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**Association of Chief Police Officer of England,
Wales & Northern Ireland**

The criminal transmission of HIV: Communication strategy¹

1. Communication is a fundamental thread, which runs through every facet of all police investigations or allegations relating to the criminal transmission of **Human Immunodeficiency Virus (HIV)**.
2. The police service, its employees and others acting on its behalf must recognise the importance and the effect(s) of our actions, words and conduct on the complainant, witnesses and people living with HIV – their partners, family (in the widest sense), friends and community when investigating such allegation. There is still stigma attached to HIV and other biological conditions e.g. Hepatitis B and C, which means that cases must be handled sensitively and confidentially.
3. This short paper relates to:
 - Disclosure of HIV status
 - Media activity relating to Investigation / Prosecution
 - Police Service employee Safety and Occupational Health.
4. Other important areas associated with such investigations are covered elsewhere in the criminal transmission of HIV package produced for investigating officers.

Disclosure of HIV status

5. It is likely that a person's HIV status may be disclosed either directly by her/him as she/he reports an allegation of suspected / crime or by someone acting on their behalf.
6. However, it should be considered that the person disclosing this information may do so not knowing how this information maybe stored, who has got access to it and how it maybe used in the future. Suffice

¹ The contents of this document are equally applicable to other suspected biological conditions.

to say it is essential that timely, accurate and reliable information is given at the earliest possible time to allay any fears or concerns that this person may harbour.

7. It is extremely important to maintain the highest standards of confidentiality during the investigation of criminal transmission allegations, protecting the identities of the accused, complainant and others drawn into enquiries who may be HIV positive.
8. Disclosure may come from other sources e.g. prison records, medical records (which is confidential material / information) or from a healthcare professional. If you need to access a complainant's medical records this should be achieved with their informed written consent. An alleged suspect's medical records should be accessed using a Court Order as he/she can withdraw their consent at any time.
9. The occasions on which police will disclose a person's HIV status to others will be rare. The Senior Investigating Officer (SIO) should take legal and independent legal advice prior to doing so. It is recommended that such legal advice will be sought from the SIO's Force Legal Service's Department (or similar). It's further recommended that independent advice is obtained from a suitably qualified Police Independent Advisory Group (IAG) member and / or specialist NGO such as Terrence Higgins Trust, NAT (National AIDS Trust) etc to complement the legal advice given and provide specialist guidance and advice.
10. There must be a specific reason why disclosure of a person's HIV status to another individual possibly at risk of infection was considered necessary rather than simply allowing specialist sexual health services to provide appropriate sexual health advice to any traced contact.²
11. There are grounds for disclosure of a person's status in relation to the prevention and investigation of crime or if the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal. To this end analogy could be drawn from section 22 Gender Recognition Act 2004.
12. Any decisions regarding disclosure and the decision-maker's rationale should be accurately recorded in a Decision Log or Policy File in an accountable, transparent and retrievable way.
13. When such sensitive information is disclosed it must be accompanied by handling instructions, including advice relating to retention, storage and further disclosure.

² See document 'Initial contact via GU clinics' in the 'criminal transmission of HIV package'

Media / Communication activity relating to Investigation / Prosecution

14. The first police employee that has contact with the complainant should start the police investigation; therefore how this staff member conducts himself or herself including their use of language will determine whether or not the complainant has trust and confidence in the police service.
15. In addition the Senior Investigating Officer (SIO) must clearly and unequivocally set out their standards at the outset of the secondary investigation in order to retain and maintain the complainant's trust and confidence. Any inappropriate language or conduct will have a notable impact on the complainant and this will be magnified across the external community and the relevant Force's internal community. We must not lose sight of the fact some police employees may be HIV positive.
16. Each Force as a Public Authority has a lawful responsibility and duty to provide a safe and non-discriminatory working environment for its employees and to eliminate unlawful discrimination.

