

# DISCLOSING YOUR HIV STATUS

A GUIDE TO SOME OF THE LEGAL ISSUES

halc

HIV/AIDS Legal Centre Incorporated (NSW) ABN 39 045 530 926

This booklet contains the relevant law on disclosure of HIV status as it applies in New South Wales as at 1 January 2008. It has been prepared by the HIV/AIDS Legal Centre (HALC) and funded by the Law and Justice Foundation of New South Wales and the Community Development Fund of the Sydney Gay and Lesbian Mardi Gras.

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Every effort has been made to ensure the information contained here is as up to date and accurate as possible but it is no substitute for legal advice. Use this booklet as a guide only.

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Copies of this booklet can be obtained from HALC P.O. Box 350 Darlinghurst NSW 1300. Ph (02) 9206 2060. Fax (02) 9206 2053. Free call 1800 063 060. Email [halc@halc.org.au](mailto:halc@halc.org.au) It is also available on our website [www.halc.org.au](http://www.halc.org.au)

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Disclosure of HIV status is one of the main areas where the law impacts on the lives of people living with HIV. If you are considering disclosing your HIV status and want to know your legal position, this booklet will help you understand some of the issues involved. It will also be helpful for people like counsellors and social workers who offer support services to those living with HIV.

There are some situations where you are legally required to disclose your HIV status, for example where you have sex with someone or if your work involves performing “exposure prone procedures”. However in most other situations it is entirely up to you whether you disclose your HIV status. As a general rule the principle underlying the law is that disclosure is necessary where there is a risk of infecting others. If you have HIV you do have a duty to try not to infect others.

This booklet looks at a range of situations and sets out the relevant legal considerations regarding disclosure of HIV status in New South Wales. It includes information on your right to privacy and protection against discrimination on the basis of your HIV status.

This booklet contains information but not legal advice. Use it as a guide only and for further advice about your particular situation, see the useful contacts section at the end of the booklet.

# SEX AND RELATIONSHIPS

## When should I tell?

Under the NSW *Public Health Act 1991*, if you are HIV positive you are legally required to disclose your HIV status to a person **before** you have sex with them. Sex in this context refers to any form of vaginal or anal intercourse or oral sex.

It is no defence that the other person should have asked you about your HIV status or that they should have worn a condom or practised other safe sex procedures. You are still legally required to disclose your HIV status.

It is no defence if you wear a condom or practice other safe sex procedures without telling them of your HIV status. It is no defence either, if the social situation makes it difficult for you to disclose, for example if you have anonymous sex.

Because of the nature of this type of offence, there may be problems of proof as to whether you disclosed or not. Often it can be one person's word against another.

The penalty for non-disclosure under the *Public Health Act* is a maximum fine of \$5,500.

There are also more serious offences relevant to non-disclosure of HIV status. Under the *NSW Crimes Act 1900* it is a crime to deliberately transmit or attempt to transmit HIV. This carries a sentence of up to 25 years imprisonment. Or, the crime of recklessly causing grievous bodily harm may be applied which carries up to 10 years imprisonment.

These criminal offences are based on the principle that an HIV positive person has the responsibility not to infect or put another person at risk of infection. This is a complex area of law. For more information about criminal charges relating to HIV infection of others, contact the HIV/AIDS Legal Centre (HALC).

Under civil law a person may also be sued for damages by an infected person, for deliberately, negligently or recklessly infecting them.

Wearing a condom or using another safe sex procedure would be a strong defence against charges under the *Crimes Act* or a civil claim.

Although it's the law, the HIV/AIDS Legal Centre (HALC) doesn't believe you should be penalised for non-disclosure if, when you had sexual intercourse, you practised safe sex. For more information on this issue, contact HALC.

### What should I do if I forget to tell the person beforehand?

If you have unsafe sex and haven't told the person of your HIV status, you may wish to tell them as soon as possible and advise them to contact their doctor immediately for a treatment called PEP (post exposure prophylaxis).

