Protocol
Health Service Directive

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Protocols applying to Hospital and Health Services Health Service Directive

Protocol for the management of people living with HIV who place others at risk

1. Purpose
This Protocol describes the mandatory steps for the management of people whose behaviour, wilful or otherwise, may expose others to HIV infection.

2. Scope
This Protocol applies to all Hospital and Health Services.
This Protocol applies to all Hospital and Health Service employees and all Queensland Health employees working in or for Hospital and Health Services. This Protocol also applies to all organisations and individuals acting as an agent for Hospital and Health Services (including Visiting Medical Officers and other partners, contractors, consultants and volunteers).

Transmission of HIV through pregnancy and breast-feeding is not the subject of the Protocol.

3. Process for the management of people living with HIV who place others at risk
3.1 Guiding Principles
3.1.1 Principles underpinning this protocol and to be considered in its application are:

- While the community as a whole has a right to appropriate protection against infection, public health interventions shall take into account individual rights.
- Transmission of HIV is preventable through appropriate changes in individual behaviour. Education and prevention programs can facilitate such changes.
- Each person has a responsibility to minimise their exposure to becoming infected with HIV by avoiding unsafe sexual activity or the sharing of needles and other equipment used in injecting and/or tattooing.
- People living with HIV/AIDS have a responsibility to prevent further transmission of the virus.
• Public health objectives will be most effectively realised if the co-operation of people living with HIV infection and those most at risk is maintained.

• Confidentiality is not an absolute right. There are exceptions to the duty of confidentiality.

• HIV antibody testing should be on a voluntary basis.

• People living with HIV known to be placing others at risk of infection should be offered education and counselling on a personal basis, rather than being automatically isolated.

• Management of people living with HIV infection thought to be placing others at risk of infection is best handled at the local level. Community groups and community based service providers should be involved in their support, counselling and guidance.

• Management interventions should be developed on a case by case basis so as to be appropriate for each individual situation.

• Placing restrictions on the living circumstances and employment of a person living with HIV should only occur in exceptional circumstances. Such restriction must be subject to judicial review.

• Detention or confinement should be viewed as a last resort response.

3.2 Applicability

3.2.1 The role of Queensland Health clinicians in preventing transmission of HIV is primarily to give clinical care and support to persons who are HIV antibody positive. This shall include regular discussions about safe sex, other behaviours and the associated risk of HIV transmission.

3.2.2 A person who knows they are HIV antibody positive is not ordinarily required to disclose their status provided they take all reasonable steps to protect others. Under s143 of the Public Health Act 2005, a person must not recklessly spread a controlled notifiable condition.

3.2.3 Where there is evidence that may support a charge of reckless spread of a controlled notifiable condition, the client should not be referred to the police in the first instance but rather to public health authorities for immediate assessment. Referral by police to public health authorities for assessment in the first instance is also encouraged.

3.2.4 The issue of consent and responsibility for one’s own health shall be considered in the application of the Protocol which is primarily intended for use when:

• A person who knows they are HIV antibody positive, engages in unsafe behaviour and does not inform the other person(s) of their HIV status; or

• A person who knows they are HIV antibody positive, engages in unsafe behaviour where the other person(s) does not consent to engage in unsafe behaviour

3.2.5 In cases where a person who knows they are HIV antibody positive engages in unsafe behaviour with another person, where that person:

• Knows the other is HIV antibody positive, and

• Has an understanding of how HIV is transmitted, and
• Freely consents to engaging in behaviours that place them at risk of HIV infection and thus appears to understand and voluntarily accept the risk, the clinician shall coordinate counselling for both parties separately. Issues of influence and/or power differentials in relationships shall be considered and assessed before initiating or dismissing application of the management process in such cases.

3.2.6 Prior to initiating the management process, the clinician shall form a reasonable opinion that the client is placing others at risk of HIV infection. The following are possible bases upon which to formulate a reasonable opinion that a person is placing others at risk of HIV infection:

- Diagnosis of HIV infection where the newly diagnosed person names another person with HIV infection as the source of that infection;
- Self reporting of unsafe behaviours by a person with HIV infection. These include, but are not limited to: anal and/or vaginal intercourse without a condom; sharing used injecting/tattooing/body piercing equipment;
- Statement of intent to infect other people made by someone with HIV infection; and/or
- Diagnosis of a recently acquired sexually transmitted infection (STI) in a person with HIV infection. (Note: This requires careful examination of the issues associated with the particular STI, the site of infection, and the serostatus of the partner).

These situations shall be considered in context with the person's behaviour, known social situation and psychological state.

3.2.7 If the Executive Director, Communicable Diseases Unit receives a complaint in writing from a third person (e.g. member of the public) that a person with HIV is exposing others to HIV, the Executive Director, Communicable Diseases Unit shall firstly seek confirmation of the accused person's HIV status through the Notifiable Conditions Register. The Executive Director, Communicable Diseases Unit shall request the assistance of the client's treating clinician or delegate (e.g. a sexual health clinician or contact tracer) to investigate the complaint. Where the complaint is substantiated, the Queensland Health clinician shall intervene by encouraging the client to change their behaviour and/or initiate management under the Protocol.

