Maintaining world's best practice when managing people with HIV who put others at risk.

Victorian Health Minister's Response to

Review of the Guidelines for the management in Victoria of people living with HIV who put others at risk and the Protocol for management of HIV positive person who appear to be placing others at risk

And

Review of Department of Human Services Management of a Specified Group of HIV Cases

And

Report from an international perspective of Victoria's system of response to persons with HIV who may be placing others at risk

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Ministerial Foreword

I am pleased to present my response to the two reviews that were commissioned in 2007 relating to the management of people living with HIV who place others at risk, in addition to my response to the report of the international expert on these reviews. This is a complex area dealing with people who frequently have multiple needs that span service areas such as medicine, mental health, substance abuse and intellectual disability.

The complexity is increased with some client's behaviours falling under the ambit of both the *Health Act 1958* and the *Crimes Act 1958* and the reviews have clarified the appropriate manner by which this overlap should be managed.

The vast majority of these clients can be managed through a public health approach which seeks to mitigate transmission risk through the provision of suitable supports and interventions that deliver successful and sustained behavioural change. Sometimes more coercive measures are required and powers are available to the Chief Health Officer to apply restriction, or in extreme circumstances, isolation orders. The Chief Health Officer is supported in such consideration through advice from the HIV Advisory Panel, treating clinicians and departmental staff.

The review process was commissioned to provide critical commentary of the responses by the Department of Human Services to people living with HIV who place others at risk, in the context of past failings in these processes.

Taken together, these reviews and the report of the international expert provide a body of work that gives overall support for the current approach undertaken by the Department of Human Services in the management of people living with HIV who place others at risk, namely a public health approach.

It does however point to important areas requiring improvements and I am pleased to say that many of these improvements have already been undertaken. The recommendations and findings of the reviews will be properly implemented and departmental policies and processes refined. I am confident this will result in Victoria maintaining world's best practice in relation to dealing with people with HIV who place others at risk.

All recommendations from the Reviews are supported or supported in part.

HON DANIEL ANDREWS MP
MINISTER FOR HEALTH

February 2008

About the Reviews and the Report

Associate Professor John Scott and Mr Robert Falconer conducted the Scott Falconer Review jointly. Associate Professor Scott, of the University of Queensland has gained significant experience in this area while the State Manager of the Public Health Service in Queensland and a Senior Executive Director of Health Services for Queensland Health. Mr Falconer is a former deputy commissioner of Victoria Police and former chief commissioner for Western Australia, and he has significant experience in police operations and senior management and brought to this review an important policing perspective. Both Professor Scott and Mr Falconer were tasked to report on the management of a specified range of departmental clients and the protocol between the department and Victoria Police. This was finalised in September 2007.

Associate Professor Robert Griew and Mr Tim Leach undertook the Griew Review. Mr Griew has previously held positions such as Deputy Director General of NSW Department of Ageing, Disability and Home Care, CEO of the Northern Territory Department of Health and Community Services, and CEO of the AIDS Council of NSW. Mr Tim Leach, who has qualifications in law, has extensive experience in HIV policy issues. He has been the Deputy Director of Australian Federation of AIDS Organisations and has undertaken recent consultancies for the National Association of People Living with HIV/AIDS, the AIDS Treatment Project Australia and the Consumers Health Forum.

The Griew Review looked at the Guidelines for the Management in Victoria of People Living with HIV Who Put Others at Risk, and the internal departmental protocol that details how these guidelines are implemented. This review occurred in parallel with a national review, also undertaken by Associate Professor Griew, which sought to investigate the question of the effectiveness of the policies guiding public action in relation to people who place others at risk. This provided a unique opportunity for a review of Victorian policies and processes that was informed by the many and varied experiences and processes undertaken by different jurisdictions. It was finalised in December 2007.

For further input to ensure Victoria meets international best practice in implementing the above reviews, the Daly Report was commissioned to provide an international perspective and consideration of Victoria's system of response to these clients. It was undertaken by Associate Professor Patricia Daly, Chief Medical Health Officer, Vancouver Coastal Health, British Columbia who has many years experience in this area. Her report was received in December 2007.

