

Management of people with HIV who risk infecting others

Summary This Policy Directive gives effect to sections of the NSW Public Health Act 2010, Public Health Regulation 2012 and Public Health Amendment (Review) Act 2017 relating to HIV transmission risk behaviours. It sets out roles, responsibilities and communication pathways for service providers in managing people with HIV who risk infecting others. It provides a management framework which recognises that education, support and access to HIV antiretroviral treatment are effective interventions sustainable over the long term. The PD provides for escalation to more directive measures when warranted.

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Audience Clinical, Allied Health and Nursing Staff, Staff of Public Health Units, Sexual Health, HIV Clinical

MANAGEMENT OF PEOPLE WITH HIV WHO RISK INFECTING OTHERS

PURPOSE

This Policy Directive sets out roles, responsibilities and communication pathways for service providers that manage people with HIV who risk infecting others. It provides a management framework that recognises education, support and access to HIV antiretroviral treatment as effective and sustainable responses. The policy also gives directions on how to escalate responses when required.

MANDATORY REQUIREMENTS

- Management of HIV transmission risk behaviours must be consistent with the NSW *Public Health Act 2010*, *NSW Public Health Regulation 2012*, and *Public Health Amendment (Review) Act 2017*.
- Where a person presents with behaviours that risk HIV transmission, professionals and health entities must deliver services consistent with the roles and responsibilities set out in section 2 and the management framework in section 4 of this policy.
- Referrals to Police must be directed through the Ministry of Health on advice from the Panel for management of people with HIV who risk infecting others (the Panel) or the Panel Chair (section 6).
- Communication with other jurisdictions on public health matters about a person with HIV must be via the Chief Health Officer (CHO).

IMPLEMENTATION

Clinicians are responsible for:

Diagnosing clinicians are responsible for ensuring that their patients with HIV have access to [the NSW HIV support program and five key support services](#), including:

1. Treatment
2. Psychosocial support
3. Counselling on prevention of infection to others
4. Support for partner notification
5. Linkage to services including specialist and community services.

Local Health Districts (LHDs) are responsible for:

- Assigning a point of contact for people under management level 1 or above who can coordinate appropriate services and resources available within the LHD
- Implementing an effective work health and safety management system for staff that seek out a client in the community in unknown environments. This must be in line with the policy directives on Work Health and Safety: Better Practice Procedures¹

¹ https://www1.health.nsw.gov.au/pds/Pages/doc.aspx?dn=PD2018_013

and Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach.²

The LHD point of contact is responsible for:

- Identifying a clinical case coordinator where complex issues present
- Seeking advice from the Panel Chair and where the Panel's advice is sought:
 - submitting reports as requested
 - ensuring that an appropriate LHD representative is available to present on the case at Panel meetings
 - implementing the Panel's recommendations.
- Monitoring and ensuring the person's ongoing engagement in care (including referral to other LHDs and coordination of referral to other jurisdiction when required)
- Implementing public health orders
- Acting as the point of contact for the Panel and the Ministry staff.

CPH, NSW Ministry of Health and Health Protection NSW are responsible for:

- Providing secretariat support to the Panel and coordinating communication between the Panel and the CHO. The Panel secretariat is responsible for:
 - seeking reports from the clinician or other service provider responsible prior to the Panel meetings
 - providing Panel meeting minutes to the CHO
 - communicating all recommendations to the LHD and preparing and sending a letter from the CHO to the LHD Chief Executive (CE) in a timely way.
- Referring HIV transmission risk issues brought by the LHD to the attention of the Ministry to the Chair and ensuring formal feedback is provided to the LHD in a timely and supportive way
- Obtaining and communicating advice from Legal and Legislative Services Branch as required
- Collaborating and partnering with HIV organisations, state-wide services and government departments to activate State-wide resources to ensure transmission risk behaviours of a person with HIV are minimised
- Managing notifications of patients with HIV infection and referrals to the HSP.

The Panel is responsible for:

Providing expert advice (through collaboration with LHDs) to clinicians, LHDs and the CHO on strategies to minimise transmission risks.

Panel Chair is responsible for:

- Providing advice and other responses to queries raised on public health risk concerns
- Referring cases to the full Panel where additional advice is needed
- Raising urgent or complex cases about alleged risks with the CHO via the Director, Population Health Strategy & Performance, CPH or their delegate.

² https://www1.health.nsw.gov.au/pds/Pages/doc.aspx?dn=PD2015_001

REVISION HISTORY

Version	Approved by	Amendment notes
January 2019 (PD2019_004)	Deputy Secretary Population & Public Health & Chief Health Officer	Revised to: <ul style="list-style-type: none"> i) update for the <i>NSW Public Health Act 2010</i>, the <i>Public Health Regulation 2012</i> and the <i>Public Health Amendment (Review) Act 2017</i>; ii) incorporate new evidence on the public health benefits of HIV antiretroviral treatment and its key role in public health measures; iii) specify the role of LHDs in managing HIV-related public health risks; iv) update other detail to bring the policy in line with the current context.
April 2009 (PD2009_023)	Director General	Major review involving broad consultation process
January 2005 (PD2005_258)	Director General	Full revision following a formal review of procedures

ATTACHMENTS

1. Management of people with HIV who risk infecting others: Procedures

Management of people with HIV who risk infecting others



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1 BACKGROUND

This Policy Directive provides a health system framework for managing people with HIV who risk infecting others.

