



Notifiable Diseases & Notification Mechanisms

**National Public Health Partnership
Legislation Reform Working Group**

Endorsed by AHMAC November 2000

Contents

Introduction	1
Notification Mechanisms	
1. How a National List of Notifiable Diseases can be Incorporated into Legislation and Amended as Needed	5
2. Requirement to Notify	6
3. Basis on which Notification is Made & Timeframe for Reporting	7
4. To Whom are Reports Made?	9
5. Penalties	10
References	12
Schedule to Report Agreed List of Notifiable Diseases	13

Notifiable Diseases and Notification Mechanisms

Introduction

Public health legislation is an important component of the disease control systems used across Australia at local, state and national levels. The Constitution provides few powers to the Commonwealth in the area of public health, other than with respect to quarantine. It is the responsibility of each State and Territory to enact appropriate legislation and provide administrative mechanisms that protect public health.

Each jurisdiction has its own legislation which lists diseases that must be notified to the appropriate central authority and the circumstances under which such a notification must be made. This information can then be used to improve public health by:

- alerting authorities to individual cases of disease that need to be managed
- detecting clusters of cases that may identify public health risks such as contaminated food or poorly maintained water cooling towers in the case of Legionella
- collecting population health data which provides information on patterns of disease

The way this data is used and public health action that can be taken varies in each jurisdiction with respective legislation defining the roles of the State or Territory and Local Councils.

When public health laws were first drafted it was envisaged that outbreaks of disease would be localised and generally contained within a particular region. With today's mobile population and national distribution of products such as foods that can serve as vehicles for disease, a nationally coordinated approach to disease surveillance and control is of increasing importance. The Commonwealth currently has ongoing programs which aim to provide national leadership and coordination on the surveillance, prevention, management and control of infectious diseases.

Streamlined legislation would contribute to this by providing a basis for producing a meaningful national picture of communicable disease and enable improved control through consistent monitoring and reporting requirements across Australia.

This paper focuses on the diseases of national importance which should be notifiable in each jurisdiction and the legislative mechanisms that can be utilised to provide a consistent framework for national surveillance.

The paper is intended to be used as a reference guide for public health legislators. It discusses the purpose and need for uniformity in this area and the form that best practice legislation should take.

It should be noted that this paper does not address the reporting requirements for non-communicable diseases such as cancer, which are dealt with by other legislative mechanisms.

Notification Mechanisms

Discussed in this part of the paper is the basis for legislative provisions, the need for consistency and the form that legislation should take to achieve desired outcomes. Also discussed are the limitations of legislation and the issues most appropriately dealt with administratively.

1. How a National List of Notifiable Diseases can be Incorporated into Legislation and Amended as Needed

Purpose of the Legislation

As discussed, the diseases which are notifiable in each jurisdiction are detailed in that jurisdiction's Public Health Legislation. Such lists need to be prescribed in legislation to:

- Provide a legal imperative to notify
- Define the diseases for which powers can be used to investigate illness and protect public health

The mechanism used to incorporate notifiable diseases into legislation needs to be flexible enough to allow new diseases to be included quickly, particularly in the case of an emergency or for emerging diseases. However, given that including new diseases in the list will impact on notifiers and the rights of the patient, the need to act quickly must be balanced with the level of accountability expected by the community.

Is Consistency Desirable?

A nationally agreed core list of diseases that are notifiable in all jurisdictions would enable national surveillance of those core diseases and identification of outbreaks on a national basis. Consistent data collection would provide the opportunity to respond to outbreaks in a coordinated manner and take preventative measures based on a national picture.

Any core list that is agreed to nationally must have a capacity for timely amendment in response to the emergence of new diseases that require national surveillance or urgent public health action. This would allow for a coordinated national response to situations such as an outbreak of a virulent exotic disease.

Legislation

Bidmeade and Reynolds¹ propose a formal list of notifiable diseases be compiled nationally and ratified by a body of Commonwealth, State and Territory experts such as the Communicable Disease Network of Australia & NZ group. Each jurisdiction would then adopt this list by reference. Amendment would be by national agreement via the ratifying body and occur automatically in each jurisdiction.

