

HIV, criminal law & public health forum

Date: Thursday, 29th September 2011

Venue: National Gallery of Australia, Canberra

Registration: 9.00AM – 9.20AM

Forum commences: 9.30AM

9.30	Welcome (Robert Mitchell, NAPWA President) Introduction and overview (AFAO Consultant, Sally Cameron)	
HIV-positive perspectives		
The effects of criminal prosecutions for HIV transmission or exposure often reach further than those directly involved in the cases. Criminal prosecutions lead to uncertainty and fear among people living with HIV as they try to conduct their intimate relationships. According to social research, many PLHIV have simply given up on the possibility of having an intimate relationship. This session hears from and about PLHIV who have various experiences of the effects of criminalisation from the personal, to the professional and the cultural.		
9.45	Issues for people living with HIV	Sean Slavin (Assistant Director, NAPWA)
10.00		Sex-workers (Kane Matthews & Elena Jeffreys, Scarlet Alliance)
10.15		Marama Pala (Kaiwhakahaere, Co-Founder/Executive Director)
10.30	MORNING TEA	
Legal and health responses		
Laws and formal policy mechanisms frame Australia's response to HIV, informing both prevention practice and protection of the human rights of people living with HIV. Those same laws and policies may also come into play in specific instances when a person living with HIV puts another at risk of HIV infection. Clear tensions arise between the ethos of population based frameworks encouraging healthy behaviours and systems to restrict or punish the behaviours of those with a disregard for their own or others' health and safety. This session considers the state's treatment of individuals who 'put others at risk': how that treatment impacts broader HIV priorities; the clash of health and criminal law contexts; and the limits of criminal law's capacity to consider the reality of individual's behaviours.		
Panel/Facilitated discussion		
11.00	Human Rights discourse	Dr Helen Watchirs OAM (ACT Human Rights and Discrimination Commissioner)
11.15	Legal consequences	Michael Williams (PLWH/A Vic, President)
11.30	Legal consequences	John Godwin (Consultant)
11.45	Health promotion perspectives	Colin Batrouney (VAC)
12.00	Health Department panels	Simon O'Connor (QLD), Ken Wadell (W.A), Alan Brotherton (NSW)
12.45	LUNCH	

Responding to cases of HIV Criminalisation

Criminal cases involving HIV present many challenges for those working in the HIV sector. Community based HIV organisations may come into contact with both ‘victims’ and ‘perpetrators’ at different times. Furthermore, mainstream media reporting of cases of criminal prosecution for HIV exposure or transmission are often problematic, betraying either ignorance of the complexity of transmission risk, moralistic assumptions about various sexual cultures or salaciousness. At various times this combination has threatened to escalate into moral panics that demonise people with HIV. This session uses several hypothetical scenarios that will provide participants with the opportunity to formulate responses to cases of HIV transmission/exposure prosecutions.

Small group exercise

1.45	Hypotheticals	Scenarios – group exercise
2.15		Feedback – group exercise
2.45	AFTERNOON TEA	

Advocacy and remedies

While many agree on the need for practical measures to address issues relating to HIV-related criminal prosecutions, the question of what should be done remains challenging, especially given tensions between agencies in several Australian jurisdictions. Options for reform include: the development of prosecutorial guidelines to deliver practical changes to the way police and prosecutorial authorities pursue matters; improved use of public health processes to ensure ‘difficult’ cases remain within a health framework; increased advocacy and intervention by the HIV community sector; and the development of strategies to manage problematic media coverage of criminal cases. Ultimately priorities must be informed by all stakeholders in their local contexts. This session will explore potential remedies, both for individual cases and at a policy level, to the criminalisation of HIV transmission and exposure.

3.00	Remedies	AFAO advocacy kit Michael Frommer (Policy Officer, AFAO) Phil Davey (Mountain Media Pty Ltd)
3.15	International perspective	Edwin Bernard (Writing about HIV www.edwinjbernard.com)
3.30	Legal options	Melissa Woodroffe (HIV/AIDS Legal Centre, NSW)
3.45	Forum Communiqué (Tim Leach, Facilitator) Closing comments (Graham Brown President, AFAO)	
4.00	MEETING CLOSED	