Under the NSW *Public Health Act 2010*, people with a sexually transmissible infection (STI) (including HIV) are required to take reasonable precautions against transmitting their infection to others. Reasonable precautions against the spread of HIV through sexual activities are:

- Having a suppressed HIV viral load (less than 200 copies/mL), usually resulting from being on antiretroviral therapy (ART)^{1 2}; or
- Using a condom; or
- Seeking and receiving confirmation from a sexual partner that they are taking HIV pre-exposure prophylaxis (PrEP).

ART is readily available to people with HIV in NSW.³

HIV can also be transmitted by sharing drug injecting equipment (contaminated needles, syringes and other injecting equipment, and drug solutions). HIV transmission among injecting drug users can be prevented by never sharing injecting equipment. Though rare in NSW, HIV can also be transmitted from women with HIV to their unborn infants during pregnancy.

There are occasions where a person aware of their HIV infection fails to take precautions against transmitting HIV to others. Reasons for this vary, but generally include contributing factors like substance use and/or misuse, mental health issues, intellectual/cognitive impairment, and psychosocial vulnerabilities (like homelessness and/or social isolation).

In most cases, Local Health Districts (LHDs) can address these contributing factors through holistic and multidisciplinary case management. Case management can include providing access to counselling, education, housing providers, and disability pensions. Supportive measures (for example shopping vouchers) can also be used to encourage a person to initiate and adhere to ART. NSW Health funds a range of services that the LHDs can access to fund appropriate supportive measures. These services and their contact details can be found in Section 7.

¹ PARTNERS STUDY (Rodger AJ, Cambiano V, Bruun T, et al. Sexual activity without condoms and risk of HIV transmission in serodifferent couples when the HIV-positive partner is using suppressive antiretroviral therapy. *JAMA* 2016;316(2):171-81.)

² Opposites attract study (Bavinton B, Grinsztejh B, Phanuphak N, et al. HIV treatment prevents HIV transmission in male serodiscordant couples in Australia, Thailand and Brazil. Presented at the 8th IAS Conference on HIV Science (IAS 2017), Paris, France, July 25, 2017).

³ ART is listed under the Pharmaceutical Benefits Scheme. The NSW Government makes the co-payment for ART for eligible patients in NSW.

LHDs are responsible to explore options to enable access to ART for HIV positive patients who are Medicare ineligible to enhance patient compliance and control HIV transmission. Please refer to the Policy Directive on Medicare Ineligible and Reciprocal Health Agreement – Classification and Charging, available at http://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2016_055.pdf

As HIV is a chronic illness, preventing transmission may require practices that must be maintained over a life time of the person with HIV. Directive strategies are difficult to sustain and may result in negative outcomes like mistrust of health workers.

1.1 Public health orders

The NSW *Public Health Act 2010* has mechanisms to direct a person's behaviours under certain circumstances using a public health order. A public health order may require a person to be tested, undergo treatment or be detained. Only in rare circumstances, and typically after exhausting other options, public health orders can be used to detain or require a person to take specific actions.

Further information on public health orders is in Section 4.3.

1.2 Public health risks

A person with HIV may pose public health risk if they engage in behaviours that do not consider HIV infection implications for others. It is unlikely that a single risk incident (for example, failing to adhere to ART during a short, exceptional circumstance) would be considered a public health risk. Single risk incident should be managed at a local level (see Section 4.1).

To assess whether there is a public health risk, the following needs to be considered:

- Whether the person's risk behaviour is current and likely to continue (risk behaviour may include: having a viral load of more than 200 copies/mL, or engaging in condomless sex or having sex with a partner not on PrEP and/or engaging in unsafe injecting practices)
- The person's understanding of their HIV status and how their behaviour risks transmission of HIV to others
- Whether the person understands how they can prevent transmitting HIV
- Whether the person has access to reasonable precautions like access to ART, condoms and sterile needles and syringes
- The person's adherence to ART, engagement in care (including regular monitoring of HIV viral load)
- The person's cooperation and engagement with services in managing their transmission risk.

2 ROLES AND RESPONSIBILITIES

2.1 Person with HIV

A person with HIV is ultimately responsible for managing HIV transmission risks. If a person with HIV injects drugs, they are ultimately responsible for safe injecting practices.