Review of the *Guidelines for the management in Victoria of people living with HIV who put others at risk* and the *Protocol for management of HIV positive person who appear to be placing others at risk*

Conducted by Associate Professor Robert Griew and Mr Tim Leach

> *Recommendation 1*
>
> *That the Department of Human Services (DHS) should undertake an editing exercise at the end of this review process, to ensure that policy issues relating to managing people with HIV who risk infecting others are addressed in the Guidelines and only implementation issues are addressed in the Protocol.*

Supported

Such an editing exercise has been completed to ensure that only policy matters are addressed in the Guidelines. The means by which these policies will be implemented and the procedural system that will support action will be detailed in the document known as the *Protocol for the management of people with HIV who place others at risk.*

The updated Guidelines will be sent to relevant stakeholders prior to being finalised. The Protocol, which is an internal departmental working document, will then be updated to ensure it reflects the Guidelines.

> *Recommendation 2*
>
> *That DHS reconsider its 2005 position and advise Government to introduce legislative amendment to allow decisions of the Chief Health Officer under this part of public health legislation to be subject to appeal to the Victorian Civil and Administrative Tribunal (VCAT).*

Supported

Legislation will be introduced in order to permit administrative review of decisions of the Chief Health Officer at VCAT.

> *Recommendation 3*
>
> *That DHS also consider advising Government to introduce amendments to clarify in more detail the role and powers of the Chief Health Officer and other significant players in managing people with HIV who risk infecting others.*

Supported

Legislative amendments will be undertaken to clarify the role and powers of the Chief Health Officer. The department acknowledges that these are significant powers vested in the Secretary that are delegated to the Chief Health Officer. These powers are on the whole infrequently used and unlikely to have a significant impact upon the future progression of the HIV epidemic in Australia, which has successfully been contained through health promotion activity. That said these powers remain an important pillar in the public health response.

The legislative changes to be introduced will ensure that these powers will be clear. As such they will sit alongside the new Victorian Charter of Human Rights and Responsibilities and together these will form an effective system to respond to the public health risk some persons create in a manner that is cognisant and consistent with human rights.

Recommendation 4

That DHS involve the Partner Notification Officers (PNO), their supervisors and Public Health Branch management in a process to define the PNO role more clearly and establish clear lines of clinical supervision for their work; and that these roles be widely explained and included in the Guidelines.

Supported

The Partner Notification and Support Unit was established in the Office of the Chief Health Officer in October 2007 as a direct response to the recent reviews. Its formation has taken into account the recommendations and has included three new positions namely, an additional PNO to ensure appropriate capacity for direct client management, a Medical Advisor to ensure suitable levels of clinical supervision, and a Program Coordinator. This increase in human resources will ensure that the department will be suitably prepared to respond in the prevailing operational setting.

A workshop and meetings have been undertaken within the department to develop material that makes explicit the roles and responsibilities of the PNOs. A statement of these roles is included in the revised Guidelines for the management in Victoria of people living with HIV who put others at risk.

Recommendation 5

That information be prepared for the PNOs to distribute to clients explaining their roles and processes for making complaints regarding their work.

Supported

In addition to the role of the PNOs being clarified in the revised Guidelines, a brochure is being developed for distribution to clients detailing the PNOs role and providing contact details for their Manager, the Medical Advisor, Office of the Chief Health Officer.

The brochure will allow clients to more clearly understand the role of the PNOs as well as providing a point of contact in the department should they have any concerns or require any further information.

Recommendation 6

That DHS Public Health Branch collects and report performance data on the PNO program.

Supported

From 1 January 2008, data is being collected and recorded by the Partner Notification and Support Unit to measure performance. This will be used to analyse the throughput and quality of the Unit's response and will be reported quarterly to the Chief Health Officer.

Recommendation 7

That the HIV Case Advisory Panel (the Panel) be used as a forum for seeking advice on client management strategies before it is considering escalation to coercive measures such as behavioural, isolation or detention orders. And that DHS continue to invest in improving cross program case management as a need going across the Department's services.

Supported

Many referrals to the department relate to people with multiple and complex needs which may include a range of mental health, drug and alcohol, disability or social welfare issues. Case management and coordination of such clients across departmental programs will ensure optimal outcomes from the resources and services provided.

The Chief Health Officer will use special case conferences involving treating clinicians, agencies and where appropriate, panel members to assist in the development of comprehensive case management plans for clients involved in this process. The Partner Notification and Support Unit will also seek input from the Panel as a means of receiving early external management advice prior to escalation of response to more coercive means.

Recommendation 8

That the Panel include two people with HIV among its membership.

Supported

A process has commenced to recruit an additional member to the HIV Advisory Panel.

Recommendation 9

That the Panel be provided with full documentation ahead of meetings, on a clear understanding of the confidentiality of the material.

Supported

It is imperative that the Panel have the opportunity to review and consider all the information put before them before formulating their advice to the Chief Health Officer. Papers for Panel meetings will now be securely and confidentially provided to Panel Members prior to each meeting.

