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RACP Submission
NSW Health 2016 Statutory Review of Part
2A of the *Drug Misuse and Trafficking Act*
1985

May 2016

Introduction

We are a strong supporter of Medically Supervised Injecting Centres (MSICs)

“Supervised injecting facilities are an evidence-based approach to minimise harms associated with injecting drug use. The scientific evidence is clear, and shows they provide significant benefits to the individuals who use them as well as to the broader community in which they are situated”

Source: *The Royal Australasian College of Physicians (RACP) (2012), Position Statement – Medically Supervised Injecting Centre, p.3*¹

The Royal Australasian College of Physicians (RACP) represents a broad range of physicians with expertise relevant to this matter including public health physicians, addiction medicine physicians, sexual health physicians and paediatricians. We are strong supporters of supervised injecting facilities and of the Medically Supervised Injecting Centre (MSIC) in Kings Cross, Sydney, in particular.

In 2010, we issued a media release outlining our support for the NSW Government’s move to make the MSIC at Kings Cross a part of the NSW healthcare system, bringing to an end the uncertainty of the current trial arrangements.² The release outlined that the MSIC had been very effective since its establishment in 2001, quoting that it had managed over 3,500 overdoses without a fatality; that ambulance callouts to drug overdoses had fallen by 80 per cent in the Kings Cross area and that the service had referred drug users to other relevant services such as drug treatment and other health and social welfare services on more than 7,000 occasions.

The RACP also issued a position statement on the MSIC in 2012³ which outlined the evidence to date on its effectiveness at helping marginalised drug users and benefiting the local community in the Kings Cross area.

Our response to the 2016 Statutory Review of Part 2A of the Drug Misuse and Trafficking Act 1985

As outlined in NSW Ministry of Health’s correspondence to the College, this Statutory Review aims to determine whether the policy objectives of Part 2A of the *Drug Misuse and Trafficking Act 1985* remain valid and whether its terms remain appropriate for securing these objectives.

Part 2A provides statutory basis for the licensing of medically supervised injecting centres in New South Wales and also sets out a framework for the objectives, license conditions, review, internal management protocol requirements, exemptions and regulations in relation to medically supervised injecting centres. As stated in Part 2A of the Act, its objectives are to:

- decrease drug overdose deaths;
- provide a gateway for treatment and counselling;
- reduce discarded needles and users injecting in public places and
- help reduce the spread of diseases like HIV and Hepatitis C.

Numerous independent evaluations⁴ have consistently shown that the MSIC has been meeting all of Part A’s objectives. The centre not only save lives - no overdose deaths have happened on the premises since the opening of the centre - it also successfully prevents other potential harms from non-fatal overdoses, such as brain damage, by intervening immediately in such cases. In addition, centre staff are highly trained and can assist vulnerable clients with a wide range of interventions to increase their motivation to seek drug treatment; minimise the risk of infections and prevent disease transmission; advise on Hepatitis C treatment and care;

¹ Document available online: <https://members.racp.edu.au/index.cfm?objectid=B78D9830-E8B9-FA8F-7AE09CB48BFA3710> [last accessed 19/05/2016]

² The Royal Australasian College of Physicians (RACP) (2010), *Media Release – Physicians call for end of trial status to proven health initiative*. Available online: <https://members.racp.edu.au/download.cfm?DownloadFile=14188577-B7D6-BD0B-12A0A2DFE4C8142E> [last accessed 19/05/16]

³ The Royal Australasian College of Physicians (RACP) (2012), *Position Statement – Medically Supervised Injecting Centre*. Available online: <https://members.racp.edu.au/index.cfm?objectid=B78D9830-E8B9-FA8F-7AE09CB48BFA3710> [last accessed 19/05/2016]

⁴ Uniting Care Website: <https://uniting.org/our-services/for-adults/sydney-medically-supervised-injecting-centre/resources> [last accessed on 19/05/16]

provide crisis counselling and assist in the assessment and coordination of care for those experiencing significant mental health issues.⁵

The MSIC is undoubtedly providing an invaluable service to vulnerable and marginalised people in an effective, safe and evidence-based manner and the RACP is in favour of NSW Ministry of Health reconsidering a number of terms outlined Part 2A to broaden the positive impact of the centre and enable it to further meet its stated objectives. The terms of Part 2A we would like to encourage NSW Ministry of Health to review at this point include:

- *Reconsidering the legislative restriction to only one supervised MSIC* – the MSIC in King’s Cross remains the only centre of its kind in Australia and in the Southern hemisphere to this date. However, in our view, there is scope for additional MSICs to operate in areas of need and we would recommend that other centres being proposed should have their own needs assessment, stakeholder engagement and feasibility study conducted which would allow them to be established (or not) on their own merits.
- *Reviewing the legislative restriction on needle and syringe dispensing.* Despite the impressive numbers dispensed, there is an inherent restriction on dispensing needles and syringes due to Part 2A’s requirement for individuals to be registered with the service, have used the service, and to receive equipment from the aftercare area. In our view, the MSIC could act as a very effective site with a Needle and Syringe Program (NSP) accessible to all who seek it. Should there be concerns that the NSP needs to be ‘uncoupled’ from its main purpose as an MSIC, then this program could be independently oversighted, yet co-located.
- *Reassessing the exclusion of pregnant women from the part of the centre that is used for the purpose of the administration of prescribed drugs* - We note that the May 2007 Review⁶ reconsidered the exclusion of pregnant women and that there was no recommendation to change it. However, whilst the reassessment of this term may be considered contentious, our view is that the arguments made during the 2007 Review against lifting this exclusion, for example, that “there are significant clinical concerns about drug use in pregnancy”⁷ can also be used in favour of supervised drug injecting, rather than against it, since these dangers exist for women who are excluded and are greater when unsupervised. Given that the use of the MSIC requires that drugs have already been obtained and are intended for use, it would appear that exclusion does not prevent their use.

There are serious clinical dangers (especially for an unborn child) in pregnancy from withdrawal. In addition, many harms to the unborn child arise from pregnant women’s associated comorbidities (e.g. dietary deficiencies, cigarette smoking, alcohol consumption, infectious diseases) as well as poor engagement in preventative and obstetric care. If pregnant women who inject drugs were able to access that part of the centre, this would present an opportunity to link them to services that can identify and respond to these risks, in a sensitive and supportive way.

Another argument made in the 2007 Review against the inclusion of pregnant women was that there was no new evidence to overturn the original recommendation. We would argue that the original recommendation regarding the exclusion of pregnant women did not come to a robust conclusion. Whilst it is not incumbent on those engaged in statutory review to find new evidence to alter legislation, we believe it is essential to properly justify the legislation as it stands, using evidence of (at least) non-inferiority of the status quo and we do not believe such evidence exists on this issue. Another argument outlined in the 2007 Review is that that numbers of pregnant women intending to access the MSIC was small. However, we would argue that it is possible that some pregnant women who were not “obviously pregnant” could have used the centre and would not have received information and counselling with regard to their pregnancy.

⁵ The Royal Australasian College of Physicians (RACP) (2012), *Position Statement – Medically Supervised Injecting Centre*, p.2. Available online: <https://members.racp.edu.au/index.cfm?objectid=B78D9830-E8B9-FA8F-7AE09CB48BFA3710> [last accessed 19/05/2016]

⁶ 2007 Review of the Operation and Use of the Medically Supervised Injecting Centre and Part 2A of the Drugs Misuse and Trafficking Act 1985

⁷ 2007 Review of the Operation and Use of the Medically Supervised Injecting Centre and Part 2A of the Drugs Misuse and Trafficking Act 1985

Given the main purpose for the MSIC is to save lives in order to eventually allow individuals to seek treatment and drug rehabilitation, this particular exclusion does not facilitate that aim. It would be beneficial to develop a model of case-by-case assessment for the inclusion of pregnant women. This would ensure that referrals are made where necessary and that mandatory reporting concerns are addressed as they would be in any other context.

- *Reconsidering the exclusion of young people.* Similar to the above, this exclusion does not serve the interests of this small yet important cohort of individuals. Notwithstanding the government's long-term position and the primary aim of MSIC to target long-term users, there are currently missed opportunities for counselling and treatment including addressing comorbidities such as learning issues, family violence and other health problems. Attendees of the MSIC are – by definition – users on at least one previous occasion. This should be part of an integrated and multi-faceted approach to managing young people with drug problems, regardless of trends in drug use among young people in Australia. We would recommend that a protocol addressing inclusion of young people on a case-by-case basis and with mandatory reporting safeguards should be developed, in line with relevant child protection legislations

Since its opening in 2001, the MSIC has directly helped thousands of New South Wales' most marginalised drug users who tend not to access health and other welfare services by providing them with assistance to improve their health, wellbeing and general quality of life. In so doing, the centre has also benefited the wider community and will have contributed savings to the health system. The RACP has always been a strong supporter for the MSIC and we will continue to advocate for its ongoing operation and for the reassessment of its terms under Part 2A of the Act to enable it to continue saving more lives and to improve the health and wellbeing of marginalised and vulnerable people in our communities.