There has been widespread education and information publicly available about HIV prevention through safe sex and injecting practices for many years.^{4 5}

If a person with HIV is known to be placing others at risk of infection, then collaborative efforts by health and other services (including Housing, Family and Community Services and non-government organisations) to support HIV treatment initiation and adherence may help address the risk of transmission.

2.2 Clinicians

Diagnosing clinicians (both specialists and general practitioners) are responsible for ensuring that their patients with HIV have access to [the NSW HIV support program and five key support services](#)⁶, including:

1. Treatment
2. Psychosocial support
3. Counselling on prevention of infection to others
4. Support for partner notification
5. Linkage to services including specialist and community services.

This includes:

- Advising the person on their obligation under Section 79 of the *NSW Public Health Act 2010* to take reasonable precautions against spreading their HIV infection
- Monitoring engagement of the person with HIV with health services and following up where the person fails to engage or disengages from care
- Referring patients with complex care needs to specialist assessment and support, e.g., HIV community teams, AIDS Dementia and HIV Psychiatry Service (Adahps), NSW Partner Notification Service, and alcohol and mental health services (in accordance with the management framework (Section 4 of this Policy Directive)
- Referring patients to the Chair (for cases involving concerns about HIV transmission risks).

2.3 Local Health Districts

Local Health Districts (LHDs) are responsible for:

- Assigning a point of contact for people under management Level 1 or above (see Section 4) who can coordinate services and resources that are available and appropriate within the LHD for people who risk infecting others with HIV. The point of contact should be a senior health professional in the LHD who can liaise with the NSW Ministry of Health (the Ministry) and other service providers.

The LHD point of contact is responsible for:

- Identifying a clinical case coordinator where complex issues present

⁴ <http://www.health.nsw.gov.au/endinghiv/Pages/public.aspx>

⁵ <http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs-links>

⁶ <http://www.health.nsw.gov.au/endinghiv/Documents/5-key-support-services.pdf>

- Seeking advice from the Chair of the Panel for Management of People Who Risk Infecting Others (the Panel). The Panel consists of experts appointed by the Ministry to advise on complex HIV risk management issues (see Section 2.6 of this Policy Directive)
- Where the Panel's advice is sought:
 - submitting reports as requested
 - ensuring that an appropriate LHD representative (e.g. a clinical case coordinator or case coordinator) is available to present on the case at Panel meetings
 - implementing the Panel's recommendations.
- Monitoring and ensuring the person's ongoing engagement in care and
 - where the person relocates to another LHD, referring and ensuring linkage to a relevant service
 - consistent with National Guidelines for the Management of People with HIV Who Place Others at Risk,⁷ informing the Centre for Population Health (CPH, at the Ministry) if certain people under management relocate to another state or territory, to coordinate a formal communication from the Chief Health Officer (CHO) to another jurisdiction.
- Implementing an effective work health and safety management system for staff that seek out a client in the community in unknown environments. This must be in line with the Policy Directives on Work Health and Safety: Better Practice Procedures⁸ and Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach⁹
- Implementing public health orders
- Acting as the point of contact for the Panel and the Ministry staff to liaise with about a person with HIV with risk behaviours in their LHD
- Following up on actions relevant to the LHD from Panel's recommendations (including following up on the implementation of the public health order).

At any stage, the LHD can contact the Chair for advice about management of a patient with HIV who may risk infecting others.

2.4 Centre for Population Health, NSW Ministry of Health and Health Protection NSW

The CPH and Health Protection NSW are responsible for:

- Providing secretariat support to the Panel and coordinating communication between the Panel and the CHO. The Panel secretariat is responsible for:
 - seeking reports from the clinician or other service provider responsible prior to the Panel meetings
 - providing Panel meeting minutes to the CHO. The minutes will include the Panel Chair's (the Chair) advice on the referrals received between regular

⁷ <http://www.health.gov.au/internet/main/publishing.nsf/content/phd-hiv-guideline-at-risk>

⁸ http://intranet.nswlhd.health.nsw.gov.au/docs/PD2013_050-work-health-and-safety-better-practice-procedures-v-001.pdf

⁹ http://www1.health.nsw.gov.au/pds/ActivePDSDocuments/PD2015_001.pdf

Panel meetings and the Panel's deliberations and advice on cases under assessment or management

- communicating all recommendations to the LHD and preparing and sending a letter from the CHO to the LHD Chief Executive (CE) in a timely way. This includes communicating key recommendations to the LHD point of contact informally prior to the letter from the CHO to the LHD CE.
- Referring HIV transmission risk issues brought by the LHD to the attention of the Ministry to the Chair and ensuring formal feedback is provided to the LHD in a timely and supportive way
- Obtaining and communicating advice from Legal and Legislative Services Branch as required
- Collaborating and partnering with other agencies to activate State-wide resources (e.g. from other NSW State agencies) to ensure transmission risk behaviours of a person with HIV are minimised
- Managing notifications of patients with HIV infection and referrals to the NSW HIV Support Program.