The Executive Director, Communicable Diseases Unit shall respond in writing to the person who lodged the complaint, informing them that the matter is being addressed. Unsubstantiated, malicious complaints shall be referred to the appropriate authority.

3.2.8 Enactment of the Protocol may result from documentation of risk behaviour:
- In the clinical file; and/or
- Written notification or complaint to Queensland Health.

3.2.9 The Protocol cannot be applied to an individual who is presumed to be HIV positive. The Executive Director, Communicable Diseases Unit shall seek to confirm the HIV diagnosis through the following methods:
- The client may be asked to voluntarily undergo an HIV antibody test;
- Information may be sought from another jurisdiction; or
3.2.10 The Executive Director, Communicable Diseases Unit, shall direct resources to support the panel and the implementation of interventions as required for management under the Protocol.

3.2.11 While transmission of HIV through pregnancy and breast-feeding is not within scope, it is acknowledged that both of these activities constitute a risk. Clinicians shall recommend that women who are HIV antibody positive do not breastfeed and that a HIV antibody positive woman who becomes pregnant seek advice regarding the risks of transmission and advantages of antiretroviral therapy. Due to the complex legal and ethical issues involved, clinicians shall seek advice of an HIV experienced Paediatrician regarding the applicability of s191 of the Public Health Act (notification of child abuse and neglect).

3.3 Case Initiation

3.3.1 The Executive Director, Communicable Diseases Unit, as delegated by the Chief Executive, shall be the central co-ordination point for activities undertaken under this Protocol. All cases shall be referred to the Executive Director, Communicable Diseases Unit.

3.3.2 Where a Queensland Health clinician has concerns that a person is placing others at risk of HIV infection, they shall notify the Executive Director, Communicable Diseases Unit, in writing as soon as possible. The notification shall be sent by registered mail in an envelope marked “strictly confidential” and include:

- A coded patient reference (instead of a name); and
- Outline the steps being undertaken to manage the client at the local clinical level.

3.3.3 At any stage, where there is clear evidence that would support a charge of “intentionally causing serious harm”, the clinician shall notify the Executive Director, Communicable Diseases Unit, immediately.

3.4 Levels of the Protocol

3.4.1 The five stages under the management process are:

- Level One: Management at the clinic level
- Level Two: Queensland Health managed and supervised counselling, education and support
- Level Three: Formal agreement on behaviour change
- Level Four: Detention
- Level Five: Criminal legal action

3.4.2 At all levels, the panel and others involved in the management of persons under the management process shall exercise considerable professional judgement based on the unique circumstances of each case.

3.4.3 The Executive Director, Communicable Diseases Unit, shall make the decision to raise the case to a higher level, based on the evidence and advice provided by clinicians involved in the case management and the panel.
3.4.4 In most cases, progression from one level of the management process to another will occur only when the strategies suggested for the lower level/s have been fully explored and found to be unsuccessful or unlikely to work in assisting behaviour changes in the person placing others at risk of HIV infection. In exceptional circumstances, there may be justification for a case to progress directly from Level One to Level Three, Four or Five.

3.4.5 There may also be grounds for managing a case outside the framework of the management process when it is judged to be in the best interest of public health. Such a decision shall be made in consultation with the Chief Executive and the Chief Health Officer.

3.4.6 The Queensland Health clinical care provider shall continue to maintain a therapeutic relationship and to provide clinical services to the client whilst the person is managed under the management process, at any level. This shall include appropriate counselling of the client.

3.4.7 The clinical care provider shall remain independent of the panel, but shall advise the panel where appropriate and be directed by the panel regarding their responsibilities in the case management plan for their client.

3.4.8 Clients released from management under the Protocol will be offered support through regular contact with a clinician who shall continue to manage their HIV care needs. This support shall include discussions about behaviours, responsibilities and preventing the transmission of HIV.

3.5 Formation of panel

3.5.1 The Executive Director, Communicable Diseases Unit shall convene and chair a panel to oversee and manage each case.

3.5.2 The panel shall provide independent expert advice to the Executive Director, Communicable Diseases Unit and, if requested to, provide advice and support to clinicians or other service providers involved in the care of a client whose behaviour places others at risk of HIV infection.

3.5.3 The Executive Director, Communicable Diseases Unit shall observe the Panel’s discussions and make decisions for cases based on these discussions.

3.5.4 Membership of the panel (Level One cases) and their roles shall include:
- Executive Director, Communicable Diseases Unit;
- Senior Medical Officer, Communicable Diseases Unit (to conduct confidential secretariat duties on cases, unless duties appointed to another officer by chair); and
- Either a medical officer or a registered nurse with experience in HIV medicine.

3.5.5 The Executive Director, Communicable Diseases Unit, shall consider expansion of the panel at Level Two (or interventions at a higher level) to include other members such as:
- A clinician who will act as case manager;
- A mental health professional;
- A representative of a HIV/AIDS community organisation with peer involvement.
• Queensland Health officers with other specialist expertise as required e.g. a legal adviser; and
• A personal advocate may be chosen by the client being placed under the management process (or if client has impaired capacity, this decision may be made by a substitute decision manager authorised under the Guardianship and Administration Act 2000).

