



## Guidelines

# Management of People with Human Immunodeficiency Virus (HIV) Who Place Others at Risk

### Purpose

These guidelines aim to reduce the transmission of HIV in the ACT by providing a framework for the appropriate and effective management of individuals living with HIV who knowingly place others at risk. ACT Health adheres to the *National Guidelines for the Management of People with HIV Who Place Others at Risk* (the National Guidelines), and this document describes the way in which the National Guidelines are applied in the ACT.

### Scope

These guidelines apply to all ACT Health Staff, and are intended to guide others, including:

- All health professionals working in the ACT (including those working in private or community settings);
- Counsellors working with people living with HIV;
- Community organisations who work with people living with HIV; and
- Other members of the ACT community.

### Guiding Principles

National Guidelines for the Management of People living with HIV Who Place Others at Risk

- ACT Health supports and adheres to the National Guidelines and this document should be read in conjunction with the National Guidelines.

Privacy and Confidentiality

- Information about an individual's HIV status, testing or treatment is "health information" and is regulated in the ACT by the *Health Records (Privacy and Access) Act 1997* (the Health Records Act). Section 5 of the Health Records Act describes the privacy principles which govern the collection, recording and access to health information.
- Patient confidentiality and privacy is also protected by health professional ethical obligations and relevant professional standards. In general, health information can be shared with other health professionals who are involved in providing care, treatment or counselling of an individual if such information is relevant to the provision of care, treatment or counselling.
- ACT legislation allows a health professional to disclose an individual's private health information where they **have reasonable grounds to believe that a situation or disease may cause a significant health hazard** or if a crime has been uncovered in

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the course of the public health follow up and management of an individual's case. Careful and limited disclosure of protected health information may become necessary for agencies to appropriately manage a person living with HIV who is placing others at risk. Any such disclosure or use of protected personal health information is guided by the limitations and provisions of the appropriate legislation.

- Practitioners should make themselves aware of these principles and their application.

### Public Health Act 1997

- The *Public Health Act 1997* (the Public Health Act) has the objective of protecting the health of the public while at the same time avoiding any undue infringement of individual liberty and privacy. A number of communicable diseases have been identified as notifiable conditions, including HIV. When making a diagnosis, a responsible person (e.g. a health practitioner or laboratory) has an obligation to notify the Chief Health Officer of the diagnosis as soon as is practicable.
- The Public Health Act provides responsibilities for a person who engages in activities that are known to carry a potential risk of exposure to a transmissible notifiable condition, and any person responsible for the care, support or education of such a person.
- In order to prevent or alleviate a significant public health hazard, the Chief Health Officer may issue a Public Health Direction, which may include requiring an individual to refrain from certain behaviour, to undergo a medical examination, to undergo counselling or to be confined to a certain place (being the least restrictive confinement appropriate to the person's condition). If necessary, the Chief Health Officer may apply to a court for an order that a person comply with a Public Health Direction.
- Public Health Directions and Orders are instigated when education, advice, support and other less coercive actions have failed to mitigate the public health risk.
- A Public Health Direction serves the same purpose as a Behavioural Order, as referred to in the National Guidelines.

## **Roles & Responsibilities**

### Chief Health Officer:

- Responsible for oversight of the management of people living with HIV who knowingly infect others, in accordance with the National Guidelines and the statutory obligations described within the Public Health Act;
- Acts as the initial point of reference for people concerned that a person living with HIV is placing others at risk;
- Seeks additional information as required.

### ACT Health Staff:

- Responsible for notifying the Chief Health Officer of concerns that an individual living with HIV may be placing others at risk of infection.

## **Process**

### Referral of People living with HIV Who Place Others at Risk

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The Chief Health Officer should be contacted for advice by a responsible person if there are concerns that an individual living with HIV may be placing others at risk of infection. Contact details as follows:

**Attn: Chief Health Officer**

Phone: (02) 6205 0883

Fax: (02) 6205 1884

Mail: GPO Box 825

Canberra City ACT 2601

Once notified, the Chief Health Officer will assess the information provided and may provide advice immediately (including referral to services or professionals who may be able to assist further), request additional information or refer the individual case to the ACT HIV Advisory Panel (the Advisory Panel) for further assessment.