Important Reminder: Section 49A Disability Discrimination Act 1995, as amended, establishes a duty that has become known as the Disability Equality Duty (DED). This duty requires that every public authority in carrying out its functions shall have due regard to-

- the need to eliminate unlawful discrimination;
- the need to eliminate harassment of disabled persons that is related to their disabilities;
- the need to promote equality of opportunity between disabled persons and other persons;

17. Anyone with HIV is considered in law to be disabled for the purposes of the Disability Discrimination Act 1995.
18. Any public and / or internal statements in relation to a case involving HIV must ensure the information and language are accurate, non-stigmatising and conform to agreed best practice on the media reporting of HIV (NAT/NUJ 'Guidelines for Reporting HIV' www.nat.org.uk³).
19. Consideration should be given to applying for reporting restrictions in appropriate cases. Even in relation to an HIV positive person whose identity is in the public domain, care must be taken not to disseminate additional information (e.g. street address), which can assist in the identification of close relatives (e.g. spouse, civil partners, partners or

³ <http://www.nat.org.uk/Information-and-Resources/Media-reporting.aspx>

children) who may as a result of publicity face harassment or discrimination.

20. During and after a trial any reporting restrictions must be carefully adhered to.
21. An updated set of guidelines on open justice and reporting restrictions in the criminal courts has been published by the Judicial Studies Board (JSB), Newspaper Society, Society of Editors and Times Newspapers Ltd⁴. Associated press teams and legal service departments will be able to advise SIOs of their context and where potential breach could occur.
22. Care should be taken to describe any charge accurately – for example, a charge of reckless transmission (section 20 Offences Against the Person Act 1861) should be described as such rather than ‘deliberate’ or ‘knowing’ transmission of HIV (intentional transmission is a separate offence under s18 of the OAPA 1861).
23. There should be no **unfounded speculation** as to ‘motive’ in relation to a charge of reckless transmission.
24. Consideration should always be given when considering media work to the significant impact that the media’s actions and statements can have on people living with HIV and on those groups most affected by HIV. In addition irresponsible or sensationalised reporting can also fuel other people’s prejudices potentially resulting in the perpetration of (hate) crimes against other community members and community groups.
25. Any decisions regarding the SIO’s Media Strategy and the decision-maker’s rationale should be accurately recorded in a Decision Log or Policy File in an accountable, transparent and retrievable way.

Police Service employee safety and occupational health

26. Officers are trained to take precautions against the suspected transmission of diseases from body fluids, namely blood and saliva. In cases where officers or other staff members have been deliberately, accidentally or recklessly exposed they should be offered timely and accurate information, counselling and other support, which meets their needs.
27. The National Aids Trust (NAT) **HIV document**⁵ is informative and will serve the purpose of ensuring that exposed and other staff members can access reliable information to inform their actions.
28. It is essential that a balance is drawn between over-reaction and under-reaction in circumstances when staff believe that they may have

⁴ <http://www.jsboard.co.uk/publications.htm>; <http://www.societyofeditors.co.uk/>;
<http://www.newspapersoc.org.uk/>.

⁵ See <http://www.nat.org.uk/Our-thinking/Law-stigma-and-discrimination/Criminal-prosecutions.aspx>

been exposed. Access to timely and accurate information will allow those concerned to then make informed decisions about the course of further action needed e.g. referral to further medical support as per their In Force Standard Operating Procedures.

29. HIV – SIX IMMEDIATE THINGS YOU NEED TO KNOW

- **You cannot get HIV from someone through everyday contact. There is absolutely no need for gloves, masks or any form of additional protection or precaution for normal interaction. For spillages of body fluid or handling of sharps, universal precautions apply as usual.**
- **It is unlawful to discriminate against someone with HIV. This can include abusive or judgemental comments whether around HIV, sexual behaviours, sexual orientation or race. All communication should be respectful and supportive.**
- **Use the word 'HIV' – avoid using the term 'AIDS'**
- **If someone tells you they are worried they may have been infected in the previous 72 hours, you must advise them to go immediately to either an open sexual health clinic or the nearest hospital Accident and Emergency Department to ask for PEP, which can prevent HIV infection.**
- **If someone tells you that he or she or someone else has HIV, take care to protect the confidentiality of the HIV positive person.**
- **If someone is in custody with HIV it is essential to find out whether they are taking drugs for their HIV treatment, and, if they are, ensure that they have continuing and uninterrupted access to their medication.**

30. It is possible for other serious sexually transmitted infections e.g. Hepatitis B and Hepatitis C to be the subject of investigation for reckless or intentional transmission. The same advice in relation to confidentiality, care around disclosure, media relations and use of language all apply. For Hepatitis B and Hepatitis C, NAT documents are available setting out some 'Key Facts for Police', similar to that for HIV.