PEP is a four week course of medication available where there has been exposure to HIV. To be most effective, it should be started within a few hours of exposure to HIV. PEP does not always work and is used only as a last resort. It is not a cure for HIV. Talk to your doctor or ring the PEP Hotline (1800 737 669).

Telling the person afterwards may expose you to the risk of legal action. However telling them in good time and advising them of the availability of PEP would provide some defence to the more serious legal charges.

## EMPLOYMENT

### **Do I have to tell my employer or prospective employer?**

Generally, you are not obliged to tell an employer or prospective employer that you are HIV positive. However your employer can lawfully discriminate against employing you, on the basis of your HIV status, if you are unable to perform the inherent requirements of the work in a way that is reasonably safe. All employees have a duty to their employer to exercise reasonable care not to cause injury or loss in performing their work.

Quite often, employers do not know how to deal with an employee disclosing their HIV status and they may perceive the risk of transmission to be much greater than it actually is. If you think you may pose an unreasonable health risk to others, get some advice. Contact the HIV/AIDS Legal Centre (HALC).

For most jobs your HIV status will be irrelevant. However there are some exceptions:

#### **Health Care Workers**

If you are a health care worker who performs 'exposure prone procedures' the NSW Health Department requires that you know your HIV status and undertake regular testing. If you are HIV positive you will not be allowed to perform these procedures.

‘Exposure prone procedures’ are ones where there is potential for contact between the skin of the health care worker and any sharp surgical instruments, needles or sharp tissues (eg pieces of bone or tooth) in body cavities or poorly seen or confined body sites like the mouth. Procedures involving skin penetration are not necessarily ‘exposure prone procedures’.

Apart from this, there is no law that specifically excludes people with HIV from working in the health care industry.

### **Sex Workers**

In NSW if you are HIV positive you are required to tell a person of your HIV status before you have sex with them. For more information see Sex and Relationships section.

### **Defence Force**

Everyone who applies to join the Australian Defence Forces (ADF) is tested for HIV. If you are HIV positive you will not be accepted into the force. The ADF are also testing existing personnel. If you test positive you may or may not be discharged, depending on the stage of your infection. Combat and related roles are specifically exempt from the protection of discrimination legislation.

### **Other Industries**

There are various laws that deal with other specific industries, like the food and drug industry, professional sports, aviation and hairdressing. For more information about these or others contact HIV/AIDS Legal Centre (HALC).

Can a potential employer ask my HIV status at the interview?

An employer should only ask your HIV status if it is relevant to the inherent requirements of the job you're applying for or if, due to your HIV status, your performance of the job would require special services or work practices that would cause the employer unreasonable hardship. In these circumstances if you are asked your HIV status and you answer dishonestly, the employer may have grounds to lawfully dismiss you. Get legal advice. Contact HALC.

If the employer asks in any other situation, it may amount to discrimination.

Can an employer or prospective employer require that I have an HIV test?

There is no law in NSW that prevents the use of HIV tests in employment but your consent will be required for any such test. Depending on the circumstances, being required to undergo an HIV test may amount to discrimination. Again, get legal advice.

I'm taking a lot of sick days off work. Do I have to tell my employer that I'm HIV positive?

No, there's no requirement that you must disclose your HIV status on your medical certificate. You can ask your doctor not to specify your HIV status.

## **I'm worried about infecting other people at work, should I tell my boss?**

If you are worried about infecting others at work, talk to your doctor and contact HALC. Although in many cases there may be no real risk, where there is, you have a duty to warn the other person.

If you are concerned about the risk you should familiarise yourself with the Universal Precaution Procedures that are designed to reduce that risk. These procedures include practices like washing hands, wearing gloves, protecting skin lesions and existing wounds, taking precautions to prevent puncture wounds and avoiding invasive procedures.

As a guide, there are general Occupational Health and Safety (OH&S) policies and there are also specific OH&S guidelines for health care workers and other people at risk of HIV transmission in the workplace. HIV positive workers should be aware of both.

