Public Health Act 2010

Statutory Review of section 62 and 79

Discussion Paper

Contents

1 Introduction

1.1 Overview of the *Public Health Act 2010*

The *Public Health Act 2010* (NSW) ('the Act') regulates a number of areas in order to protect and promote public health and control risks to public health. The Act deals with a range of public health matters such as:

- powers during a public health emergency
- notification of diseases and conditions to the health secretary
- vaccination enrolment requirements in childcare facilities and primary schools
- the regulation of a number of areas that have the potential to affect public health, such as drinking water, skin penetration and public swimming pools
- the ability to make public health orders against people with certain diseases, or exposed to certain diseases, who are posing a risk to the public
- the requirements on persons with sexually transmitted diseases to take measures to protect public health.

In 2016, a statutory review of the Act was undertaken by the Ministry of Health to determine whether the objectives of the Act remained valid and whether the provisions of the Act were appropriate for securing those objectives. The statutory review found that, overall, the objectives of the Act remained valid, but recommended a range of amendments to ensure that the Act could better protect public health. Most of the recommendations were accepted by the Government and a number of amendments were made to the Act in the *Public Health Amendment (Review) Act 2017* ('the 2017 amendments').

This included changes to section 62 of the Act to introduce 'contact order public health orders' and to section 79 to remove the requirement on a person with a sexually transmitted infection (STI) from notifying their sexual partners of their STI status. The 2017 amendments included a requirement to undertake a review of these provisions.

A further amendment to section 62 was made in 2020[1] to allow a public health order to require a person, subject to a public health order, to undergo testing or examination. The 2020 amendments to section 62 were made, in part, as a response to the COVID-19 pandemic but have a more general application.

1.2 Review of the *Public Health Act 2010*

Section 136 of the Act requires the Minister for Health and Medical Research to review the amendments to sections 62 and 79 to determine whether the policy objectives of the amendments remain valid and whether the terms of the amendments remain appropriate for securing those objectives. The review is to be undertaken as soon as possible after two years from the commencement of the amendments, with a report on the review tabled in Parliament within 12 months after the review. The 2017 amendments commenced on 1 April 2018.

[1] Via the *COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020*.

In introducing the 2020 changes to section 62, the Government committed to reviewing the changes as part of the review required under section 136.[2]

Both sections 62 and 79 seek to balance the interests and rights of individuals with the public interest in protecting the health and safety of other individuals and the public as a whole.

This discussion paper has been prepared to seek submissions from the community on whether the provisions of the current sections 62 and 79 achieve an appropriate balance.

2 Amendments to section 79 of the *Public Health Act 2010*

Section 79 of the Act relates to the responsibilities of persons who have a scheduled medical condition or notifiable disease that is sexually transmitted, such as HIV or syphilis. Following the 2017 amendments, section 79 states:

> *(1) A person who knows that he or she has a notifiable disease, or a scheduled medical condition, that is sexually transmissible is required to take reasonable precautions against spreading the disease or condition.*
> *Maximum penalty—100 penalty units or imprisonment for 6 months, or both.*
>
> *(2) An owner or occupier of a building or place who knowingly permits another person to have sexual intercourse in contravention of subsection (1) at the building or place for the purpose of prostitution is guilty of an offence.*
> *Maximum penalty—100 penalty units or imprisonment for 6 months, or both.*
>
> *(3) A person (other than a member of the NSW Health Service) must notify the Secretary if the person commences proceedings against a person for an offence under this section.*

Prior to the 2017 amendments, section 79 made it an offence for a person who knew they had a STI to have sexual intercourse with another person unless, before the intercourse took place, the other person:

- had been informed of the risk of contracting a sexually transmitted infection from the person with whom intercourse is proposed, and
- had voluntarily agreed to accept the risk.

There was also an offence for the occupier who knowingly permitted another person to have sexual intercourse on the premises in contravention of the above requirements. In both cases, the maximum penalty was 50 penalty units ($5,500).

While in 2017 there was an offence relating to failing to tell a sexual partner about their STI status, section 79 contained a defence to the offence. It was a defence to any prosecution

[2] The Hon Mark Speakman SC MP, Second Reading Speech - *COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020*, 12 May 2020, available at: https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/'HANSARD-1323879322-110380'

under section 79 if the person with the STI took reasonable precautions to prevent the spread of the infection.