3.5.6 All panel members shall be bound by confidentiality and duty of care responsibilities.

3.5.7 The panel shall meet as needed, or at least every month, to ensure close case management. If no enquiries have been received by the Chair and no clients are being managed, it may be agreed by the Chair that no meeting is required.

3.5.8 At each meeting, the panel shall:
• Consider reports on cases being managed;
• Consider potential cases to be managed under the Protocol; and
• Make recommendations regarding management of cases discussed.

3.5.9 A separate confidential departmental file shall be created for each individual case. The following information shall be placed on file:
• Written confirmation of the client's HIV status;
• Evidence of communication with the client’s treating physician or delegate; and
• All documentation and correspondence, including copies of written reports and rationale for decision-making.

3.5.10 When the case is considered closed, the departmental file shall be marked “closed” and the documentation will include a signed statement from the Executive Director, Communicable Diseases Unit, indicating that the client’s ongoing management under the Protocol has concluded.

3.6  **Level One: Management at the clinic level**

3.6.1 Where the clinician has formulated an opinion with reasonable grounds that the client is placing others at risk of HIV infection, s/he shall discuss concerns with the agency manager. Client confidentiality issues shall be considered at all times.

3.6.2 The clinician shall write to the Executive Director, Communicable Diseases Unit, informing of enactment of Level One and detailing the steps being taken to assist behaviour modification. Under Level One management, the clinician shall use a name code to identify the client.

3.6.3 Under Level One the client will be managed by interventions at the local level, with their treating clinician/s. The clinician shall encourage the client to change their behaviour by:
• Informing the client they may be committing an offence under the Public Health Act 2005;
• Coordinate counselling, education & support;
• If necessary, making appropriate referral e.g. sexual health clinician or drug/alcohol/mental health counsellor; and
• Monitoring changes in behaviour.
Clients with English language difficulties shall have access to an interpreter service, including in counselling sessions. Interpreters shall be informed of confidentiality requirements.

3.6.4 The clinician shall endeavour to maintain a therapeutic relationship with the client being managed under the Protocol, including separating the roles of primary carer from that of supervisor of compliance with legislation.

3.6.5 The clinician shall document in the clinical file:
- Interventions undertaken with the client; and
- Timeframes in which the interventions occurred.

3.6.6 Within three months of enacting Level One, the clinician shall provide a written report that includes a summary of interventions and outcomes. If there evidence of clear criminal intent, the matter shall be immediately referred to the Executive Director, Communicable Diseases Unit.

3.6.7 The Executive Director, Communicable Diseases Unit, shall acknowledge receipt of all written reports regarding a specific case in a letter of reply to the clinician. Copies of all documents shall be placed in the departmental file.

3.6.8 If the clinician is satisfied that the interventions are successful and the client has modified their behaviour, the clinician shall request that the client provide a written statement of compliance with the advice they received about preventing transmission of HIV.

3.6.9 The clinician shall provide advice in writing to the Executive Director, Communicable Diseases Unit, that the statement of compliance has been signed. If the Executive Director, Communicable Diseases Unit, is satisfied that the person no longer poses a risk of infecting others with HIV, the case will be closed and the clinician will be notified in writing and will inform the client.

3.6.10 In the majority of cases, the interventions implemented at Level One will encourage a client to be willing and able to change their behaviour. If at any time the clinician believes that despite their interventions the client continues to endanger others, the clinician shall refer the matter to the Executive Director, Communicable Diseases Unit, immediately.

3.6.11 If the interventions at Level One fail to effect change or the client refuses to cooperate, then the Executive Director, Communicable Diseases Unit, shall consider management under a higher level of the Protocol. The client and their primary clinician shall be notified of the decision in writing.

3.7 Level Two: Queensland Health managed and supervised counselling, education and support

3.7.1 Under Level Two the client shall be engaged in a more intensive process to change their behaviour, including managed and supervised approach to appropriate counselling, support and education, clearly differentiated from the routine counselling and support that the client may be receiving from their clinical care provider.

3.7.2 The case shall be referred to the panel to determine and oversee the program of supervised counselling, education and support. The client’s clinician shall continue to provide HIV care independent of the panel, but will advise the panel where
appropriate and be advised by the panel of their responsibilities in the case management plan.

3.7.3 At the commencement of Level Two, or at any time as required, the panel shall consider whether the client would be better managed under another Act:

- If mental illness is a significant factor contributing to the client’s risk behaviour, then the panel shall consider advising the client’s clinical care provider to refer the person to Mental Health Services for assessment and voluntary or involuntary treatment under the Mental Health Act 2000.
- If there is clear evidence that deliberate criminal assault has occurred, the panel shall escalate the case to Level 5 for criminal legal action.