Federal OH&S policies can be found at:

[www.comcare.gov.au/publications/safety/physical\\_injury\\_-\\_disease](http://www.comcare.gov.au/publications/safety/physical_injury_-_disease)

NSW state policies can be found at:

[www.workcover.nsw.gov.au/Publications/LawandPolicy/CodesofPractice](http://www.workcover.nsw.gov.au/Publications/LawandPolicy/CodesofPractice)

## **If I tell my boss that I'm positive, will it be kept confidential?**

In many cases your employer will be subject to the *Privacy Act 1988*, which requires that the information you give be kept confidential. Employers have a general duty to maintain employee confidentiality. In practice though, if the duty is breached there may be no way to enforce the duty or provide a satisfactory remedy. Consider very carefully before disclosing to your employer.

# SUPERANNUATION

## Do I have to disclose when I apply for super?

When you apply to become a member of a superannuation fund there should be no requirement to disclose any health information.

When you apply you will normally be given a choice of insurance cover. You can choose either:

- No insurance cover (and no requirement for disclosure of your health information);
- Standard or “group” insurance cover offered to every member. Generally this has no requirement for disclosure of your health information;
- “Top up” cover in addition to the standard cover offered to every member. This type of cover will require disclosure of your health information.

Standard cover may be the best option as all applicants are generally accepted for death and disability cover without disclosure of their health information. Be sure to read all attached health questionnaires carefully as most of these are usually optional and so do not need to be completed.

## Do I need to disclose my HIV status to access my superannuation fund early?

Superannuation contributions made by you or your employer are normally “preserved”. This means you cannot access them until you retire from full-time work, over the age of 55 years (increasing up to 60). The funds can only be accessed earlier

if there is total and permanent disability (TPD) or financial hardship. In both cases the superannuation fund will probably require disclosure of your current health status in order to approve access.

Any disclosure you make to your Superannuation Fund or Insurer will be confidential and protected under the *Privacy Act 1988*.

## INSURANCE

### Do I have to disclose my HIV status if I take out insurance?

Generally, when taking out insurance, you have a legal obligation to disclose all relevant information. However there is no duty to disclose your HIV status if:

- it reduces the risk;
- it is of common knowledge;
- it is something the insurer knows or, in the ordinary course of the insurer's business as an insurer' should know; or
- the insurer has agreed to waive the duty to disclose.

### Do I need to disclose for health insurance?

Health insurance is an exception to most other types of insurance. You are not required to disclose your HIV status when you apply for health insurance.

When you apply there will be a waiting period (usually 12 months but check your policy for this). During this time your insurer will not pay for treatment associated with any pre-existing condition, such as HIV.

Often when you apply for health insurance the company uses a standard form for several different types of insurance. For this reason it may contain questions relating to your HIV status. These might be relevant for other types of insurance but for health insurance, you aren't required to answer them.

### **Do I need to disclose for life, disability and income protection insurance?**

For these types of insurance you are required to disclose your HIV status, as the insurer needs to assess whether or not you fall into a 'risk group'. In most cases you will be refused insurance cover if you disclose that you are HIV positive and if you don't disclose, the insurer will usually be able to avoid having to pay out for a claim under the policy.

### **Can I get travel insurance if I disclose that I am HIV positive?**

Travel insurance covers the medical expenses of illness or injury while you're travelling. The policy usually excludes claims arising from pre-existing conditions and also sexually transmitted diseases such as HIV/AIDS. If your policy has these exclusions then you aren't covered for HIV/AIDS and related illness while you are travelling. If your insurance cover does not include coverage for HIV/AIDS related illnesses you may not need to disclose your status.

A policy that includes coverage for HIV/AIDS is offered by some insurance companies. For this, a medical examination usually isn't necessary.

Shop around for the right insurance policy. Get legal advice if you need to.

# TRAVEL AND MIGRATION

Am I required to disclose my HIV status when applying for a passport?

No. In Australia when you apply for a passport you are not asked on the form about your HIV status and you aren't required to have a medical check.

When I apply for a visa for an overseas country, do I need to disclose my HIV status?

Some countries have very strict requirements for granting a visa. Some prohibit people with HIV from entering their country. If the visa application form asks you about your HIV status, you are legally required to disclose it. If you don't disclose your HIV status and they find out, you can be refused entry and you risk being fined for making a false declaration.