The 2017 amendments removed the requirement to notify a sexual partner about a person's STI status and instead required a person with an STI to take reasonable precautions against spreading the STI. As the wording of 'reasonable precautions' is non-prescriptive, it allows the section to stay current as evidence builds for other, potentially as yet undiscovered, methods of prevention. The 2017 amendments also increased the penalty for a breach of section 79 to 100 penalty units ($11,000) and/or 6 months imprisonment.

The rationale for the change in 2017, as noted in the second reading speech, was that the 2016 review in the Act:

> '*…found that there is no evidence that section 79 is effective at preventing the spread of STIs. The report found that section 79 is inconsistent with public health messages, which focus on safe sex and the need for persons with STIs such as HIV to be on treatment and can discourage people from getting tested for STIs. Section 79 is also out of alignment with other States and Territories, which do not have a requirement that a person with an STI notify their sexual partner.*
>
> *The bill therefore removes the notice requirement in section 79 and replaces it with a provision requiring a person with an STI to take reasonable precautions against the spread of the infection. Reasonable precautions would generally include the use of a condom. In addition, in respect of HIV, recent evidence shows that having an undetectable viral load as a result of being on treatment can prevent the risk of transmission of HIV. The new section 79 will better align the public health messages about safe sex and the importance of people being tested and treated for STIs*.'[3]

The parliamentary debate on the 2017 amendments raised three main issues with the amendments to section 79:

- concerns about the increased penalty
- potential lack of clarity about what actions are required in order to comply with the requirement to take reasonable precautions against the spread of a STI
- concerns that the removal of the requirement to notify a sexual partner about one's STI status deprived people of their choice whether or not to have sex with someone with a STI.

In relation to the last point, the Ministry of Health is of the view that the current terms of section 79, requiring people with a STI to take reasonable precautions against its spread, are appropriate from a public health perspective. While the importance of an individual's decision making about their sexual partners is recognised, from a public health perspective a notification requirement (rather than the current requirement of taking reasonable precautions) is not the optimal tool in preventing the spread of STIs. As was noted in the

[3] The Hon Brad Hazzard MP, Second Reading Speech - *Public Health Amendment (Review) Bill 2017*, 10 August 2017, available at: https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3426

Report on the Statutory Review of the Public Health Act there was no evidence that the notification requirement in the previous section 79 was effective in preventing the spread of STI:

> *In fact, it may have overall negative impacts on HIV and STI control because: many STIs, including HIV infection may be asymptomatic, so a person may be infected but not diagnosed and therefore non-disclosure of an STI by a prospective sexual partner does not mean there is no risk of acquiring an STI; s.79 may discourage HIV or STI testing because if a person is not aware of their HIV status they are not required to disclose; and s.79 may result in stigma and discrimination and even coercion against the person who has disclosed, as once they have disclosed their HIV status to a prospective sexual partner that person may tell other people or use the information against the person with HIV. Moreover, s.79 does not align with public health messages which focus on safe sex.*
>
> *On the other hand, there is an argument that knowledge of the HIV or STI status of a potential sexual partner is needed to enable individuals to make an informed choice on whether to engage in sexual activity. However, reliance on a sexual partner's notification about their STI status may provide a false sense of security because a person may not know they are infected. Even a person recently tested for HIV can be unknowingly infectious if tested during the 'window period' between acquiring the infection and the test becoming positive.*[4]

From a public health perspective, the imperative is to ensure that people with an STI take reasonable precautions against spreading the infection to other people, rather than that they notify their sexual partners. The notification data, when analysed against an overall increase in STI testing uptake and in the context of national notification trends, indicates that there has been no substantive change to the risk of acquiring STIs in NSW in the period since the introduction of the changes, compared to prior to the changes.

In relation to the issue of what are reasonable precautions, this is not defined in the Act. However, as was noted in the second reading speech this would generally include the use of a condom or, in the case of HIV, having an undetectable viral load as a result of being on treatment. While there could be a benefit in giving greater clarity about is a reasonable precaution, being too specific will not necessary allow the Act to be responsive to changes in treatment and relevant precautions that may become available for particular STIs in the future.

