<i>Medicines and Poisons Act (2014): Medicines and Poisons Regulations (2016), Part 10.</i>	Illegal Only authorised organisations can apply for license to supply sterile injecting equipment from the CEO WA Department of Health.

Key issues:

Peer distribution of injecting equipment expands the reach of sterile needles and syringes to people who inject drugs who face barriers in accessing formal NSPs, such as women, younger people, people new to injecting, those living in rural/regional/remote areas and Aboriginal and Torres Strait Islander communities.¹
² This is achieved in a cost-effective way as the practice is primarily driven by altruism and a goal of ensuring that others in the community do not contract blood borne viruses.³

¹ Newland, J., Newman, C. & Treloar, C. (2016). 'We get by with a little help from our friends': small-scale informal and large-scale formal peer distribution networks of sterile injecting equipment in Australia. *International Journal of Drug Policy*, 34.

² Bryant, J. & Hopwood, M. (2009). Secondary exchange of sterile injecting equipment in a high distribution environment: A mixed method analysis in south east Sydney. *International Journal of Drug Policy*, 20.

³ Newland, J., et al. (2016).

Despite its illegality in most states and territories, the practice of distributing sterile injecting equipment occurs regularly, with studies finding that people who undertake a peer-distributing role on a large scale have significant reach and volume, and have helped avert countless blood borne virus transmissions within the community.⁴

Although there are not widespread examples of prosecution under state and territory laws, people who inject drugs and NSP service providers are aware of the existence of such legislation and are cautious about its implications. It is also common for community members to describe experiences of escalating law enforcement after they disclose giving or receiving injecting equipment from peers, or being found in possession of injecting equipment. The existence and consciousness of legislation that places limits on access to sterile injecting equipment places at risk the Australian Government's ability to achieve the goals of the national blood borne virus strategies, while simultaneously providing an environment where preventable BBVs are transmitted. Removing legislative barriers to peer distribution would allow this practice to flourish without fear of prosecution as well as enabling NSPs to encourage and support the practice amongst their clients. Reforming laws to enable peer distribution in each jurisdiction is therefore a cost-effective way of enhancing the current capacity of NSPs to reduce harm.

Recommendations

- That legislation across states and territories be amended to allow the distribution of sterile injecting equipment by non-health professionals.
- That current NSP regulations, support, and professional development are reviewed to enable community distribution of equipment.

This policy document was adopted by AIVL and our member organisations in 2017 and is due for revision in 2020.

⁴ Newland, J., et al. (2016).