3.7.4 If the Executive Director, Communicable Diseases Unit, upon advice of the panel decides to proceed with the implementation of Level Two, s/he shall:

- Obtain further information from the clinician, including the client’s name and postal address from the clinician;
- Notify the client in writing that they may have committed an offence under the Public Health Act 2005;
- Prior to the release of the name of the client to panel members, obtain either:
  - Consent in writing from the client (or the substitute decision-maker where the person lacks capacity) to reveal their identity to the panel; or
  - Authorisation from the chief executive to disclose confidential information.
- Appoint a case manager, an appropriate Queensland Health officer who is a member of the panel; and
- Invite the client to nominate a personal advocate to represent their interests at the panel, or in situations where the client has impaired capacity, this decision shall be made by a substitute decision maker authorised under the Guardianship and Administration Act 2000.

3.7.5 The panel shall:

- As far as possible, ascertain the behaviours putting other people at risk of HIV, and develop strategies to address these behaviours;
- Ensure all steps are taken towards achieving positive outcomes for the person concerned whilst also addressing public health issues; and
- Approve a supervised counselling, education and support plan developed and overseen by the case manager in consultation with other relevant clinicians.

All recommendations made by the panel shall be based on relevant medical (including psychiatric) and psychosocial assessments of the client.

3.7.6 The panel shall set a time frame no longer than three months, in which to reassess the client’s behaviour and determine future action such as continuation of the interventions, closure of the case or progression to another level of the management process.

3.7.7 The panel chair shall appoint an appropriate Queensland Health officer, who is a member of the panel, as a case manager for each case at Level 2 and above, to assist the panel in the oversight of the managed and supervised counselling, education and support program. The case manager may be a person with both clinical and public health skills, and shall not be involved in the ongoing clinical care of the client being managed under this five level behaviour management process.
3.7.8 The case manager shall develop and oversee implementation of a supervised counselling, education and support plan, in consultation with other relevant clinicians. Interventions specified in the plan that may be appropriate include:

- Providing education that supports the practice of safe behaviours;
- Education and support to assist in disclosure and partner notification, if necessary;
- Regular and intensive counselling;
- Access to the means of prevention such as condoms, lubricant and/or clean injecting equipment;
- Drug substitution therapy and/or addiction counselling;
- All necessary social and financial supports should be considered including housing, peer support, financial advice and employment; and
- Referrals to counsellors, mental health practitioners, drug and alcohol services, social workers or other appropriate practitioners and to HIV support groups and other social support resources as required.

3.7.9 The case manager’s responsibilities shall include:

- Communication, as required, between the panel, client and all workers and practitioners providing counselling, education and support services to ensure continuity and consistency of care;
- Case conferences, as required, to ensure review of and planning for the management of the client;
- The minuting of all meetings and case conferences held; and
- Providing advice to the panel on the progress being made by the client based on communications with all workers and practitioners providing counselling, education and support services under the management process.

3.7.10 The Chair of the panel shall inform the personal advocate of their responsibility to maintain confidentiality concerning discussions at panel meetings, and the role of the personal advocate shall be to:

- Represent the interests of the client;
- Support the client in their dealings with the panel;
- Communicate with the panel on behalf of the client;
- Accompany the client to meetings, where appropriate;
- Advocate for the protection of the client’s rights, including engagement of a legal advocate to provide advice and represent the individual as necessary; and
- Take all steps necessary to ensure that the client understands the contents of all written communication from the panel (for example arranging an interpreter if required).

3.7.11 In the majority of cases, the interventions implemented at Level Two will encourage a client to be willing and able to change their behaviour. If Executive Director, Communicable Diseases Unit, is satisfied that the client no longer poses a risk of infecting others with HIV and the decision is made to close the case, then:
• Minutes of the panel meeting should include the circumstances of the decision to close the case, including the date that the client was no longer considered a risk to public health;
• The Executive Director, Communicable Diseases Unit, shall inform the client in writing of the decision; and
• A signed written undertaking to practice safe behaviours and prevent transmission of HIV must be provided by the client.

3.7.12 If the interventions at Level Two fail to effect change or the client refuses to cooperate, then the Executive Director, Communicable Diseases Unit, shall consider management under a higher level of the Protocol. The client and their primary clinician shall be notified of the decision in writing.

3.8 Level Three: Formal agreement on behaviour change

3.8.1 Level Three provides for the management, under orders of a magistrate, of a person with HIV infection who continues to place others at risk of HIV infection.

3.8.2 Initiation of Level Three shall be decided by the Executive Director, Communicable Diseases Unit, based on the recommendation/s of the panel. The panel shall continue to meet and review management of the client on a regular basis. All reasonable options available under lower levels should be explored before Level Three is initiated.

3.8.3 The Executive Director, Communicable Diseases Unit, shall apply to a magistrate under sections 125 to 128 of the Public Health Act 2005 for a behavioural order, and/or a detention order (for medical examination) under sections 129 to 133. The order will specify the activities/examinations directed by the Executive Director, Communicable Diseases Unit, regarding the management of risk taking behaviour and treatment. If the client refuses to comply with the behavioural order they will be liable to penalty under section 128 and/or 132 of the Public Health Act 2005, and Level Four or Level Five interventions shall be implemented.