It should be noted that this system would not prevent a jurisdiction from also declaring diseases of local concern to be notifiable.

After consultation with States and Territories, an alternate model was preferred which is based on the ACT legislation. In this case the list would be prescribed in a schedule to a Regulation (or an Act) and in an emergency a short term addition

¹ Bidmeade, I & Reynolds, C 'Public Health Law in Australia: Its Current State & Future Directions' 1997

could be made by declaration of the Chief Health Officer (or equivalent). Under this model, such a declaration would then need to be affirmed by Ministerial determination and published in the Gazette thereby making the disease notifiable on a permanent basis.

Whatever mechanism is used to incorporate notifiable diseases into legislation, the outcome which is needed to contribute to a coordinated national response to outbreaks of disease and the collation of meaningful data, has two components:

- (i) a core list of notifiable diseases (as discussed in part A) is uniformly utilised across all jurisdictions
- (ii) the legislation has a mechanism for amending the list quickly in an emergency.

2. Requirement to notify

Purpose of the Legislation

Legislation needs to clearly indicate who is required to notify so that:

- there is no ambiguity as to where responsibilities lie
- the position of the notifier with respect to privacy vs public health interests is clearly defined. This is particularly important where the patient objects to information being provided to an authority.

Is Consistency Desirable?

From a jurisdictional perspective, there are situations as pointed out by NT and ACT where pathology testing is performed in another jurisdiction. This may also occur close to borders. In such situations it would be beneficial for reporting requirements to be consistent to ensure each central authority receives the relevant notification in a comparable form. Transfer of information from one jurisdiction to another can be dealt with administratively whilst taking account of privacy and confidentiality issues.

From the national data perspective, notifications received from different sources will differ in their reliability, validity and rapidity of response. Uniformity of data source would be preferable to allow a more complete, comparable and meaningful national picture that contains data that is as up to date as possible.

Laboratory reporting is generally reliable and rapid and will be on a confirmed (or at least presumptive) pathology result. Medical practitioner reporting of a suspected illness however will most likely be received before laboratory confirmation and usually provides extra clinical information which contributes to a diagnosis and enhances the public health intelligence. Prompt medical practitioner reporting is also important in cases where public health action, such as contact tracing and the provision of chemo/immunoprophylaxis may need to be instituted well before laboratory confirmation is available.

Legislation

Protecting public health is dependent on the sensitivity and timeliness of notifications received by an authority. A surveillance system should aim for maximum sensitivity so that cases are not missed. The system should also require rapid reporting as this will also contribute to better public health outcomes in terms of identifying outbreaks and taking appropriate action which will prevent the spread of disease.

Including both medical practitioner and laboratory reporting increases the sensitivity of the system as data is collected from a wider base. Notification from both sources should also provide the best chance for data to be received rapidly so that where necessary public health action can be instigated as quickly as possible.

For the reasons described above ie sensitivity, reliability and rapid reporting of data, the legislation should require both laboratory and medical practitioner reporting.

3. Basis on which Notification is Made and Timeframe for Reporting

The provisions of the legislation which define who must notify and where these reports must go should also provide the circumstances under which such reports are required. For example in South Australia reporting is required on suspicion of disease and must be made as soon as practicable and, in any event, within three days of forming that suspicion. Other jurisdictions use criteria such as when a practitioner 'believes on reasonable grounds' or 'is aware' that a person is suffering from a notifiable disease and do not prescribe a maximum timeframe in which reporting must occur.

Purpose of the Legislation

This type of provision also contributes to the sensitivity and rapidity of the data collection system.

The more restrictions or criteria that must be fulfilled before a case is notified, the fewer notifications will be received and the less sensitive the data collection. One approach taken is that the central authority should be notified of all suspected cases and it is then at the authority's discretion, following appropriate investigation, as to whether the case is confirmed and if public health action is needed. For this approach to be implemented notifiers should be required to report any suspect case within in a short timeframe without waiting for laboratory or other type of confirmation.