Recommendation 10

That DHS Public Health Branch consider strategies to provide more support to primary care clinicians, especially but not exclusively those without high HIV caseloads, when they deal with people with HIV who may be putting others at risk.

Supported

As part of the formation of the Partner Notification and Support Unit, the new Medical Advisor position will now be available to provide support for primary care clinicians with regard to any

concerns relating to the public health management of their HIV positive patients who appear to be placing others at risk.

Recommendation 11

That DHS and Victorian Police complete their protocol discussions, based on the criteria agreed nationally in the BBVSS Report and that the criteria decided are included in the Guidelines.

Supported

The department has been working with Victoria Police to develop a shared understanding of each agency's role and how successful interaction and referral can be made when cases of mutual interest emerge. A Memorandum of Understanding between DHS and Victoria Police is currently being finalised.

Note: The BBVSS Report refers to a Report titled "Review of Policies for the Management of People with HIV who Risk Infecting Others" prepared by Associate Professor Robert Griew on behalf of the Blood Borne Viruses and STI Subcommittee of the Australian Population Health Development Principal Committee (APHDPC) of the Australian Health Ministers Advisory Council (AHMAC) in July 2007.

Recommendation 12

That, as DHS become confident that new arrangements and improved processes for managing this area have been put in place, that DHS managers review the number of meetings they have established to manage the activity and limit it to those most crucial to oversee the new arrangements.

Supported

The new structure and processes in place have already resulted in a reduction in meetings. A layer of management has been removed with the medical advisor responsible for managing the PNOs reporting directly to the Chief Health Officer.

Recommendation 1

DHS should review its processes and practices to move through the actions identified in relevant subsections of section 121 of the Health Act 1958 in order to:

a) Ensure clear triggers and processes are defined for serving Orders, for restricting clients' movements, and for isolating and detaining clients should any of these actions become necessary.

b) Guarantee a sustainable solution is always available for managing clients isolated under the Health Act in a risk-free, appropriate environment with appropriate staff available for supervision.

c) Define protocols and processes to be followed to ensure basic rights like access to services such as legal representation, access to interpreter services, appropriate mental health assessment, and addiction services are respected for all clients whose movements are restricted or who are detained and isolated.

Supported

The management of clients notified to the department needs to be suitably tailored to each individual circumstance; however, as far as practicable the use of standard triggers should be considered in determining actions to maintain public health. These triggers will be included in the internal protocol and assist in the standardisation of departmental response to cases as they present.

The department is working to identify the most cost efficient and sustainable mechanism to have available a facility into which clients under isolation orders may be placed. Whilst this is being finalised, a suitable interim solution is available. The staff required for such an undertaking will be arranged through community services which have been involved in the care of departmental clients in the past.

It is very uncommon for the Chief Health Officer to be required to isolate a client in order to protect public health. That said, the internal protocol will be revised to include details pertaining to the management of clients who require detention and isolation and being explicit in the department's commitment to ensure all clients have access to the full range of health, welfare and legal services and are treated in a manner that ensures all basic rights are protected.

Recommendation 2

The Attorney General and the Ministers for Health and for Police and Emergency Services should be advised of the need to ensure a process to align the relevant sections of the Health Act and the Crimes Act in order to direct departmental policy and operations processes in ensuring effective, efficient and harmonious function of government services in addressing the area of HIV and human behaviour that is either inappropriate or reckless.

Supported in principle

Discussions have been held between DHS and Victoria Police to determine how these areas of government can work effectively and efficiently together in responding to people living with HIV who place others at risk. A new working relationship has developed between the Office of the Chief Heath Officer and the Sexual Crimes Squad of Victoria Police and regular meetings will ensure that suitable and effective mechanisms are in place for referral of cases of mutual interest.

A Memorandum of Understanding (MOU) between DHS and Victoria Police is currently being finalised. This will detail and clarify the communication and referral mechanisms between these agencies.

Recommendation 3

Operational and policy-related units of Human Services and Victoria Police should develop a Memorandum of Understanding that clearly defines their working relationship in terms of issues such as roles and responsibilities, lead agency for particular situations, trigger points for escalation of management of clients based on clear measures of progress, and legal principles that will inform specific activities or approaches. This relationship, along with the performance of each agency should be jointly reviewed on at least an annual basis and provision should be made for joint scenario planning and exercises where appropriate.

Supported

See response to Recommendation 2 above.