3.8.4 The client shall continue to have access to a personal advocate and to all necessary treatment, counselling, education and support. These services shall be made available through Queensland Health clinics or community-based organisations funded by Queensland Health to manage the needs of people who are HIV antibody positive and be independent of the panel. The client may also choose private health care services if they prefer.

3.8.5 In addition to participating in ongoing counselling, support and education activities, the client shall be required under court order to report on a regular basis (initially weekly and then as determined by the panel) to a nominated health professional such as a counsellor for intensive counselling sessions, during which records of behaviours shall be kept for on-going monitoring.

3.8.6 The Chair of the panel shall order an up-to-date medical assessment including a psychiatric assessment of the client. Following the assessment, the panel shall consider any other special measures which may be required to assist or encourage the client to change their behaviour. These may include voluntary admission to a Mental Health Service (under the Mental Health Act 2000).

3.8.7 The case manager shall ensure that all necessary social and financial supports are mobilised. Issues to be considered include housing, peer support, financial advice,
employment and access to adequate supplies of condoms and/or clean injecting equipment.

3.8.8 The Chair of the panel shall establish a timetable for reviewing progress. The panel shall set a time limit on the requirement for behaviour change appropriate for each individual case and re-convene to examine the evidence provided by the case manager / physician that change has occurred.

3.8.9 In the majority of cases, the interventions implemented at Level Three are sufficient to ensure that a client is willing and able to change their behaviour. It is likely that cases managed at Level Three remain managed at Level One or Two for considerable time after cessation of Level Three management.

3.8.10 If the interventions at Level Three fail to effect change or the client refuses to consent or cooperate, then the Executive Director, Communicable Diseases Unit, shall consider action at a higher level. The client and their primary clinical carer shall be notified of the decision in writing by the Executive Director, Communicable Diseases Unit.

3.9 Level Four: Detention

3.9.1 The purpose of Level Four is to provide for the management of a person with HIV infection who in most cases has been managed under Level Three continues to place others at risk of infection, or who has refused to be managed under Level Three. The panel shall continue to meet and review management of the client on a regular basis.

3.9.2 The decision to detain an individual shall be regarded as serious, with the potential to have life-long implications for the person concerned. It is intended that this power should only be used as a last resort. All reasonable options available under lower levels should be explored before Level Four is initiated.

3.9.3 If all other measures have failed to result in the required behaviour change, the panel shall provide advice to the Executive Director, Communicable Diseases Unit, who will examine the strength of the available evidence, consider the options for detaining the person and most appropriate course of action for detaining the individual.

3.9.4 Level Four, “Detention” is supported by a number of provisions in the Public Health Act 2005 which create provision for detention orders, specifically:
- Sections 116 and 117 that deal with controlled notifiable conditions generally;
- Sections 129 to 133 that deal with detention orders specifically;
- Sections 134 and 135 that deal with extension, variation or revocation of controlled notifiable conditions order; and
- Sections 136 to 139 that deal with the ability to apply for an apprehension warrant if a person absconds whilst under a detention order.

3.9.5 Applications can be made for a period of up to 28 days, with provision under section 134 for a second 28 day period of detention to be ordered.

3.9.6 The panel may consider invoking other Acts such as the Mental Health Act 2000 e.g. utilising an Involuntary Treatment Order under section 108 of the Mental Health Act 2000: If the client is suffering from serious mental illness, then they shall be referred by their clinical service provider to Mental Health Services for assessment and possible involuntary treatment.
3.9.7 The Executive Director, Communicable Diseases Unit, shall obtain approval from the Director-General, Queensland Health, prior to submitting an application to a magistrate.

3.9.8 The panel shall recommend a suitable place of detention giving consideration to:
- The proper care of the person being detained;
- Safety of the community;
- Safety and competence of the staff; and
- Need for additional staff to supervise the detention.

3.9.9 The panel may consider the following options as suitable places of detention where appropriate clinical interventions can continue:
- Home detention;
- Detention within a supervised environment e.g. community shelters; and
- Detention in an appropriate Queensland Health facility.

3.9.10 The Executive Director, Communicable Diseases Unit, shall arrange for the person detained to be examined by a medical practitioner. More frequent reasonable access to health services should be available on request. If during the period of detention, the client requires hospitalisation, the Executive Director, Communicable Diseases Unit may authorise the client’s transfer to an appropriately resourced hospital. During the period of hospitalisation, the client shall be kept under appropriate supervision.

3.9.11 A client detained under Level Four may at any time inform the panel in writing of their willingness to cooperate with previously proposed interventions e.g. under Level Three. Should this occur, the panel shall be reconvened immediately to consider the evidence and if appropriate recommend to the Executive Director, Communicable Diseases Unit that detention cease and an alternative intervention plan e.g. Level Three be implemented.

3.9.12 If management of the case under Level Four fails, the panel shall consider criminal legal action (Level Five).

3.10 Level Five: Criminal Legal Action

3.10.1 If the Executive Director, Communicable Diseases Unit, considers there is clear evidence that:
- a person is unwilling to modify behaviour that recklessly endangers another person/s by exposing them to HIV infection, or
- would support a charge with the elements of “intentionally causing serious harm”
the matter shall be elevated to Level Five. Prosecution under the Public Health Act 2005 or the Criminal Code Act 1899 shall be considered.