This type of system allows the central authority to be aware of potential outbreaks of disease much more quickly providing more chance of taking action that will stop the spread of disease.

In contrast if the legislation allowed notification on confirmed cases only the capacity for prompt public health action would be limited. For example a suspected food poisoning outbreak may not be recognised until the food source has been widely distributed and/or consumed.

Is Consistency Desirable?

The ability of all jurisdictions to respond quickly to outbreaks of disease is of obvious public health importance nationally. The sensitivity of any one jurisdiction's system will be enhanced by access to national data. Consistent legislation can provide the basis for the type of data that is collected, however how and when data is provided to a national database is most appropriately decided on an administrative level. This is discussed below in administrative issues.

Legislation

The terminology used in legislation across jurisdictions varies and is open to interpretation. What constitutes reasonable grounds for believing a patient is suffering from a notifiable disease will differ depending on the disease concerned and the attitude taken by both the central authority and the notifier. Differences will also occur when interpreting statements such as 'as soon as possible'. For example should clinical picture or confirmed laboratory results be used to report a case of Measles.

As discussed the system should aim for maximum sensitivity and rapidity of reporting. The terminology used in legislation should reflect this and be as unambiguous as possible.

After the 1995 South Australian Coroner's inquest into the death of a child following *E.coli* O111 infection, recommendations were made as to the rapidity and sensitivity of the South Australian system of reporting notifiable diseases. The Coroner recommended that notification be mandatory when a medical practitioner believes a person may be suffering from a notifiable disease and the 5 day limit for notifications be reviewed. Accordingly the South Australian legislation was amended so that medical practitioners are now required to notify when they 'suspect' a person to be suffering from a notifiable disease rather than when they 'become aware' and the maximum reporting time was decreased from 5 to 3 days.

This is a reflection of community expectations that the system can respond quickly to incidents of disease and serves as a guide to what should be recognised as best practice legislation in this area.

It should be noted that the degree of sensitivity needed to achieve the best possible public health outcomes will vary depending on the disease concerned. For example the health authority would want to receive a meningococcal notification immediately to enable prompt contact tracing and where necessary prophylactic antibiotics to be prescribed, however this would not be the case for a hepatitis C notification. Whilst the legislation should provide for maximum notification timeframes, where it is imperative on public health grounds that notifications be received immediately, administrative procedures can be used to advise notifiers of the diseases that should be telephoned to the central authority as a matter of urgency.

Administrative Issues

Case definitions

The use of criteria which define each notifiable disease, aims to provide guidance for those required to notify and assist in collating consistent, comparable data.

Prescribing such definitions in legislation would not provide the flexibility that is needed when diagnosing notifiable diseases as cases will not always fall neatly into a defined set of criteria.

A nationally agreed set of case definitions that can be used administratively would however be desirable to assist in the interpretation of the national database.

Provision of data to the national database

As discussed the provision of consistent data to a national database enables a national picture of notifiable disease to be compiled. This database should serve as a reference point for all jurisdictions so that cases of disease occurring locally can be

compared with the national picture and information which contributes to local investigations is easily available.

As with notifications in individual jurisdictions, the type of information provided to the national database and how current it is will impact on its usefulness. The data provided should be detailed enough to allow an assessment of the reported cases however the task of providing this information should not be so time consuming as to cause large delays before it is sent.

A 'Technical Specification for Transmission of Disease Notifications to the Commonwealth National Notifiable Disease Surveillance System (NNDSS)' has been compiled by the Dept of Health and Aged Care'. This document details the information which is to be provided to the Commonwealth for compilation into a national database including an indication of whether the case is laboratory confirmed or not, the type of analyses performed and whether the case is part of an outbreak investigation.

4. To whom are reports made?

Purpose of the Legislation

To ensure there is certainty as to where data is to be provided, the legislation needs to clearly prescribe the authority to which reports must be made. This expression in law also implies that the authority will take responsibility for receipt and management of such reports.