Recommendation 4

The Public Health Branch of the DHS should develop clear guidelines for the oversight of specific client groups, including agreed approaches to clinical referral, specific high-level contacts in other agencies to facilitate rapid and effective referral of clients of concern, legal principles that must be considered in any decision, and evidence-based milestones that allow tracking of client progress and early identification of developing problems and concerns.

Supported

The department is developing Standard Operating Procedures in relation to specific client groups that will support the updated Guidelines and Protocol. These processes will incorporate agreed approaches to clinical referral and management. The principles are incorporated in the policy as given in the Guidelines.

Recommendation 5

The Public Health Branch should ensure immediate reporting of "cases of concern" to the Secretary and the Minister in order to ensure that Public Health approach accords with the policy approach preferred by the Minister and the Secretary and also highlights any potential conflict of this approach with legal advice in order that a position of principle can be decided by the Minister and Secretary. This recommendation is based on a view that ultimately the elected representative of the people and the senior executive of the Department must decide on issues where a

conflict may exist between Public Health principles, legal principles and political interpretation of the prevailing will of the public.

Supported

Such reporting to both the Secretary and the Minister is now routine practice in the department. The recent reviews undertaken in Australia form a solid body of work that speaks directly to the issues raised by those living with HIV who place others at risk. They provide a clear articulation of the ethical, public health, and legislative issues that must be considered in the formulation of a response.

Recommendation 6

Human Services should work with Victoria Police and relevant community-based organisations to develop a shared understanding of the need for appropriate action to protect the health of individuals and the community and the range of strategies that will be used to achieve these goals, as well as to explore potential communications strategies to ensure appropriate engagement of relevant communities and representative agencies in this work.

Supported

The process of appropriate engagement with relevant communities is an ongoing one and something the department is actively engaged in.

These matters will also be the subject of discussion with Victoria Police at the regular meetings which will occur between senior officers of the department and Victoria Police.

Recommendation 7

Urgent steps should be taken to review the workload of the PNOs in order to provide sufficient resources to allow at least a doubling in the staff establishment of the PNOs to boost tracing and notification of client partners when a new HIV infection is reported. These new resources, along with the existing positions, should be organised as outlined [at paragraph 7.2] to allow for a separation of clinically related contact tracing from legally based investigation and monitoring of clients suspected of, or actually knowingly and recklessly engaging in risky behaviour. As will also be identified in Section 7, these resources should form part of an outcome-focussed management process designed to ensure problem people or issues are recognised and addressed as soon as possible.

Supported in part

The formation of the Partner Notification and Support Unit has taken into account this recommendation and has included three new positions namely, an additional Partner Notification Officer to ensure appropriate capacity for direct client management, a Medical Advisor to ensure suitable levels of clinical supervision and a Program Coordinator. This increase in human resources will ensure that the department will be suitably prepared to respond in the prevailing operational setting.

The separation of clinically-related contact tracing and legally-based investigation and monitoring of clients allegedly knowingly and recklessly engaging in risky behaviours is made clear in the association between the client and the PNOs, and these roles are not performed concurrently by the PNOs with the same client.

It should also be noted that the Griew report states it is not the conclusion of his review that the different roles played in practice by the PNOs are fundamentally conflicted or unviable. There are a number of examples of public officials with an enforcement role who also in practice use more supportive methods in managing situations and clients as well as their default coercive ones. This position was also affirmed as appropriate and common practice for public health practitioners in the Daly Report.

Recommendation 8

DHS, through the Public Health Branch should ensure processes are in place to help better identification and understanding of areas of concern that might not otherwise be notified but that need investigation to ensure Public Health is being protected. These should include:

a) Regular reports from the HIV Register on issues of concern, clusters of cases, and increases in rates of notification in geographic areas, with a formal process for Departmental review of these reports.

b) Regular conferencing with groups working in the area such as the Melbourne Sexual Health Centre, Alcohol and Drug Clinics, Immigrant Support Groups, Victorian AIDS Council, PLWHA, and Victoria Police in order to "share" information, concerns and current approaches to specific issues.

Supported

HIV notifications are held at the Burnet Institute and reported on in the form of the HIV/AIDS monthly surveillance report (see http://www.health.vic.gov.au/ideas/downloads/daily_reports/descriptive_/docHIVAIDS.pdf).

In addition to this, the department has instituted monthly attendance of the Burnet Institute's HIV epidemiologist to report in person the latest findings and to discuss any issues of concern, possible clusters or other aberrations requiring further investigations.