2.5 Panel for the management of people with HIV who risk infecting others

The Panel is responsible for:

- Providing expert advice (through collaboration with LHDs) to clinicians, LHDs and the CHO on strategies to minimise transmission risks. The Panel's membership and Terms of Reference are in Appendix 1.

2.6 Panel Chair

The Chair is appointed by the CHO and is responsible for:

- Providing advice and other responses to queries raised on public health risk concerns
- Referring cases to the full Panel where additional advice is needed
- Raising urgent or complex cases about alleged risks with the CHO via the Director, Population Health Strategy & Performance, CPH or their delegate.

The Chair's contact details are available at Appendix 1.

3 PRIVACY AND CONFIDENTIALITY

Information about a person's HIV status, testing or treatment is 'health information', and is regulated by the *NSW Health Records and Information Privacy Act 2002* and the *NSW Public Health Act 2010*.

LHDs, the Ministry, Health Protection NSW and all other service providers involved in the care of a person with HIV are responsible for maintaining the person's confidentiality and privacy.

Medical practitioners must not include a patient's name or address in a notification to the Secretary of the Ministry under Sections 54 or 55 of the *NSW Public Health Act 2010*, if the information relates to a person's HIV status. Under Section 56, a person who, in the

course of providing a service, acquires information that another person has HIV, has been or is to be, or is required to be tested for HIV, must take all reasonable steps to prevent disclosure of that information. However, information about a person's HIV status may be disclosed:

- When the person consents to disclosure, or
- To a person involved in providing care, treatment or counselling to the person concerned, or
- To the Secretary of the Ministry, if a person has reasonable grounds to suspect that failure to disclose the information would likely present a risk to public health, or
- In connection with administration of the NSW *Public Health Act 2010* or the regulations, or
- For the purposes of legal proceedings arising from the NSW *Public Health Act 2010* or the regulations, including any report of those proceedings, or
- In accordance with a requirement imposed under the NSW *Ombudsman Act 1974*, or
- In circumstances prescribed by the regulations

Maximum penalty for breach of Section 56 is 100 penalty units or imprisonment for 6 months, or both.

LHDs should put in place reasonable measures to ensure that information about a person's HIV status is only disclosed in line with the above.

It is recommended that precautions be taken to ensure the person's identity remains confidential to services directly involved in the patient's management. Correspondence with services involved in the person's management should refer to the person using an alias or anonymous reference. If de-identifying using a 2x2 name of the patient, it should be first two letters of the last name, followed by first two letters of the first name, all capital letters. A person's name must be fully de-identified when there are only two letters in the person's names. De-identifying the person in correspondence relating to the person's management is important to guard against unintended disclosure to unauthorised third parties, e.g. as a result of accidentally misdirected emails, unauthorised access to emails, loss of files etc.

HIV information should not be disclosed to police except in response to a warrant or subpoena (noting that, if information has been provided to the Secretary of the Ministry under Part 4 or 5 of the NSW *Public Health Act 2010*, the Secretary of the Ministry cannot be compelled to disclose the information). If police request information about a person's HIV status or medical history in the context of an investigation of an allegation of intentional transmission of HIV, advice should be sought from the Ministry (CPH and Legal Branch).

Patient consent is required if a medical practitioner wishes to disclose a HIV positive patient's identity to the patient's sexual partner(s) or drug use contact(s). A signed consent is advisable in these circumstances. This does not limit the patient's attending medical practitioners' ability (in accordance with clause 39B of the *Public Health Regulation 2012*) to inform sexual partner(s) or drug contact(s) that they may be at risk of contracting HIV, without disclosing the HIV positive patient's identity. See Section 4.1.3.

For further information on privacy, see: Privacy Manual for Health Information at <http://www.health.nsw.gov.au/policies/manuals/Pages/privacy-manual-for-health-information.aspx>

4 THE MANAGEMENT FRAMEWORK

The management framework for people with HIV who risk infecting others includes following levels:

Management level	Summary of case management
Local management	The client is managed by the treating clinician(s) who can obtain advice from the Chair as required.
Level 1 supported management	The client is managed by the treating clinician(s) with support from the Panel. The client may be issued with a letter of warning.
Level 2 public health order	The client is managed by the treating clinician(s) with support from the Panel. An authorised medical practitioner has issued the client with a public health order, placing conditions about their behaviour, treatment, health care, and/or supervision or requiring the client to be detained.

Each level is discussed in detail below.

4.1 Local management

4.1.1 Initial steps: counselling, education and support

The clinician is primarily responsible for a person's HIV health care. The clinician is responsible to provide (or refer) a person with HIV to support and counselling at the time of diagnosis. This includes counselling on public health responsibilities and safe sex and injecting practices.

If a person is alleged to be behaving in a way that endangers, or is likely to endanger public health, as a first step, the clinician should clarify the person's understanding of their public health responsibilities and provide counselling and education to support behavioural change.