3.10.2 Referrals to Police shall also be made if a serious crime (for example, rape, child sexual abuse or child pornography) has been identified in the course of the public health investigation or intervention. Consideration of referral to Police for investigation and possible prosecution under the Crimes Act or other relevant Act may be made at any Level of the management process.

3.10.3 If a referral to Police is considered, the Executive Director, Communicable Diseases Unit, will notify the Chief Health Officer who shall:
• Make the decision whether to refer any case to the police in consultation with the Executive Director, Communicable Diseases Unit, following the advice of the panel;
• Obtain legal advice from the Crown Solicitor in all cases before making any such decision; and
• Obtain written permission from the Chief Executive to release all relevant confidential information about the person allegedly involved in criminal behaviour to the police, prior to referring the case to the police.

3.10.4 Cases referred for criminal legal action, including those who are prosecuted and managed in the corrections system, shall still require ongoing provision of health and psychological services. This is not only a matter of individual health and rights of a client, but also a matter of protection of the public health, especially the prevention of infections happening in custody.

3.11 Appeals

3.11.1 Appeals can be made against a magistrate’s decisions. S142 of the Public Health Act 2005 provides for an appeal against a decision on application for controlled notifiable conditions order or extension of an order. Both the Chief Executive and the person to whom the application relates may appeal to the District Court against a decision. The Chief Executive shall approve any appeals from Queensland Health, prior to submission.

3.11.2 There is no right of appeal under the Public Health Act 2005 with respect to orders made by the Executive Director, Communicable Diseases Unit, in relation to controlled notifiable diseases. Only the Supreme Court has jurisdiction in relation to judicial review under the Judicial Review Act 1991.

3.11.3 The Supreme Court may vary or quash the magistrate’s decision or “make any order that the justice of the case may require”.

3.11.4 The personal advocate may recommend that a legal advocate is engaged to provide legal advice and to represent the individual before the magistrate and if necessary in the Supreme Court.

3.12 Cross Jurisdictional Communication

3.12.1 Where there is reasonable suspicion or knowledge of travel planned or undertaken to another jurisdiction by a person who is subject to management under level 2 or above, the Executive Director, Communicable Diseases Unit, shall notify the Chief Health Officer who will seek the approval of the Chief Executive to notify the inter-jurisdictional Chief Health Officer, or equivalent.

3.12.2 The information provided will include:
• The client’s HIV status;
• Any Orders made;
• Necessary case information; and
• Identification of the client to enable effective public health follow up.

3.13 Review of the Protocol

3.13.1 The Protocol shall be reviewed under the following circumstances:
• Changes to any relevant legislation or regulation;
• Changes to national guidelines;
• Significant changes in epidemiology or trends related to HIV/AIDS; or
• At least every four years.
4. **Supporting and related documents**

**Authorising Health Service Directive:**
- Protocols applying to Hospital and Health Services

**Guidelines or manuals**
- Queensland Sexual Health Clinical Management Guidelines

**Forms or templates**
- Protocol Decision Making Flowchart
- Letter from clinician to Executive Director, Communicable Diseases Unit informing enactment of Level One
- Letter from clinician to Executive Director, Communicable Diseases Unit accompanying full written report
- Letter from clinician to Executive Director, Communicable Diseases Unit informing that person has met requirements of Level One
- Level One Statement of Compliance to clinician
- Letter from clinician to Executive Director, Communicable Diseases Unit informing that person has not met requirement of Level One
- Letter from clinician to Executive Director, Communicable Diseases Unit informing person that they are to be managed at Level Two
- Template letter of consent to release confidential details to HIV Advisory Panel members
- Letter from Executive Director, Communicable Diseases Unit to inform person they have met the requirements of Level Two
- Level Two Statement of Compliance to Executive Director, Communicable Diseases Unit
- Letter from Executive Director, Communicable Diseases Unit to person unsuccessfully managed under Level Two informing them of escalation to another Level

**Related documents**
- Public Health Act 2005 (Chapter 3 Notifiable Conditions)
- Criminal Code Act 1899
- Hospital and Health Boards Act 2011 (Part 7)
- Mental Health Act 2000
- Child Safety Legislation Amendment Act (No. 2) 2004
- Code of Conduct for the Queensland Public Service
5. Definition of Terms

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<th>Term</th>
<th>Definition / Explanation / Details</th>
<th>Source</th>
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<tr>
<td>Client</td>
<td>The person living with HIV whose behaviour is believed to be putting others at risk of HIV infection.</td>
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<tr>
<td>Clinician</td>
<td>The Queensland Health employee providing clinical care to the client.</td>
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6. Approval and Implementation

Protocol Custodian
HIV Public Health Nurse (Team Leader)
HIV Public Health Team
Communicable Diseases Unit

Approving Officer:
Dr Tony O'Connell
Director General
Queensland Department of Health

Approval date:
19 April 2013

Effective from:
19 April 2013
All health care workers with HIV positive clients will engage their clients on a regular basis in discussions about HIV transmission, prevention, rights and responsibilities. As a matter of course, this will include discussions about safe sex practices and other relevant safe practices (e.g. not sharing injecting equipment for IDU).