The HIV surveillance data is reported monthly by the department to ensure that stakeholders and agencies have access to this information. In addition, the Victorian Infectious Diseases Bulletin (VIDB) is published quarterly and it provides a summary and analysis of the epidemiology of all notifications including HIV/AIDS.

The BBV/STI program of the department funds the Victorian AIDS Council, People Living with HIV/AIDS, Straight Arrows and Positive Women and has a strong and close working relationship with these and other stakeholders.

Regular contact and meetings with key stakeholders will be maintained and, where possible, expanded to include other services such as immigrant support groups and drug and alcohol services. Regular meetings between DHS and the Sexual Crimes Squad, Victoria Police are already underway.

Recommendation 9

The notification process should be redeveloped to:

a) Separate contact tracing from investigation of specific notifications of concern in order to ensure the evidentiary process remains "untainted" and the best service is given to all client groups.

b) Incorporate a formal process (with guidelines agreed preferably between the Human Services and Victoria Police) to determine if notification to or involvement of Victoria Police is needed at the initial notification stage e.g. in relation to concern regarding related crimes or to gain other information needed to form an accurate picture.

c) Promote identification of the key elements of a client's issues at an early stage in order to promote a clear plan of management from the earliest phase of engagement with a client. The plan of management should be based on protocols developed to be appropriate to the common drivers of problematic client behaviour as identified in earlier sections of this report.

d) Include clear "rules of engagement" readily communicated to and understood by all clients. These should advise clients on what is expected in terms of information /attitude/commitment from those notified, should clearly identify for newly notified clients their responsibilities and rights, should clearly outline the powers available under legislation should they not comply, and should clearly identify what parameters will be used to determine non-compliance and when more active management is required under legislation.

Supported in part

The position put to separate the contact tracing from investigation of notifications of concerns is addressed in the response to Recommendation 7.

The department has considered these differing views and has been persuaded by the arguments put by Griew and Daly. However the intent of the separation as stipulated in the recommendation above, namely in relation to evidentiary process and service provision will be achieved through the implementation of other recommendations that have a bearing on this.

A formal protocol (MOU) with Victoria Police is currently being finalised. Regular communication now occurs between the Office of the Chief Health Officer and the Sexual Crimes Squad.

The case management approach of clients managed under this section of the *Health Act* will include the identification of a list of key client issues that may drive problematic behaviour. These will be developed early in the assessment process and addressed in a manner that is supported by Standard Operating Procedures developed for this purpose. It is recognised that such procedures will provide assistance to case management recognising that each case will need an individually tailored response to meet particular circumstances and social context.

The internal protocol will be updated to make explicit and clear, that the "rules of engagement" with the department are to be provided and explained to the client. Information will continue to be provided in both written and oral form including the plain English information sheet explaining this aspect of the *Health Act* and the new brochure explaining the role of the PNOs. The PNOs will also continue to clearly explain the client's rights, the department's expectations in terms of the client's response, the processes involved (including escalation / de-escalation and on what basis this occurs) and the powers of the Chief Health Officer as related to the client involved.

The new brochure will be translated into a variety of community languages.

Recommendation 10

Written operating procedures should be developed to guide staff in the management of clients and those standard operating procedures should embody the following principles and objectives:

a) Written procedures should be based on the protection of Public Health as the Department's prime responsibility. If evidence is gathered that clearly supports concern with regard to the gravity of the threat then the Department should have the confidence to proceed in the knowledge that privacy and confidentiality principles support appropriate disclosure and subsequent management.

b) Procedures should ensure appropriate clinical management of clients using clear guidelines incorporating milestones for "performance" is balanced with clear and defensible processes for ensuring an evidentiary trail is maintained should it be needed.

c) Clinical management should be individually tailored but should also recognise commonalities wherever possible e.g. clients with mental disabilities, clients with problematic drug use leading to impaired judgement and check-lists should be developed to ensure actions are considered and taken at the right times where appropriate.

d) Procedures should be cognisant of what other agencies/processes (e.g. Victoria Police, Adult Guardian, Mental Health Act) could/should be involved at what time and formal processes should be explored to facilitate easy but appropriate communication with these agencies.

e) Operating procedures should be based on ensuring "separation" of PNOs work from "routine" clinical work to ensure the evidentiary trail is maintained and protected.

f) Operating procedures should ensure the safety and wellbeing of PNO's and other staff involved in managing clients is a consideration at all times.

Supported in part

The overall approach has been based upon the protection of public health and this has been underscored by the formation of the new Partner Notification and Support Unit in the Office of the Chief Health Officer. The reviews and the new national consensus voiced in the National Guidelines for the Management of People with HIV Who Place Others at Risk have assisted in revising the Victorian Guidelines and Protocol.