In some cases, the clinician may refer the patient to an experienced sexual health/HIV counsellor for regular and intensive counselling.

The involvement of other service providers may also assist. Where possible and appropriate, a community organisation with peer group involvement or relevant cultural knowledge and/or translator services should be involved to advise or support appropriate behaviour by the person.

If the behaviours or other issues presenting are likely to result in management challenges, the clinician should refer the case to the Chair.

The Chair is responsible to advise and support the clinician to effectively manage risks. The clinician will need to create a supportive environment where health promoting messages are clearly and frequently reiterated and the consequences of behaviours that

place others at risk are spelt out. The means of prevention (including for instance, condoms, sterile needles and syringes and information) should be readily and easily accessible, along with access to regular health checks, testing and ART. Where a patient does not have a sustained undetectable viral load, the clinician should regularly discuss the risk to new partners, their access to PrEP (long term) or post-exposure prophylaxis (short term) and any contacts that need follow up because of their HIV infection risk.

4.1.2 Case conferencing

A case conference is often useful in developing a comprehensive care plan for the person. The complex needs often arise from cognitive/behavioural and/or mental health issues.

Case conference should involve all local services engaged in the care of the person. Services that should be included are:

- Adahps or other outreach teams (depending on the person's place of residence) – to assess and manage the person's risk behaviours
- Where possible, the Public Health Unit/Sexual Health Service (as nominated by the LHD) – to facilitate the involvement of service directors in the case conference, particularly when underlying problems, such as drug, alcohol and mental health issues contribute to the risk behaviours
- Aboriginal health worker or Multicultural HIV and Hepatitis Service (MHAHS) to advise when cultural issues are present and consideration should be given to getting interpreter services when language barriers present.

This case conference should not replace case conferences which occur in the context of good multidisciplinary clinical care for patients with chronic illnesses. The purpose of this case conference is to discuss issues relevant to the HIV risk and risk management.

4.1.3 Contact tracing or partner notification

The diagnosing clinician (or a delegate under their direction) must ensure that contact tracing (also known as partner notification) of sexual and/or needle sharing partners is conducted in accordance with appropriate ethical and legal standards.

Further guidance on contact tracing can be found on <https://stipu.nsw.gov.au/wp-content/uploads/GP-Contact-Tracing-Tool.pdf>. Local sexual health services or the NSW Sexual Health InfoLink (SHIL) can also provide further guidance on partner notification. The NSW Sexual Health InfoLink can be contacted on 1800 451 624.

4.1.4 Seeking advice from the Chair

At any stage, LHDs and service providers can contact the Chair where there are complexities or the person of concern has risk behaviour despite LHD and/or clinician having given advice or taken other steps. The Chair can provide direct advice to the LHD, or may choose to seek advice from the Panel.

The Chair will consider a range of matters including the public health risk, credibility of the information, the person's competence or co-morbidities, steps taken by the local clinician/local service, involvement of appropriate services, and the likelihood that local actions may succeed.

4.2 Level 1: Supported management

Cases concerning current or ongoing HIV transmission risks can be referred to the Chair for advice.

If the Chair considers on the basis of the information available, that the person may need management with support from the Panel, then a meeting of the Panel will be convened to discuss the case.

As the Panel has an advisory role, even though a case may be accepted under Panel management, the LHD remains responsible for public health and clinical care/case management functions. This includes where cases are complex or need longer term management strategies.

The LHD point of contact and the CPH will support effective communication between the LHD and the Panel.

4.2.1 Letter of warning

The Panel may recommend sending a letter of warning to the person of concern.

The letter of warning's purpose is to ensure that the person is aware of their responsibilities and to prompt a change in risk behaviours. It will also outline the person's public health responsibility to take reasonable precautions, options for preventing HIV transmission, and other expectations that the person should respond to (e.g. participating in counselling, attending HIV clinical services).

The clinician, Clinical Nurse Consultant, or the Public Health Unit must deliver the letter of warning in person, with discussion to ensure that the person understands the content of the letter. If appropriate and necessary, an Aboriginal health worker or MHAHS should be involved to overcome language barriers.

The directions in the letter of warning remain valid for two years from its issue unless revoked earlier. The Panel must consider at its meeting whether the person is complying with the directions in the letter of warning and whether further actions are required.

Before a letter of warning can be issued, there needs to be evidence of the person knowingly placing another at risk of infection. The evidence may include detectable viral load, lack of engagement with services, and/or psychosocial factors (e.g. sex work, homelessness, mental health issues) that may instigate risk taking behaviours.

4.2.2 Panel's ongoing assessment

The Panel will consider the follow up reports on the person's management at each of its regular meetings.

Officers of the Ministry's Legal and Regulatory Services can provide advice on these issues. Approaches to Legal and Regulatory Services should be made via the CPH.