In many countries the customs or border agents are trained to recognise HIV medications. It can be difficult to get these medications overseas so you need to take adequate supplies with you but be aware if you are carrying these medications and you haven't disclosed your HIV status.

For information on visa requirements for a particular country, contact their diplomatic mission in Australia or PLWHA (People Living With HIV AIDS) or ACON (AIDS Council of NSW). See the Useful Contacts section of this booklet.

## Do tourists and visitors to Australia need to disclose their HIV status?

On the application for a visitor or tourist visa you will need to state whether, while in Australia, you will have or expect to incur medical costs or require treatment or follow-up, for any of the specified medical conditions, one being HIV. You must also state whether you intend to enter, for any purpose, an Australian hospital, healthcare facility or nursing home. If your answer to either one of these questions is 'yes', then you may be required to have a medical examination which may include an HIV blood test. In that case you will need to disclose your HIV status.

Generally, if

- you intend staying in Australia less than 3 months, and
- are under the age of 70 years,
- not likely to enter a health facility,
- not likely to be engaged in a classroom environment, including a childcare centre, and
- there are no indicators that you may not meet the health criteria,

there will be no routine requirement for a medical examination.

For those intending to stay for more than three months a health examination may be required depending upon your country of origin. If you are applying to stay in Australia for longer than 12 months, a medical examination is usually required.

In all of these circumstances, the purpose of the medical examination is to check for easily spread infectious diseases or public health risks. HIV will generally not be a ground for refusing a temporary visa.

## Can I migrate to Australia if I am HIV positive?

HIV positive people are excluded from many permanent visa categories. For some categories though, the health waiver may be available. The categories that allow a health waiver change from time to time, so you should check before applying. Currently the categories that allow a health waiver include:

- spouse (including de facto spouse) of an Australian citizen or permanent resident;
- fiancé of an Australian citizen or permanent resident;
- dependant child;
- interdependency (which includes a gay or lesbian partner of an Australian citizen or permanent resident);
- “refugee” type visas granted overseas.

If you are applying to live permanently in Australia then you must satisfy the health requirement, or have it waived. HIV testing is mandatory and hence disclosure is required. You have the right to refuse to be tested or to refuse to disclose your status, but this allows the decision maker to decide that you do not meet the health requirement. Generally HIV positive people are denied at first instance when applying for permanent residency and have to then apply to have the health requirement waived.

For advice on your particular circumstances, contact HIV/AIDS Legal Centre (HALC) or a migration agent with experience in obtaining health waivers. For a general list of migration agents contact the MARA website at [www.themara.com.au](http://www.themara.com.au)

Do I have to disclose my HIV status before undergoing a medical examination or procedure or receiving medical treatment?

If you are undergoing a medical examination, procedure or treatment that is not related to your HIV, you are generally not required to disclose your HIV status. However it may be wise to disclose as HIV medications and related illnesses can affect your other medical treatment. Discuss with your regular treating doctor whether disclosure is necessary. If you do decide to disclose, medical practitioners have a duty of confidentiality not to reveal your status to third parties. They are also under a duty not to discriminate against you because of your HIV status.

All medical practitioners and health care workers are required to use safe work practices, called Universal Precautionary Procedures. These procedures are designed to reduce the risk of infection of both patients and health care workers and are based on the principal that all patients may have a transmissible disease or infection. If the proper procedures are followed, there is extremely little chance of cross infection during a medical procedure.

Should I disclose to my dentist?

You are not required to disclose your HIV status to your dentist. Dentists are required to use Universal Precautionary Procedures to reduce the risk of cross infection during dental work.

Although dentists have a duty to treat your information

confidentially and a duty not to discriminate on the basis of your HIV status, we have heard of many people's bad experiences when they have told their dentist of their HIV status. Think carefully before telling your dentist.

### **Should I disclose to other health care providers?**

You do not need to disclose your HIV status to other health care services, like naturopaths, chiropractors or masseurs unless it is relevant to the treatment you are obtaining. Universal Precautionary Procedures also apply to the providers of these services.