In relation to the issue of maximum penalties, the amendments in 2017 did significantly increase the maximum penalty applicable to a breach of section 79 from 50 penalty units ($5,500) to 100 penalty units ($11,000) and/or 6 months imprisonment. The new penalty is broadly in line with other penalties in the Act that relate to persons failing to take action to protect the public, for example:

[4] NSW Health, Report on the Statutory Review of the *Public Health Act 2010*, November 2016, available at: https://www.parliament.nsw.gov.au/la/papers/Pages/tabled-paper-details.aspx?pk=69962

- the penalty in section 10 for failing to comply with a Ministerial Order in relation to public health is 100 penalty units ($11,000) and/or 6 months imprisonment.
- the penalty in section 11 for failing to comply with an Order from the Health Secretary to close down premises that are a risk to the public is 100 penalty units ($11,000) and/or 6 months imprisonment.
- The penalty in section 52 for a person with a Category 2, 3, 4 or 5 condition who is in a public place and fails to take reasonable precautions against the spread of the condition is 100 penalty units ($11,000) and/or 6 months imprisonment.

Overall, the Ministry of Health's preliminary view is that the terms of section 79 are operating effectively and that no changes are required. However, submissions on the terms and effect of section 79 are sought.

Review questions

1. Is section 79 of the *Public Health Act 2010* (NSW) operating effectively? Are any changes required?
2. Should section 79 be amended to clarify what actions are required in order to comply with the requirement to take reasonable precautions against the spread of a STI?
3. Are the maximum penalties [100 penalty units ($11,000) and/or 6 months imprisonment] in section 79 appropriate?

3 Section 62 of the *Public Health Act 2010*

3.1 Public Health Orders for Contact Order Conditions

Section 62 allows an authorised medical officer to make a public health order in respect of a person in two circumstances:

1. If a person has a Category 4 or 5 condition and the person is behaving in a way that is a risk to public health[5] OR
2. If a person has been exposed to a 'contact order condition' AND is at risk of developing the condition AND who, because of the way the person behaves, may be a risk to public health (a contact order public health order).

Until 2020, a contact order condition was avian Influenza in humans, MERS coronavirus, SARS coronavirus, typhoid, and viral haemorrhagic fevers. This list was subsequently expanded in 2020 to include COVID-19.

A public health order and a contact order public health order can impose a range of requirements, including requiring the person to refrain from certain conduct, undergo treatment or counselling or requiring a person to be detained. In deciding whether to make a

[5] Schedule 1 of the *Public Health Act 2010* (NSW) defines a Category 4 condition as: avian influenza, COVID-19, MERS coronavirus, SARS coronavirus, tuberculosis, typhoid and viral haemorrhagic fevers. HIV is the only Category 5 condition.

public health order or a contact order public health order, the authorised medical practitioner must take into account:

- the principle that any restriction on the liberty of a person should be imposed only if it is the most effective way to prevent any risk to public health, and
- any matters prescribed by the regulations.

Except in an emergency, or where it is otherwise not reasonably practical, clause 39 of the *Public Health Regulation 2012* (NSW) requires the following matters to be taken into account before making a public health order or a contact order public health order:

- whether reasonable attempts have been made to provide the person with information about the effects of the Category 4 or 5 condition the person has and the risks to public health of that condition,
- the options other than a public health order that are available to deal with the risk to public health posed by the person,
- if the proposed public health order will require the person to undergo treatment—the availability and effectiveness of the proposed treatment and the likely side effects of the proposed treatment on the person,
- if the proposed public health order will require the person to be detained—the likely social, economic, physical and psychological effects of the detention on the person,
- if the proposed public health order relates to a person with tuberculosis—the guidelines entitled *Tuberculosis Management of People Knowingly Placing Others at Risk of Infection* published by the Ministry of Health,
- if the proposed public health order relates to a person with HIV or AIDS—the guidelines entitled *HIV—Management of People with HIV Infection Who Risk Infecting Others* published by the Ministry of Health.

The provisions of section 62 seek to balance the rights of individuals with the need to protect the public by taking action to mitigate risks to public health. The 2017 amendments to section 62 extended public health orders to people exposed to contact order conditions (in addition to people who have the condition) in order to better protect public health. As was noted in the Second Reading Speech for the *Public Health Amendment (Review) Bill 2017*:

> *A contact may be infected and then can be infectious prior to developing symptoms of the disease. This means that if a contact, who may not be displaying any symptoms, refuses to undertake appropriate risk mitigation measures, such as not entering into public places, they may place other members of the public at risk of infection. Management of contacts of persons with high-risk diseases can be central to the effective management of an outbreak of a disease and prevent ongoing transmission, as demonstrated in the 2003 SARS outbreak overseas. Generally, a contact would agree to risk mitigation measures. However, the report found that the public health order provisions should be extended to contacts with high-risk diseases who are potentially placing the public—all of us—at risk.*[6]

[6] The Hon Brad Hazzard MP, Second Reading Speech - *Public Health Amendment (Review) Bill 2017*, 10 August 2020, available at: https://www.parliament.nsw.gov.au/bill/files/3426/2R%20Public%20Health%20Amendment.pdf

A contact order public health order can only be made for a limited time with no possibility of renewal.[7] The expiry date of a contact order public heath order correlates to the expected incubation period for the particular condition (see Table 1 below).