4.2.3 Discharge from supported management

The Panel can decide to either continue to monitor the person's management or discharge them from Panel support, depending on:

- Whether actions recommended by the Panel were implemented

- The effectiveness of the actions implemented
- Whether the risk behaviours have stopped or have been reasonably managed
- Whether there is continuing information or evidence that the person is endangering others
- An assessment of the likelihood that the person will continue to present transmission risks.

CPH will communicate the discharge of the person from the Panel support to the LHD point of contact in a timely manner.

4.3 Level 2: Public health order

A public health order under the NSW *Public Health Act 2010* should be considered on a case-by-case basis. It should only be considered when such an order is judged the most effective way to prevent risk to public health, and where all other management options have been unsuccessful.

Where the Panel recommends that a public health order is issued, the Chair should verbally advise the CHO without delay, in consultation with the CPH, Health Protection NSW and Legal Branch. The LHD point of contact and Public Health Unit Director or delegate should meet to provide advice on public health orders if required.

A public health order can be modified on the subsequent recommendation of the Panel.

A public health order may require the person to do one or more of the following:

- a) To refrain from specified conduct
- b) To undergo specified treatment (including ARTs)
- 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 undergo specified treatment at a specified place.

A public health order may also require a person with HIV to be detained at a specified place for the duration of the public health order, and specify what the person is required to do during the detention. A public health order detaining a person on the basis that their HIV status and sexual activity presents a genuine risk to public health expires automatically at the end of 3-business days after the person is served with the order. The 3-day detention period can possibly be extended if an application is made to the NSW Civil and Administrative Tribunal (NCAT)¹⁰ to extend the detention period, and the person under the order is served with copies of the application to NCAT. NCAT will then be required to hold a hearing into the reasons for the detention, and has the power to

¹⁰ NCAT provides specialist tribunal services in NSW, including those for administrative review of government decisions. If an application is made to NCAT for confirmation of a public health order, NCAT will inquire into the circumstances surrounding the making of the public health order. Following its inquiry, NCAT may:

- Confirm the public health order, or
- Vary the order and confirm it as varied, or
- revoke the order.

For further information, please see section 64 and 65 of the NSW *Public Health Act 2010* or visit http://www.ncat.nsw.gov.au/Pages/administrative_equal_opp/administrative_equal_opp.aspx

confirm the public health order, vary the public health order and confirm it as varied or revoke the order under Section 64 of the NSW *Public Health Act 2010*.

4.3.1 Making the public health order

Authorised medical practitioners may make public health orders under Section 62 of the NSW *Public Health Act 2010*. Authorised medical practitioners are: the CHO or a registered medical practitioner authorised by the Secretary of the Ministry to exercise the functions of an authorised medical practitioner under Division 4 of the NSW *Public Health Act 2010*.

An authorised medical practitioner must take into account the principle that restriction of the liberty of the person should be imposed only if such restriction is the most effective way to prevent a real risk to the public. An authorised medical practitioner may issue a public health order if satisfied on reasonable grounds that a person:

- Has HIV; and
- Is behaving in a way that poses a risk to public health (e.g. has a detectable viral load and engages in condomless sex or has sex with a partner not on PrEP, and/or engages in unsafe injecting practices).

The public health order should specify what the person with HIV is required to do and the duration of the order.

The LHD point of contact has responsibility for implementing a public health order and advising the CHO that it has been served to the person.

4.3.2 Key decisions and record of decisions

The Chair must record the advice provided to LHDs, clinicians and others in a file note, and report to the Panel on advice provided to LHDs, clinicians and others at the Panel meetings.

The Chair is responsible for ensuring that the rationale, decisions and recommendations are made both at the Panel meeting and outside the meetings. The recording of these will normally be made by the Panel secretariat in the form of confidential minutes, which are reviewed and approved by the Chair.

Accurate record keeping is required in all instances.

5 CUSTODIAL SETTINGS

If a person under the Panel's management is remanded in custody by NSW police (while awaiting a court hearing or following a court sentencing), the Panel will consider whether they remain under the management or be discharged, on a case by case basis.

Corrective Services NSW is responsible for securing the person and the Justice & Forensic Mental Health Network (JH&FMHN) is responsible for the healthcare of the person.

The Panel may provide advice to JH&FMHN having consideration for:

- The inmate's confidentiality, legal and safety issues
- The level of negotiation required with the JH&FMHN, Corrective Services NSW and/or Juvenile Justice NSW.

Where an inmate has been known to the Panel, it is important to ensure planning occurs prior to their release from the prison. JH&FMHN, in conjunction with the CPH must inform the LHD where the person is likely to live after release. JH&FMHN and the LHD should follow a discharge plan to ensure that the person is not lost to care. The inmate should be managed under the Persons in Custody HIV Referral Project, a joint initiative between Adahps, JH&FMN and the HIV community teams that connect inmates who are HIV positive to an appropriate service in the area where they will live on release.