### **Can I donate blood if I am HIV positive?**

No. Before giving blood you must fill out a questionnaire that is designed to assess whether you are, have been or could be at risk of a blood borne disease, including HIV/AIDS. This questionnaire operates as a statutory declaration and you must sign it to verify the accuracy of the information you have given. Penalties apply if you do not answer the questionnaire truthfully.

All blood donations are tested for HIV. Should your blood test positive, you will be notified.

## **CENTRELINK**

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### **When do I have to tell Centrelink that I am HIV positive?**

Disclosure of your HIV status to Centrelink is voluntary. However there are a number of situations where it would be relevant to tell them. These are:

- If you wish to claim Disability Support Pension or Sickness Allowance because you are HIV positive;

- If you are receiving Youth or Newstart Allowances and want to be classified as ‘incapacitated’ and be exempt from activity testing;
- If you or your carer wishes to claim Carer Payment or Allowance on the basis of an HIV related illness;
- If you are currently receiving a Centrelink payment and you experience a ‘change of circumstance’ relating to your HIV status that affects your ability to receive the payment;
- If you are asking for special treatment from Centrelink because of your HIV status. For example, if you want Centrelink to waive recovery of an overpayment because of the special circumstances of your illness.

If you tell Centrelink your HIV status for the purpose of receiving a payment or special treatment, you may be required to undertake a medical examination.

If you are reviewed by Centrelink or have other contact with them, they may ask you questions relating to your HIV status. The questions are not always relevant or necessary and you may or may not wish to answer them. If you feel uncomfortable about any of the questions you can refrain from answering or refer the officer to the information already held on your file.

Centrelink cannot disclose your information to third parties without your consent except in certain limited situations. For more information, contact the NSW Welfare Rights Centre. See Useful Contacts section.

**Do I have to disclose my HIV status if I apply for government housing?**

In most cases when you apply for government housing you will probably be required to disclose your HIV status. When you apply you are required to state whether you have a disability or medical condition that affects your need for housing. For example if your financial situation has been affected by your HIV status (because you are too sick to work) then you will need to answer yes to this question. You will then be required to fill out a Medical Assistance form.

If you apply for priority assistance or as an applicant with a special need, you will also need your doctor to fill out a Medical Assistance Form, which will require disclosure.

**In private rental, do I need to disclose my HIV status to my landlord?**

You do not have to disclose your HIV status to your landlord. If you do choose to disclose, it is unlawful for the landlord to discriminate against you on the basis of your HIV status unless you are in shared accommodation with the owner or their close relative and the accommodation houses six or less people. Of course, in practice it can be difficult to prove that the discrimination has occurred. For more information see the Discrimination section.

**Do I have to disclose my own or my child's HIV status at their school or childcare centre?**

No. According to the NSW Department of Education's Policy Guidelines all state-run educational institutions

and childcare organisations cannot request or compel disclosure of a student's HIV status. Any disclosure must be voluntary, and where this information is given, it must remain confidential. All state education departments have policies to allow students with HIV/AIDS to attend school and to protect their confidentiality.

An educational facility may not unlawfully discriminate against a person on the basis of their HIV. Actions can be brought against a government school or educational body under the *NSW Anti-Discrimination Act 1977*. Non-government schools and education facilities are exempt from the *NSW Anti-Discrimination Act 1977* but are bound by the federal *Disability Discrimination Act 1992*. (See the Discrimination Section.)

### **Do I have to disclose my HIV status when I apply for a bank loan?**

No. Financial institutions have no entitlement to any of your private health information. Generally loan application forms will not request health information.

The only situations where disclosure might be requested is either where there have been significant gaps in your work history due to illness or where you may have had previous defaults that have affected your credit rating. In either case, it should be enough to simply provide medical evidence that you have been 'seriously ill'. You are not obliged to specifically disclose what type of illness you have or have had. If you feel that your financial institution is being unduly inquisitive you can seek advice from the Consumer Credit Legal Centre. (See Useful Contacts section.)