Table 1. Schedule 1A

Contact order condition	**Expiry periods**
Avian influenza in humans	10 days
COVID-19 (also known as Novel Coronavirus 2019)	14 days
Middle East respiratory syndrome coronavirus	10 days
Severe Acute Respiratory Syndrome	10 days
Typhoid	14 days
Viral haemorrhagic fevers	21 days

Prior to 2020 and the COVID-19 pandemic, no contact order public health orders were made for people exposed to a contact order condition. This is not unexpected. Until the COVID-19 pandemic, the conditions to which a contact order public health order could be made in relation to are generally not seen in NSW or Australia. However, the powers were included in the Act in case incidents occur and orders are required to protect the public. This has been seen during the COVID-19 pandemic.

From 25 January 2020 to 5 August 2020, there were 3,643 confirmed cases of COVID-19 infection diagnosed in NSW. During this time, requests for 89 public health orders were made for people exposed to a contact order condition. All of these orders were made in the context of COVID-19 and were aimed at ensuring that people who were exposed to COVID-19 were self-isolating in the interests of public health. Some orders have required people exposed to COVID-19 to be detained in order to ensure their self-isolation. The orders have been necessary to ensure that where a person has been exposed to COVID-19, and is potentially infectious, and is behaving in a way that places the public at risk (such as not self-isolating when advised to), action can be taken to minimise the risk to public health by reducing the likelihood that the person will spread COVID-19.

Based on recent experience during the COVID-19 pandemic, the Ministry of Health's view is that there needs to be a power in Act to take action against people who are potentially infectious with serious diseases who may pose a risk to the public. The COVID-19 pandemic raises the issue of whether the current terms of section 62 are sufficient to protect the public.

Under section 62, a contact order public health order can be made against a person if an authorised medical practitioner is satisfied, on reasonable grounds, that the person:

- has been exposed to a contact order condition, and
- is at risk of developing the contact order condition, and

[7] A public health order made in relation to a person with a Category 4 or 5 condition can generally last up to 28 days but can be extended by the Civil and Administrative Tribunal of NSW ('NCAT') (though for a Category 5 condition, an application for confirmation by NCAT must be made within 3 days after the order is served).

- because of the way the person behaves, may be a risk to public health.

In addition, the authorised medical practitioner must take into account the principle that any restriction on the liberty of a person should be imposed only if it is the most effective way to prevent any risk to public health.

The criteria for making a contact order public health, and a public health order, seek to balance the interests of the public against individual liberty and are orders of last resort. However, the Ministry of Health is seeking submissions on whether the current balance in the Act is appropriate and sufficient to protect public health. In particular, the Ministry of Health would like to hear submissions on whether the criteria that the authorised medical officer has to be reasonably satisfied that the person has been exposed to a contact order condition is too high a threshold.

For example, an authorised medical practitioner may suspect or have serious concerns that a person may have been exposed to COVID-19 but not to the level of being reasonably satisfied. This could occur, for instance, if the practitioner is aware that a person has come from an area where there are high levels of transmission of the particular disease. The practitioner may not be able to say that the person has been exposed, but there is a reasonable likelihood that exposure has occurred. If the person fails to take precautions as directed by a clinician, such as self-isolating, should a contact order public health order still be able to be made? Lowering the threshold for making a contact order public health order could better protect the public by minimising the chance of transmission. However, it could result in orders being made against people who have not in fact been exposed to the condition. The Ministry of Health has considered the approach in other Australian jurisdictions:

Queensland

The Queensland *Public Health Act 2005* (QLD) has specific COVID-19 emergency powers to enable the Queensland Chief Health Officer and emergency officers to give directions and to make detention orders when a person is in a *public health emergency area.* In particular, under Queensland's legislative framework, an emergency medical officer can impose a 14-day detention order on a person if they reasonably suspect that:

- a person is in a *public health emergency area*
- who has, or may have, a serious disease or illness, and
- it is necessary to detain the person to effectively respond to the declared public health emergency.[8]

It is unclear how broadly the phrase 'or may have' is interpreted. It is noted that these orders may be enforced with reasonable help and force; however, a person must be given the opportunity of voluntarily complying with the order before it is enforced. Other requirements apply to the exercise of this power, for example that the person be tested to see if they have a serious illness as soon as practicable.