6 REFERRAL TO NSW POLICE

Intentionally or recklessly infecting a person with HIV is a serious criminal offence under the NSW *Crimes Act 1900*.

The LHD should contact the CPH through the Panel secretariat:

- Immediately where there are clear grounds for a charge involving intentionally causing serious bodily harm
- After further examination and/or management strategies, of unwillingness to alter behaviour that may recklessly or negligently endanger or cause serious harm.

Any concerns or evidence of this type of behaviour (e.g. through partner notification) or of breaches of a public health order should be referred to the Ministry for consideration and appropriate action. This includes possible referral to the NSW Police Force, which must be done by the Ministry on advice from the Panel or the Chair. Charges for intentionally infecting others with HIV trigger Level 1 management under the Panel.

Members of the public, who believe they may have been intentionally or recklessly infected with HIV, may choose to report to the police directly.

7 USEFUL CONTACTS

7.1 Panel Chair

The Chair of the Panel is the Director of Sydney Sexual Health Centre. The Sydney Sexual Health Centre can be contacted on 9382 7440.

In the event of absence of the Chair, contact the head of Sexually Transmissible Infections Programs Unit (STIPU), Sydney Sexual Health Centre.

7.2 Panel Secretariat

For information on Panel referrals and advice on this Policy Directive contact: MOH-BBVSTI@health.nsw.gov.au or 9391 9214.

7.3 Sexual Health Clinics

A list of Sexual Health Clinics and their contact details can be found on <http://www.health.nsw.gov.au/sexualhealth/Pages/default.aspx> or call the NSW.

7.4 NSW Sexual Health InfoLink (SHIL)

For guidance on partner notification, contact SHIL on 1800 451 624.

7.5 The HIV Support Program (HSP) and 5 key support services

Any doctor can self-request support from the HSP. Contact the NSW Health Communicable Disease Branch on 02 9391 9195 and ask to speak with an HIV Surveillance Officer. HSP coordinators strive to contact diagnosing doctors before the doctor gives an HIV diagnosis to a patient but this is not always possible.

7.6 Support services

- **Aboriginal Health & Medical Research Council** – Council to represent, support and advocate for Aboriginal communities on Aboriginal health.

Contact: 02 9212 4777, ahmrc@ahmrc.org.au, <http://www.ahmrc.org.au/>

- **ACON** – Provides peer focused support to end HIV transmission among gay and homosexually active men and promotes lifelong health of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

Contact: 02 9206 2000, acon@acon.org.au, <https://www.acon.org.au/>

- **Bobby Goldsmith Foundation (BGF)** – Provides a range of support and interventions that address key determinants of poor health outcomes for people living with HIV. BGF provides direct financial and practical assistance, emotional support, financial counselling, housing, study and employment support to the most vulnerable and disadvantaged people living with HIV.

Contact: 02 9283 8666

- **Multicultural HIV and Hepatitis Service (MHAHS)** – Organisation working with culturally and linguistically diverse (CALD) communities in NSW to improve health and wellbeing in relation to HIV, hepatitis B and hepatitis C.

Contact: 02 9515 1234, info@mhahs.org.au, <http://mhahs.org.au/index.php/en/>

- **NSW Users and AIDS Association (NUAA)** – A community-based organisation governed, staffed and led by people with lived experience of drug use that provides education, practical support, information and advocacy to users of illicit drugs, their friends, and allies.

Contact: 02 8354 7300, nuaa@nuaa.org.au, <https://nuaa.org.au/>

- **Positive Life NSW** – Promotes a positive image of people living with and affected by HIV with the aim of eliminating prejudice, isolation, stigma and discrimination.

Contact: 02 9206 2177, contact@positivelife.org.au, www.positivelife.org.au

- **PozHet** – Organisation located and managed day-to-day through the Community HIV Service in the Sydney LHD to promote the health and wellbeing of heterosexual people with HIV, their partners and family across NSW through community education, peer support and linkage to health and social services.

Contact: 1800 812 404, pozhet@pozhet.org.au, <https://pozhet.org.au/>

- **Sex Workers Outreach Project (SWOP)** – A peer education sex worker organisation focused on HIV, STI and hepatitis C prevention, education and health promotion for sex workers in NSW.

Contact: 02 9206 2166, swopconnect@swop.org.au, <https://swop.org.au/>

7.7 Organisations to support management of people with HIV related cognitive impairment, multiple comorbidities and complex psychosocial issues

- **Adahps** – AIDS Dementia and HIV Psychiatry Services is a specialist state-wide tertiary outreach service for people with HIV related cognitive impairment, multiple comorbidities and complex psychosocial issues.

Contact: 02 9382 8600, adahps@health.nsw.gov.au, www.health.nsw.gov.au/adahps

- **South East Sydney LHD Community HIV Outreach Team** – A multidisciplinary team including nurses, dieticians, social workers and an occupational therapist that provides health care services for people living with, or closely affected by HIV across the South East Sydney LHD and Illawarra Shoalhaven LHD.