The internal protocol will incorporate processes to ensure suitable evidentiary trail is maintained, tracking of clients against articulated milestones and that interventions supported by "check lists" are applied in a manner that is appropriate to each individual case.

The internal protocol will take account of the new relationship with Victoria Police, the possible overlap with the *Mental Health Act 1986* and the possible need for guardianship orders. Clear communication pathways have been developed to facilitate the sharing of information as deemed appropriate.

The department agrees that at all times the health and safety of all staff members is a priority and Standard Operating Procedures will be written to support this position in the PNSU.

As discussed above the PNOs showed no misunderstanding of their roles and it was the view of the Griew Review that they were not fundamentally conflicted and there was no evidence to suggest that this was of concern. The department has therefore maintained the current roles of the Partner Notification Officers whilst being cognisant that processes relating to possible evidentiary trails need to be suitably addressed in the internal protocol.

Recommendation 11

Clear reporting lines and rules must be established for use by those staff managing clients under the provisions of the Health Act. In addressing this recommendation the following elements should be taken into account:

a) The process of managing cases must be very clearly based on a "no surprises" approach where regular reporting passes through the "chain of command" to the Chief Health Officer, to the Secretary and to the Minister on any area of concern where Public Health and legislated responsibilities are an issue.

b) As a principle the PNOs should report on these clients directly to a Manager reporting to the Chief Health Officer (the reviewers recommend this should be the Assistant Director, Communicable Disease Control Unit) to shorten the "chain of command" and enhance communication (through administratively they could be managed at a lower level).

c) When operating in a statutory capacity the PNOs should see themselves, and be seen by others, as part of a management team stretching from them to the Chief Health Officer – the concept of "handover" should be dispelled and concerns regarding "clinical care-related" privacy should be managed by separation of duties between clinical and statutory functions.

d) An administrative arrangement should be put in place to ensure the Chief Health Officer receives regular advice on cases from the PNOs and Public Health management, and that advice from the HIV Advisory Panel is maintained as separate from that of the Department to ensure the best, most impartial advice from both sources.

Supported

The establishment of the Partner Notification and Support Unit within the Office of the Chief Health Officer has consolidated the role of the PNOs with administrative support and clinical supervision and additionally allows for greater access to the Chief Health Officer.

Fortnightly Case Management Meetings to discuss new referrals and examine existing clients, held between the PNOs, Medical Advisor and the Chief Health Officer allows for a shared management approach and early identification of issues and areas of concern.

In addition to the improved communication across the Office of the Chief Health Officer, robust administrative practices are now in place to ensure the Chief Health Officer is provided regular advice on clients from the PNOs and the Medical Advisor.

Arrangements have been implemented to ensure that advice to the Chief Health Officer from the HIV Advisory Panel remains independent.

Recommendation 12

A clear case- management approach should be used for all clients. In addressing this recommendation the following points should be taken into account:

a) New notifications should be case-conference among the PNOs when first notified and a decision should be taken, based on clearly documented parameters, as to whether the client should be managed under the Health Act, or through standard clinical practices.

b) If standard clinical practices are to be used then all PNOs should understand that clients should be case-conferenced in the future if their behaviour is considered to be "risky".

c) If the provisions of the Health Act are to be used then a case management plan should be developed and signed-off by the senior manager who the PNOs report to on these issues. This plan should identify issues of concern and strategies for addressing theses issues, including milestones and timeframes.

d) To ensure objective case management under the Health Act, to ensure an unbiased evidentiary trail, and to promote timely escalation of issues there should be separation of client clinical management from management under the Act. This means these two functions should be managed separately and independently by different PNOs and wherever possible the reviewers recommend clinical client management should be directed by the PNOs to a third party, preferably a general practitioner or staff member of a sexual health centre.

e) A process for regular review (at a minimum monthly) should be developed and triggers for escalating at shorter intervals should be clear to all parties. Reviews should include sign-off on progress by all parties. For complex cases the senior manager may choose to involve senior managers from other relevant agencies in a management "panel" to ensure consideration of all relevant factors and to expedite management between agencies where necessary. The senior manager may choose to involve an advocate for the client who would necessarily be a person recommended and agreed by the client, in these meetings.

f) All meetings of the senior manager with PNOs and other parties engaged to provide advice on specific clients should be thoroughly minuted and records kept on independent client files.

g) Case management plans should identify expectations of other agencies and senior management should be informed early if any problems arise with liaison, with demarcation, or with performance of any party.

h) Case management plans and notes on progress should form the basis for reports on progress to senior management or briefings to the HIV Advisory Panel, should an opinion be sought from this body.