[8] Section 349, *Public Health Act 2005* (Qld)

Separately, if a person has a confirmed notifiable disease, a magistrate may impose a behavioural order on a person, which is an order equivalent to a section 62 public health order under the *Public Health Act 2010* (NSW). The threshold for a magistrate imposing a behavioural order under the *Public Health Act 2005* (QLD) is that:

- The person has a *controlled notifiable condition*
- The person's condition or both their condition and likely behaviour constitutes an immediate risk to public health
- The person needs to do, or not do, stated things to avoid the condition constituting a risk to public health; and
- The person has been counselled about the condition and its possible effect on the person's health and on public health.[9]

Queensland has also amended the *Public Health Act 2005* (QLD) to create additional powers as a result of the COVID-19 pandemic. It provides for specific COVID-19 emergency powers to enable the Queensland Chief Health Officer and emergency officers to give directions. The threshold for using these powers is reasonably low; albeit tied/limited to COVID-19. To use the powers the Chief Health Officer *must reasonably believe it is necessary* to give a direction to assist in containing, or to respond to, the spread of COVID-19 in the community. Since COVID-19, these powers have been used to restrict such things as persons crossing the border into Queensland from interstate. The power enables the directions to cover:

- a direction restricting the movement of persons;
- a direction requiring persons to stay at or in a stated place;
- a direction requiring persons not to enter or stay at or in a stated place;
- a direction restricting contact between persons; and
- any other direction the Chief Health Officer considers necessary to protect public health.

Victoria

Victoria has a similar threshold to NSW before a public health order can be imposed under the *Public Health and Wellbeing Act 2008* (VIC). Under the Victorian legislative framework, the Chief Health Officer may make a public health order if they believe that:

- a person has an infectious disease or has been exposed to an infectious disease in circumstances where a person is likely to contract the disease; and
- if a person is infected with that infectious disease, a serious risk to public health is constituted by—
    - the infectious disease; or
    - the combination of the infectious disease and the likely behaviour of that person; and
- if infected with that infectious disease, the person needs to take particular action or refrain from taking particular action to prevent, as far as is reasonably possible, that infectious disease constituting a serious risk to public health; and
- a reasonable attempt has been made to provide that person with information relating to the effect of the infectious disease on the person's health and the risk posed to

[9] Section 125, *Public Health Act 2005* (QLD)

public health or it is not practicable to provide this information before making the order; and
- it is necessary to make the public health order to eliminate or reduce the risk of the person causing a serious risk to public health.[10]

Western Australia

In Western Australia, the *Public Health Act 2016* (WA) provides for the ability of the Chief Health Officer to make a public health order if the Chief Health Officer reasonably believes that:

- a person has a notifiable infectious disease or has been exposed to such a disease and may develop that disease; and
- the person is behaving, or may behave, in a way that (if the person has or develops the disease) will transmit, or is likely to transmit, the disease to another person; and
- there is a material public health risk; and
- the person has been given counselling (or reasonable attempts have been made to do so); and
- the making of a public health order is necessary to prevent or minimise the material public health risk posed by the person.[11]

Conclusion

Section 62 of the *Public Health Act 2010* (NSW), along with other provisions of the Act, involve a balance between the rights of the individuals and the need to protect public health. With highly infectious diseases that have no cure, no vaccine, and limited treatment, such as COVID-19, the requirement for an authorised medical officer to be reasonably satisfied that a person has been exposed to the condition before an order may be made could reduce the ability to take action against people who may pose a risk to public health. As a result, there may be an increased risk of transmission in the community, which would place others at risk of harm. However, it is also recognised that a lower threshold for making a public health order in relation to a contact order condition could cause harm to individuals who have not in fact been exposed to the disease.