Contact: 02 9382 8666, SESLHD-HIVCommunityTeam@health.nsw.gov.au, http://www.seslhd.health.nsw.gov.au/HIV_Outreach_Team/aboutus.asp

- **South Western Sydney LHD HIV Outreach Team** – Provides multidisciplinary care for people living with HIV in the South-Western Sydney LHD. The team includes specialist physicians, psychiatrist, and health professionals in the areas of nursing, social work, and dietetics.

Contact: 02 8738 8372, www.swslhd.health.nsw.gov.au/liverpool/immunology/HIV_AIDS.html

- **Sydney LHD Community HIV Service (Positive Central)** – Provides specialist allied health case management support for people with HIV, including occupational therapy, social work, physiotherapy and dietetics.

Contact: 02 9395 0444,
www.slhd.nsw.gov.au/communityhealth/HIVCommunity/services.html

8 USEFUL LINKS

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

[www.health.gov.au/internet/main/publishing.nsf/Content/B4D7BD21A78763EDCA257BF0001F951B/\\$File/hiv-at-risk.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/B4D7BD21A78763EDCA257BF0001F951B/$File/hiv-at-risk.pdf)

NSW Public Health Act 2010

<https://www.legislation.nsw.gov.au/#/view/act/2010/127/full>

STI contact tracing tool for general practice

<https://stipu.nsw.gov.au/wp-content/uploads/GP-Contact-Tracing-Tool.pdf>

9 APPENDIX: PANEL TERMS OF REFERENCE

The role of the Panel

The Panel provides expert advice to the CHO, LHDs, and specialist clinicians on managing people who risk transmitting HIV to others.

The person's LHD of residence is responsible for coordinating management strategies recommended by the Panel.

Panel membership

Permanent members of the Panel include:

- Chair, an individual with extensive experience in the clinical management of HIV and sexually transmissible infections
- A professional with expertise in the management of people with HIV and complex needs
- A representative of HIV community organisations
- A nominee of the NSW Public Health Directors network
- A professional ethicist.

The Director, Health Protection NSW or their nominee and Director Population Health Strategy & Performance, CPH or their nominee also hold Panel membership. Their role is to advise on NSW health policy, the relevant legislation and service options that may assist in resolving risks and in implementing the Panel's recommendations.

The CHO appoints Panel members and the Chair.

Panel membership is reviewed every two years.

The Chair and all participants in Panel meetings are indemnified by the NSW Treasury Managed Fund in relation to advice provided in the course of the work of the Panel.

The Panel secretariat is an officer nominated by the Executive Director, CPH.

Standards of conduct and conflicts of interest

Panel members must conduct themselves in a professional manner and abide by the NSW Health Code of Conduct while performing duties as part of the Panel.

Members must not disclose official information or documents acquired as a result of their membership, other than as required by law, or when the member has been given proper authority to do so.

Members must declare any actual or perceived conflicts of interest to the Committee Chair as they become known to the member. Conflicts of interests reported by members will be managed in accordance with Conflicts of Interest policy.

Context for the Panel

The Panel supports a well-established framework for managing people with HIV whose behaviours present a public health risk. The framework is based on the principle that most people with HIV are motivated to avoid infecting others and will respond to counselling, education, and access to resources for the prevention of transmission, and services supporting the specific needs of individuals.

The framework allows for a variety of management strategies proportionate to the risk of transmission. Less restrictive strategies will generally be the most sustainable and effective in the long term. To date, application of the framework has effectively stabilised behaviours, therefore averting the need for public health orders in most cases.

Panel Meetings

The Panel meets at least every four months, with additional meetings as needed. Panel members are expected to attend Panel meetings with teleconferencing reserved for exceptional circumstances.

At a minimum, the Panel will receive a report from the Chair on the activities and queries she received since the previous meeting, as well as the advice she provided and reports on progress of those being managed by LHDs with advice from the Panel.

Where the Chair initially assesses a new case as being likely to require intensive management, the person's clinician or referring LHD officer will complete an initial report and will present the case when initially discussed by the Panel. Where a case is under Levels 1 or 2 Panel Management, the LHD will nominate a case coordinator. The case coordinator will ensure that official reports are updated and submitted to the Panel when requested by the Secretariat.

The Chair will invite the clinician or case coordinator to Panel meetings to present on the case. The Chair may invite additional experts to contribute to the Panel's deliberations. Where a case remains under Level 1 management because of pending legal issues and there is no identified risk of transmission the clinician/case coordinator may not need to participate.

The Secretariat is responsible for coordinating the submission of Panel reports and maintaining minutes of the meeting. Minutes will be reviewed and approved by the Chair.

CPH will provide a summary of agreed actions to Panel members immediately after meetings, communicate about relevant actions that need follow up, and monitor implementation of the actions between meetings.