Supported in part

A case management approach is being used to manage persons notified to the department as living with HIV placing others at risk. All notifications are assessed by the PNOs based upon documented parameters and presented to regular case management meetings involving the PNSU with the attendance of the Chief Health Officer. At this time interventions and service coordination will be discussed and planned. This meeting will also review all other cases the Unit has involvement with and will clearly document decisions and actions undertaken and placed on individual client files.

Case conferences with other service providers and agencies will be employed to assist in the assessment, monitoring and coordination of client care. Such meetings will make clear the expectations and roles of the services involved and communication pathways delineated in case concerns arise.

The response to Recommendation 12(d) has already been addressed above.

Recommendation 13

The HIV Advisory Panel should function as an independent group convened to provide management advice on specific clients or high-level policy advice to the Chief Health Officer and should not be influenced by Departmental processes. To achieve this:

a) The Panel should have a designated administrative officer responsible for preparing agendas and minutes under the direction of the Chair of the Panel.

b) Clients should be referred to the Panel only on the direction or with the agreement of the Chief Health Officer if the Chief Health Officer requires advice on the management of a particular client.

c) A formal briefing signed off by the Chief Health Officer and without any patient identification, should be presented to the Panel well before the meeting to allow members sufficient time to read and consider the case information in order to frame their opinion of the case before the meeting.

d) The Panel should be provided with the client's Departmental file and be verbally briefed at the meeting by Departmental staff only if the Panel, through its Chair, requests this assistance.

e) Any new information considered relevant can be provided to the Panel at the direction of the Chief Health Officer.

f) Any advice from the Panel should be formally provided in writing (or in exceptional circumstances verbally) to the Chief Health Officer, signed off by the Chair of the Panel with specific advice on recommended actions and with a copy maintained on the individual client departmental file.

g) The Panel should be advised of actions taken in relation to their recommendations at the next Panel meeting.

Supported

Revised administrative arrangements have been implemented for the Panel. Support to the Panel is now the sole responsibility of the Program Coordinator in the Office of the Chief Health Officer and who will be responsible for the preparation of meeting papers, recording of minutes and Panel advice to the Chief Health Officer and ensure this advice is maintained in individual client files.

All clients being monitored are bought to the attention of the Panel, with advice requested on the management of specific cases in a briefing from the Chief Health Officer. In these instances the Panel is provided with complete de-identified information from the client's file including clinical reports.

Recommendation 14

The Chief Health Officer should meet regularly (at least twice a year) with appropriately senior members of Victoria Police in order to confer on the efficacy of the Memorandum of Understanding (MOU) for managing persons suspected of putting the Public Health at risk and/or potentially committing offences under the Crimes Act, and also to monitor the quality and performance of the overall working relationship between the two Departments.

a) The MOU should recognise the inherent tensions between a criminal prosecution approach as demanded by Crimes Act legislation and a Public Health approach based, at least initially, on counselling and health promotion and disease prevention approaches.

b) For clients being managed under the Health Act the MOU should promote as much as possible a shared approach to information, to monitoring of progress with clients, to decision-making with regard to management of clients, and ultimately to ensuring the best outcomes for the individual and for the community while respecting the privacy of the client and the confidentiality of their personal information.

c) The MOU should be based on the Department of Human Services taking the lead role in the management of clients notified to the Department, should specifically recognise and delineate the support role Victoria Police can offer in this phrase, but should also identify triggers that would escalate the role of Victoria Police.

d) Both Departments should work to foster a relationship based on mutual professional respect. This should be promoted by an initial workshop designed to inform all parties of the role and activities of each agency and would be further enhanced by at least twice yearly sessions designed to share de-identified information on management of clients, to test hypothetical situations, and to promote general communication.

Supported

An MOU between DHS and Victoria Police is being finalised and will reflect the new working relationship that has been built between the Chief Health Officer and the head of the Sexual Crimes Squad. Meetings undertaken to date have clarified the roles of each Agency and agreement has been reached to have regular meetings to ensure arrangements and communication needs are being met in an efficient and productive manner.

The revised Guidelines for the management of people living with HIV who place others at risk will document clear triggers for referral from the department to police.