The balance between protecting the public and individual rights and liberties requires careful consideration. The Ministry of Health would like to receive submissions on whether the current terms of section 62 of the *Public Health Act 2010* (NSW) in relation to public health orders that relate to contact order conditions strike the appropriate balance or whether changes should be made.

[10] Section 117, *Public Health and Wellbeing Act 2008* (VIC)
[11] Section 116, *Public Health Act 2016* (WA)

Review questions

4. Does section 62 of the *Public Health Act 2010* (NSW), in relation to public health orders that relate to contact order conditions, strike the appropriate balance between protecting the public and protecting individual rights and liberties?
5. Should section 62 of the *Public Health Act 2010* (NSW) be amended to allow a public health order that relates to a contact order condition to be made if an authorised medical practitioner reasonably suspects that a person has been exposed to a contact order condition and is behaving in a way that places the public at risk?

3.2 The 2020 amendments to section 62 of the *Public Health Act 2010* (NSW) – ability to direct a person subject to a public health order to undergo a medical examination or test

Prior to 14 May 2020, section 62 of the *Public Health Act 2010* (NSW) did not allow a public health order to require the person subject to the order to undergo a medical examination or test. This issue was addressed through an amendment to section 62 made by the *COVID-19 Legislation Amendment (Emergency Measures—Miscellaneous) Act 2020*. The amendment commenced on 14 May 2020.

Section 62(3)(g) was inserted into the *Public Health Act 2010* (NSW) to allow a public health order to direct a person to undergo a specified kind of medical examination or test. This applies equally to public health orders that relate to a person with Category 4 or 5 condition and public health orders that relate to contact order conditions. In the amended section 62(3) of the *Public Health Act 2010* (NSW) there is a list of possible requirements that a public health order may require the person subject to the order to do. This includes:

a) to refrain from specified conduct,
b) to undergo specified treatment (whether at a specified place or otherwise),
c) to undergo counselling by one or more specified persons or by one or more persons belonging to a specified class of persons,
d) to submit to the supervision of one or more specified persons or of one or more persons belonging to a specified class of persons,
e) to notify the Secretary of other persons with whom the person has been in contact within a specified period,
f) to notify the Secretary if the person displays any specified signs or symptoms,
g) to undergo a specified kind of medical examination or test.

The amendment was made in the context of the COVID-19 pandemic but was always intended to have a broader application. It allows public health orders to require a person who has, or who has been exposed to a Category 4 or 5 medical condition, including COVID-19, to undergo testing or an examination so that the individual's infection status can be determined, risks to public health can be better managed, and appropriate treatment plans can be devised.

In addition to COVID-19, the amendment has application to HIV and tuberculosis where a person's level of infectiousness can assist in determining their risk of infecting other people. For example, with HIV a key determinate of risk of a person with HIV is their viral load, the level of virus in their blood. A person with HIV who has high viral load poses a much higher risk of transmission than a person with HIV with an undetectable viral load, which carries a negligible level of risk. Testing the person can assist in assessing their risk and taking appropriate measures to protect the public. This can be a significant distinction, as a person living with HIV who has an undetectable viral load has negligible risk of infecting others. Further, in the case of HIV, knowing the person's viral load will better assess the person's risk and could be used to demonstrate that the person is not a risk to the public and that the public health order should be revoked.

The Ministry of Health's preliminary view is that the amendment made to section 62(3) of the *Public Health Act 2010* (NSW) is appropriate and no changes are required. However, the Ministry of Health would like to receive submissions on this issue.

Review questions

6. Does the insertion of section 62(3)(g) into the *Public Health Act 2010* (NSW) (which enables a public health order to require a person to undergo a specified kind of medical examination or test) strike the appropriate balance between protecting the public and individual rights?

4. Submissions

The Ministry of Health would like to receive submissions on the issues raised in this Discussion Paper. Submissions should be sent via email to MOH-PublicHealth@health.nsw.gov.au or sent in hardcopy to:

NSW Ministry of Health
Locked Bag 2030
ST LEONARDS NSW 1590

Submissions must be received by 11th December 2020

Individuals and organisations should be aware that generally submissions made in respect of the Discussion Paper may be made publicly available under the *Government Information (Public Access) Act 2009* (NSW). The Ministry of Health, in considering its response to the Discussion Paper, may also circulate submissions for further comment to other interested parties or publish parts of submissions. If you wish your submission (or any part of it) to remain confidential [subject to the *Government Information (Public Access) Act 2009* (NSW)], this should be stated clearly and marked.