Protocol Decision Making Flowchart

Client with HIV Infection reports unsafe behaviour to HCW.

OR

Individual makes a complaint to HCW about an HIV+ client putting them/another at risk.

HCW discusses behaviour with client. Unsafe behaviour verified.

Client willing and able to change.

HCW reviews behaviour in regular sessions.

Client shows commitment to behaviour change.

Level 1 Counselling, education and support at clinic level. Executive Director Communicable Diseases Unit must be informed.

Client appears unwilling or unable to change behaviour.

Level 2 Counselling, education and support as directed by the Executive Director Communicable Diseases Unit assisted by the HIV Advisory Panel.

Client shows commitment to behaviour change.

Refer back to HCW.

Client shows no commitment to behaviour change.

Level 3 Management via behavioural order under the Public Health Act 2005.

Client cooperates with behavioural order.

Executive Director Communicable Diseases Unit consults with Chief Health Officer and obtains legal advice.

Unwilling to change behaviour, suggesting intention to infect others.

Unable to change behaviour.

Level 4 Detention or isolation under the Public Health Act 2005.

Level 5 Referral to police for criminal law process.

Client appears unwilling or unable to change behaviour.

Client refuses to co-operate.

Note: It is not necessary to progress directly from one level to another, although this will occur in most situations. The HIV Advisory Panel can recommend management at any level required in the interest of public health. There may also be grounds for managing a case outside the framework of the Protocol when it is judged to be in the best interest of public health.
LEVEL ONE
Letter from clinician to Executive Director, Communicable Diseases Unit, informing enactment of Level One

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

Dear Insert Name of Executive Director, Communicable Diseases Unit

Re Insert Coded Client Reference

I am writing to inform you that I have reason to believe that patient (insert coded reference) is placing others at risk of HIV infection through their actions, and therefore I will be enacting Level One of the Protocol for the Management of People Living with HIV who Place Others at Risk, commencing (insert date of commencement).

I am undertaking the steps identified in the Protocol to manage this person and will provide a full report to you within three months of the aforementioned date.

The current steps I am taking to manage my client include:
(Insert steps taken).

Yours sincerely

(signature)

Insert Name
Insert Title

/ /
LEVEL ONE
Letter from clinician to Executive Director, Communicable Diseases Unit accompanying full written report

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

Dear **Insert Name of Executive Director, Communicable Diseases Unit**

Re **Insert Coded Client Reference**

Please find attached a written report detailing the timeframe and specific actions I have taken in enacting Level One of the Protocol for the Management of People Living with HIV who Place Others at Risk and the outcomes regarding these actions.

Yours sincerely

**signature**

**Insert Name**
**Insert Title**
/ /
LEVEL ONE
Letter from clinician to Executive Director, Communicable Diseases Unit informing that person has met requirements of Level One

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

Dear Insert Name of Executive Director, Communicable Diseases Unit

Re Insert Coded Client Reference

I am writing to inform you that I have been managing this person under Level One of the Protocol for the Management of People Living with HIV who Place Others at Risk for (insert period of treatment) and I am satisfied that the required behaviour modification has been achieved by the patient.

Yours sincerely

(signature)

Insert Name
Insert Title
/ /
LEVEL ONE

Statement of Compliance to clinician
Written undertaking of compliance with advice received

STATEMENT OF COMPLIANCE
Level One: Protocol for the Management of People Living with HIV who Place Others at Risk

To Clinician’s name

From Insert Coded Client Reference

I hereby acknowledge that I have participated in an education and counselling program regarding the prevention of HIV transmission to others with (insert clinician’s name) over the period (insert dates from commencement to completion).

I understand my role and responsibility in preventing HIV transmission and have modified my behaviour accordingly. (Insert details of behaviours modified and how these will be maintained).

I agree to maintain this behaviour in the future.

___________________
Signature

___________________
Date
LEVEL ONE

Letter from clinician to Executive Director, Communicable Diseases Unit informing subject has not met requirements of Level One

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

Dear Insert Name of Executive Director, Communicable Diseases Unit

Re Insert Coded Client Reference

I am writing to inform you that I have been managing this person under Level One of the Protocol for the Management of People Living with HIV who Place Others at Risk for (insert period of treatment) and I am not satisfied that the required behaviour modification has been achieved by the patient.

Yours sincerely

(signature)

Insert Name
Insert Title

Printed copies are uncontrolled
LEVEL TWO

Letter from Executive Director, Communicable Diseases Unit informing person they are to be managed at Level Two.

Mr/Ms/Mrs
(Insert address)

Dear Insert Client Name

I am writing to inform you that I have reason to believe you may have committed an offence under (insert section) of the Public Health Act 2005 by placing people at risk of contracting Human Immunodeficiency Virus (HIV) infection.

