

DISCLOSURE, PRIVACY AND CONFIDENTIALITY

DISCLOSING YOUR HIV STATUS

People living with human immunodeficiency virus (HIV) do not have to tell health professionals about their HIV status. There is no legal requirement to disclose HIV status before any type of medical examination or treatment. Health professionals are expected to use the same standard precautions for all clients regardless of their HIV status.

Nevertheless, it can be useful for clients to disclose their HIV status to health professionals to ensure that HIV medications do not interact with any other medications, and the HIV will not affect the progression or treatment of any other medical conditions.

CLIENT CONFIDENTIALITY AND PRIVACY

Health professionals are bound by the same professional and ethical duties to maintain client confidentiality as they are for all other clients. Commonwealth and Victorian privacy laws cover all private and public health services in Victoria. This includes hospitals, community health centres, aged care facilities, palliative care services, disability services, and pharmacies. Specific obligations require:

- Health professionals to maintain client confidentiality
- No information to be disclosed that could identify someone as a client of that service
- Privacy and security of all health information and records collected.

WHEN A CLIENT DISCLOSES

If a client tells a provider that they have HIV, or it is discovered in the course of care, this should not be discussed with anyone else, including their family or carers, except in very limited circumstances.

If a client discloses their HIV status, it can:

- Ensure they receive the highest level of care and treatment
- Ensure a holistic approach to their care and support is provided
- Relieve their anxiety about receiving negative reactions about living with HIV
- Help carer and client build trust and confidence in each other.

Health professionals have an ethical and legal duty to maintain client confidentiality and privacy.

Confidentiality is extremely important to people living with HIV due to the high levels of stigma, discrimination, and fear that still exists toward HIV in many communities.

CAN HIV STATUS BE DISCLOSED WITHOUT CONSENT?

Only in extremely limited circumstances can a person's HIV status be disclosed without their consent. Even then, it can be done only in strict accordance with relevant laws. Circumstances in which status can be disclosed include:

- When there is a real risk of transmitting HIV and it is not possible to conceal the identity of the client who has refused consent to disclosure (e.g. if a needle stick injury has occurred)
- If there are real concerns the person is placing others at risk of HIV transmission
- If there is a need to know a client's HIV status for treatment purposes that would benefit the client, in the context of an emergency situation or if the client is unconscious.

HIV and Disclosure in Healthcare Settings

PEOPLE LIVING WITH HIV	HEALTH PROFESSIONALS LIVING WITH HIV	HEALTH PROFESSIONALS AND SERVICES MAY DISCLOSE THE HIV STATUS OF A CLIENT
<ul style="list-style-type: none"> • There is no legal obligation upon clients to disclose their HIV status to health professionals or services 	<ul style="list-style-type: none"> • Must disclose their HIV status if it prevents them from completing work duties, e.g. conducting exposure-prone tasks. • If their HIV status does not impact upon their ability to carry out their work duties, there is no obligation to disclose their HIV status. 	<ul style="list-style-type: none"> • If the person living with HIV has consented to disclosure; • If authorised, permitted or required by law in criminal court proceedings or for a public health matter • If it is required for the provision of health care treatment that will benefit the person living with HIV • In accordance with recognised medical practices to disclose to next of kin • To the Australian Red Cross Society for the purpose of tracing blood products.

WHAT IF CONFIDENTIALITY AND PRIVACY HAVE BEEN BREACHED?

If a client believes their confidentiality has been breached, the first and best course of action is to discuss it with the service provider directly. More often than not, complaints can be handled quickly and efficiently. If this fails to resolve the matter, or the client feels uncomfortable discussing it directly, there are several ways to lodge a complaint. For more information on all these schemes please see the *Positive Caring* handbook, “*Complaints and advice for clients and service providers.*”

Health Services Commissioner

For complaints regarding about health care providers and services in Victoria

Phone: 1300 582 113

Website: <http://www.health.vic.gov.au/hsc>

Disability Services Commissioner

For complaints about any disability service provider in Victoria

Phone: 1800 677 342

Website: <http://www.odsc.vic.gov.au>

Aged Care Complaints Scheme

For complaints about Commonwealth subsidised aged care schemes

Phone: 1800 550 552

Website: <http://agedcarecomplaints.govspace.gov.au>

Victorian Ombudsman

For complaints about government agencies, or breach of the Victorian Charter

Phone: (03) 9613 6222 or

(Regional Areas) **1800 806 314**

Website: <http://www.ombudsman.vic.gov.au>