The ACT HIV Advisory Panel

The Advisory Panel is a standing committee chaired by the Chief Health Officer and comprised of representatives with a range of experience and expertise in accordance with the National Guidelines. Individual members may be coopted on a case by case basis.

The Advisory Panel is responsible for advising the Chief Health Officer in relation to the management of people living with HIV who place others at risk of infection, and will be composed with consideration for providing advocacy for people affected by its advice.

Framework for Managing People living with HIV Who Place Others at Risk

The National Guidelines outline a tiered approach (comprising 5 levels) for the management of people living with HIV who place others at risk. This approach is summarised below. For detailed information, including advice on case management, please refer to the National Guidelines.

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| Level 1: | <i>Counselling, education and support</i><br>Management in the community by the individual's primary health care provider, with the assistance of specialist HIV case workers, as appropriate, without the formal involvement of the HIV Advisory Panel.  |
| Level 2: | <i>Counselling, education and support under advice from HIV Advisory Panel or the Chief Health Officer or Equivalent</i><br>Management in the community under recommendations from the Chief Health Officer or equivalent and / or the HIV Advisory Panel but without a Behavioural Order. This may include a formal letter of warning. |
| Level 3: | <i>Management Under Behavioural Order</i><br>Management under a Behavioural Order or #equivalent.   |
| Level 4: | <i>Detention and / or Isolation</i><br>Detention and / or isolation under a Detention Order and / or an Isolation Order or equivalent.  |

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| Level 5: | <p><i>Referral to Police</i></p> <p>Referral to the Police under the Crimes Act or other relevant Act. Referral may be made at any stage under these Guidelines.</p> |
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# Under ACT's *Public Health Act 1997*, the Chief Health Officer is able to give "directions" - these, in effect, would serve the purpose of a Behavioural Order.

Assessment of whether a person living with HIV is placing someone at risk is made on a case by case basis by the treating physician or referrer.

In circumstances where it is believed that a crime may have been committed, the responsible person should contact ACT Policing on (02) 6256 7777.

## Evaluation

### Outcome Measures

- All issues referred to the ACT HIV Advisory Panel are dealt with in accordance with the National Guidelines in a timely fashion.

### Method

- The ACT HIV Advisory Panel will submit a report to the Chief Health Officer at the conclusion of each meeting outlining any action taken.

## Related Legislation, Policies and Standards

### Legislation

*Public Health Act 1997*

*Health Records (Privacy and Access) Act 1997*

<http://www.legislation.act.gov.au/>

### Standards

*National Guidelines for the Management of People with HIV Who Place Others at Risk*

<http://www.health.gov.au/internet/main/publishing.nsf/Content/phd-hiv-guideline-at-risk>

## Definition of Terms

### Chief Health Officer

A statutory position appointed by the Minister for Health under section 7 of the *Public Health Act 1997*. Section 11 of the *Public Health Act 1997* states that the Chief Health Officer may, by instrument, delegate his or her function/s under that Act to another person. Therefore, references to the Chief Health Officer in this document may also refer to the Chief Health Officer's delegate.

### Notifiable condition

A disease or medical condition determined by the Minister under section 100(1)(a) of the *Public Health Act 1997* or declared by the Chief Health Officer under section 101(1)(a) of the *Public Health Act 1997*.

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**Responsible Person**

In relation to a person having a notifiable condition, a responsible person may be:

- a) A doctor; or
- b) An authorised nurse practitioner; or
- c) A counsellor who has counselled the person in relation to the condition; or
- d) A person who is responsible for the care, support or education of the person.

**References**

*National Guidelines for the Management of People with HIV Who Place Others at Risk*

<http://www.health.gov.au/internet/main/publishing.nsf/Content/phd-hiv-guideline-at-risk>

as accessed 22 July 2014.

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