Because of the potential risk to the health of others, I have decided you will be managed under Level Two of the Queensland Protocol for the Management of People Living with HIV who Place Others at Risk (the Protocol). Under Level Two you will be required to participate in a mandatory program of counselling and education provided through a Queensland Health Sexual Health Clinic. The interventions will be determined as those best to assist you to change your behaviour. The aim of these interventions is to help you to carry out your responsibilities as a person living with HIV to prevent transmission of the virus and to protect others from becoming infected through your actions.

Whilst Level Two management involves a mandatory program as outlined above, your cooperation at this stage is formally requested. Should you fail to attend appointments with those who are implementing the program, your case may be elevated to Level Three. Under Level Three a court order will be sought from a magistrate to enforce your participation in the program.

As the first step in the process for Level Two management, I request your consent in writing to release your name to the panel of professionals who will be overseeing your management under the Protocol. Should you refuse to provide this permission in writing, I will seek authorisation from the Queensland Health Director General to disclose your confidential information to the panel members.
You should write to me using the following words:

“I give my consent for you to release my name to the panel of professionals who will be overseeing management of my case under the Queensland Protocol for the Management of People Living with HIV who Place Others at Risk.”

A template letter is attached for your signature. Please sign the letter, date it and mark the envelope “PERSONAL AND CONFIDENTIAL”. Address your letter to me:

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

You will be contacted in the near future by a Queensland Health clinician who is a member of the HIV Advisory Panel. They have been appointed to act as your case manager while you are being managed under the protocol. The case manager will be someone not involved in your regular clinical care. Your case manager will be able to answer any questions you may have in relation to any information contained in this letter.

The role of your case manager is to communicate between the panel and those providing counselling, education and support services to ensure continuity and consistency of care and to provide advice to the panel on your progress.

You can choose to nominate someone to be your personal advocate on the HIV Advisory Panel. This person will be able to put your point of view to the panel and also report back to you on the panel discussions.

If you would like to nominate someone to be a personal advocate, please do so in your letter to me. The person you choose must be able to attend panel meetings to communicate with the panel on your behalf.

Please forward to me your written consent as outlined above no later than date.

Yours sincerely

(signature)

Insert Name
Executive Director, Communicable Diseases Unit
LEVEL TWO

Template letter of consent to release confidential details to panel members.

Dr/Mr/Ms/Mrs
Executive Director,
Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

I, ________________________________ (insert your full name) give my consent for you to release my name to the panel of professionals who will be overseeing management of my case under the Queensland Protocol for the Management of People Living with HIV who Place Others at Risk.

______________________________
Signature

______________________________
Date
LEVEL TWO
Letter from Executive Director, Communicable Diseases Unit
to inform person they have met the requirements of Level Two

Mr/Ms/Mrs
(Insert address)

Dear Insert Name of Executive Director, Communicable Diseases Unit

I am writing to inform you that I am satisfied you have met the obligations required under Level Two of the Queensland Protocol for the Management of People Living with HIV who Place Others at Risk and this formal management will now cease. You are requested however to continue to work closely with your clinician for ongoing support to prevent the transmission of HIV infection.

I trust you have benefited from the counselling and support you have received and your commitment to maintaining behaviour changes to prevent the transmission of HIV is ongoing. In order to complete the Level Two management process, I require from you a written statement of commitment (draft attached). Please mark your envelope “PERSONAL AND CONFIDENTIAL” and mail your statement to me:

Dr/Mr/Ms/Mrs
Executive Director, Communicable Diseases Unit
Queensland Health
PO Box 2368
FORTITUDE VALLEY QLD 4006

Yours sincerely

(signature)

Insert Name
Executive Director, Communicable Diseases Unit

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:
LEVEL TWO

Statement of compliance to Executive Director, Communicable Diseases Unit
Written undertaking of compliance with advice received.

STATEMENT OF COMPLIANCE

Level Two: Protocol for the Management of People Living with HIV who Place Others at Risk

To Insert Name of Executive Director, Communicable Diseases Unit

From Insert Client name

I hereby acknowledge that I have participated in an education and counselling program regarding the prevention of HIV infection to others with (insert clinician’s name) over the period (insert dates from commencement to completion).

I understand my role and responsibility in preventing HIV transmission and have modified my behaviour accordingly. (Insert details of behaviours modified and how these will be maintained.)

I agree to maintain this behaviour in the future.

___________________
Signature

___________________
Date
LEVEL THREE, FOUR, or FIVE

Letter from Executive Director, Communicable Diseases Unit
to person unsuccessfully managed at Level Two informing them of elevation to another Level.

Enquiries to:
Telephone: (07)
Facsimile: (07)
Our Ref:

Mr/Ms/Mrs
(Insert address)

Dear Insert Name

I am writing to inform you that as a consequence of your failure to agree to modify your behaviour that places others at risk of HIV infection, your case has been elevated to Level (insert appropriate Level: Three/ Four / Five) under the Protocol for the Management of People Living with HIV who Place Others at Risk. As a consequence you will be required to (insert details outlining actions to be taken according to the Level).

Yours sincerely

(signature)

Insert Name
Executive Director, Communicable Diseases Unit