Recommendation 15

The record keeping system must be reviewed and comprehensively overhauled to ensure it is clear, complete, and defensible both administratively and in an evidentiary sense.

a) Patients files including PNO File Notes should be kept separate from the formal Departmental files and the latter should contain summaries of progress or file notes describing important developments related to potential Public Health risks and action taken.

b) Codes to protect privacy and confidentiality concerns must be used at all times and items placed on files should only relate to the individual of interest and not be, for example minutes of meetings where other individuals are also discussed.

c) Files should be constructed according to standard Departmental protocols and should be maintained in order that "the file can tell the whole story".

d) Files must contain all official notes and correspondence including specialist reports relevant to possible contravention of the Health Act or possible Public Health risk, minutes of the meetings that detail case management committee or HIV Advisory Panel consideration of the individuals, and copies of Orders in chronological order.

e) Maintenance of files, taking of meeting minutes, and other relevant administrative duties should be the responsibilities of one administrative officer and appropriate resources should be committed to ensure this individual is able to give this work their full attention.

Supported

Departmental client files have been systematically reviewed and maintenance of the files is now the responsibility of a Program Coordinator.

All relevant client documents are maintained on each individual client file, including clinical reports, meeting notes, records of actions undertaken and correspondence.

Report from an international perspective of Victoria's system of response to persons with HIV who may be placing others at risk

Conducted by Dr Patricia Daly, Chief Medical Health Officer, Vancouver Coastal Health, British Columbia, Canada.

Finding

In summary, the Victorian Department of Human Services has developed appropriate and sensible guidelines and protocols for the management of persons with HIV who may be placing others at risk, in keeping with similar guidelines in other jurisdictions internationally, including our guidelines here in British Columbia, Canada. Placed within the larger context of public health programs to prevent the spread of HIV, implementation of the guidelines and protocol will provide an appropriate balance between protecting the rights of individuals and the community at large.

Noted

Dr Daly undertook a review of the Guidelines and Protocol and she was also provided with the draft copies of the Griew Review and the Scott Falconer Review as well as the national Griew Review submitted to the Blood Borne Viruses and Sexually Transmissible Infections Subcommittee of the Australian Health Ministers Advisory Committee (AHMAC).

Having reviewed all the above documents, Dr Daly was of the view that the Department of Human Services had developed appropriate and sensible guidelines and protocols for the management of people with HIV who place others at risk, in keeping with similar guidelines in other jurisdictions internationally including the guidelines used in British Columbia Canada.

The report from an international expert is an important endorsement of the Guidelines and Protocol, and the reviews undertaken. Importantly, Dr Daly states in her Report that the Guidelines and Protocol "are in keeping with best practices internationally and are superior in many areas..."

Glossary

Chief Health Officer

The Department of Human Service's Chief Health Officer is a senior medical and public health expert, responsible for a variety of statutory functions under the Health and Food Acts.

The Chief Health Officer is principally involved in the health protection aspects of the Department of Human Services and achieves this through his powers which are applied to reduce the risk the public faces from adverse health events. This includes, where required, the ability to undertake a variety of actions when there is an immediate risk to public health. Powers range from the ability to close food premises, to issuing public health orders to people with HIV who may be placing others at risk.

The Chief Health Officer also acts as the Government's spokesperson on matters relating to the control of disease and the promotion of health.

Medical Advisor

The Medical Advisor, Office of the Chief Health Officer is a medical graduate with expertise in public health.

The Medical Advisor manages the Partner Notification and Support Unit, consisting of the Partner Notification Officers and reports directly to the Chief Health Officer. This role is involved in the formulation and supervision of the departmental response to notification of people who place others at risk and includes liaison role with health care providers where required.

Partner Notification Officers

The Partner Notification Officers (PNOs) are nurses with extensive experience in mental health, sexual health and community care.

PNOs are the point of contact for those concerned about people who put others at risk of acquiring HIV infection and assess and report all notifications that are received.

They support clients through regular contact and the co-ordination of appropriate health, welfare and other community services that may be required.

The PNOs are involved in the formulation and execution of the departmental response to reduce public health risk.

The HIV Advisory Panel

The HIV Case Advisory Panel (the Panel) is a non-statutory committee set up to provide the Chief Health Officer with advice in relation to his powers, as the delegate of the Secretary, under sections 120 and 121 of the *Health Act 1958*.

The Panel has six members appointed for three-year terms consisting of an infectious disease specialist, a psychiatrist, a health worker with mental health experience, a lawyer, a social scientist (epidemiologist) and a person living with HIV.

Clients are brought before the Panel for discussion at the direction of the Chief Health Officer. The Panel provides independent advice to the Chief Health Officer to consider in his management of the prevailing public health risk.