Is Consistency Desirable?

At present all jurisdictions require notification to their own central agency.

This has the following advantages

- allows each central agency to oversee all cases in their jurisdiction and initiate an appropriate response quickly
- minimises delays in compiling data for the whole jurisdiction that may occur if data is initially supplied to regional or local authorities
- minimises time lag between reporting to an authority and this data being supplied to the Commonwealth
- minimises the number of authorities that may supply data to the commonwealth thus increasing consistency of reporting.

An issue mentioned briefly above, is where a patient does not reside in the area where the diagnosis is made. State or Territory based legislation can only provide powers over medical practitioners and laboratories that are within the enacting jurisdiction. It would be beyond the powers of any one State or Territory Act to include requirements that extend beyond its boundaries.

Handling by State or Territory central authorities of reported cases that reside in another jurisdiction is discussed below under administrative issues.

Legislation

As discussed, legislation is required to clearly prescribe reporting requirements within each jurisdiction. Explicit provisions should therefore be included that require reports to be made to the appropriate position within the State or Territory central

authority for example the Director General of the Department of Health or the Chief Medical Officer.

Administrative Issues

A case notified to a State or Territory central authority may involve a patient that is not a resident of that jurisdiction or an infection was acquired in another jurisdiction. Where this occurs it must be decided whether the report is recorded as a case in the jurisdiction where the notification is made, the patient resides or the infection was acquired.

One of the uppermost purposes for collection of data is to enable detection of outbreaks of disease and where appropriate take public health action to prevent their spread or recurrence. For this to occur effectively each jurisdiction should be aware of infections that are part of a local outbreak.

The following administrative arrangements would achieve this and should prevent duplication of case recording.

Where a notification is received for a case that does not reside in that jurisdiction the case is recorded that jurisdiction unless:

- The case is known to be part of another jurisdictions outbreak
- Where only laboratory analysis was performed in that jurisdiction ie specimen was collected in another jurisdiction and only sent to the notified state for analysis

5. Penalties

Purpose of the Legislation

Penalties for failure to notify are not seen as a major component of public health legislation as they are rarely used and are not considered the best way to increase reporting rates. The reasons for prescribing penalties are summarised below:

- to indicate government commitment to protecting public health via the notifiable diseases surveillance network
- to indicate community expectations
- to a limited extent, act as a deterrent

Is Consistency Desirable?

As stated for notification requirements, cross border testing and diagnosis occurs across the country therefore ensuring that the same emphasis on compliance is in place in all jurisdictions would be desirable.

Legislation

Currently jurisdictions differ in the penalties which apply for failure to notify with a range from \$100 to \$5,500. Providing significant penalties is not seen, however, as the best way to increase notification rates as setting up an adversarial situation with medical practitioners or laboratories would be counter productive.

Despite this, penalties are necessary as a statement of the expectations of the community and public health authorities and as with the requirement to notify provide

a form of protection if a notifier has a patient who objects to information being provided to the health authority.

In practice, an increase in notification rates is more likely where notifiers believe their information will lead to appropriate public health action and simple notification mechanisms are in place. Accountability to professional bodies and the prospect of negligence claims also has an influence over notification rates.

Penalties of the order more commonly in place ie \$1000 to \$2000 should be prescribed for failure to notify. However other mechanisms not explicit in Public Health legislation need to be explored to increase notification rates.

References

Australian Institute of Health Law & Ethics (1998) *Public Health Law in Australia - New Perspectives*.

Bidmeade I & Reynolds C (1997) *Public Health Law in Australia: Its Current State and Future Directions*. Commonwealth of Australia, Canberra.

Reynolds C (1995) *Public Health Law in Australia*. Federation Press, Sydney.

Commonwealth Department of Health & Aged Care, Population Health Division (1999) *Technical Specification for Transmission of Disease Notifications to the Commonwealth National Notifiable Disease Surveillance System*.

Schedule to Report

The list of notifiable diseases as agreed by CDNANZ , and amended from time to time, will form a schedule to this report.