A financial institution is not allowed to refuse you a home loan if you cannot get income protection or loan insurance.

## SPORT

### **Do I have to disclose my HIV status when I play sport?**

Generally you do not need to disclose your HIV status when you play sport unless you risk infecting others. Playing most sports will not present a risk of infecting others as the likelihood of incurring a bleeding injury is very low and the risk of transmitting the HIV infection is extremely low. Australian Rules football is one example where you do not need to disclose your HIV status to play.

However where a sport is regulated by legislation there may be a requirement for its regulatory body to assess and certify a person's fitness to participate in the sport. An example of this is boxing. In this case a participant is required to disclose their HIV status and may be prevented from taking part in the sport.

There is no documented instance of transmission of HIV in any contact sport. If you are still not sure about your particular sport, talk to your doctor or contact HALC. (See Useful Contacts section.)

## POLICE AND THE COURTS

### **Do I have to tell the police my HIV status if they ask me?**

No. There is no requirement for you to disclose your HIV status to the police. The police cannot compel you to disclose, even if you are in prison.

If I have to go to court do I have to disclose my HIV status?

If your HIV status is not directly relevant to the matter before the court you don't need to tell the court.

Your HIV status may be relevant to determining your sentence if you are convicted of a criminal offence. You may be able to provide information to the court, but still keep your HIV status private by:

- providing the information in writing;
- asking the judge to keep your HIV status private;
- referring to it in court as 'a chronic illness'.

In limited circumstances a suppression order may be available to restrict the publication of your HIV status. In very rare circumstances a court may hold a hearing *in camera*, not allowing the public to watch the proceedings. *In camera* hearings are granted at the discretion of the court where the protection of especially vulnerable witnesses or other persons is warranted.

## PRIVACY PROTECTION

With the stigma, prejudice and discrimination that is often attached to HIV/AIDS, the protection of your privacy regarding your HIV status is very important. There are some laws in Australia that give limited protection of your privacy but they do not bind the general public. So it is important to be able to trust the person you tell. The best rule is not to tell unless it is necessary or you are comfortable with telling.

## Some specific protections

The *Health Records and Information Privacy Act 2002 (HRIPA)* protects your health information from being divulged by any service provider to a third party without your consent.

Doctors have a legal duty not to disclose confidential information in an unauthorised manner. If they breach this duty you may sue or make a complaint under the HRIPA. The confidentiality of your health information is also protected by the professional and ethical codes of practice of health care providers.

Under the Commonwealth *Privacy Act 1988* you have enforceable privacy rights against all doctors in private practice, private hospitals and all other health service providers. This applies to all health organisations, all federal government agencies and those private sector organisations with a turnover of more than \$3 million. This includes most insurance agencies.

The *Privacy Act 1988* ensures that organisations keep health information secure and protect it from misuse and unauthorised access. Private organisations must obtain permission before collecting personal information. Personal information includes any information relating to your health, such as your medical records. Complaints may be made to the Privacy Commissioner who may impose penalties for breaches of privacy. Under the Privacy Act you also have a right of access to your full medical records and can request that they be corrected.

Under the NSW *Public Health Act 1991* specific information concerning your HIV status that must be protected includes:

- That you have been, are required to be, or will be tested for HIV;

- That you are infected with HIV;
- That you have an AIDS defining condition;
- Any other medical information likely to indicate that you have HIV/AIDS.

All service providers who come to know your HIV status must take 'all reasonable steps' to prevent disclosure of HIV related information to another person.

Under the NSW *Privacy and Personal Information Protection Act 1998* you can also make a complaint against a NSW public sector organisation (including a public health organisation) about misuse of your personal information. If you are not satisfied with the response, you may also make a complaint to the Administrative Decisions Tribunal.

## DISCRIMINATION

### What is unlawful discrimination?

Unlawful discrimination occurs where a person is disadvantaged or treated less favourably than others on the basis of various grounds. Grounds of unlawful discrimination that might be relevant to you are:

#### Disability discrimination

You cannot be treated unfairly or harassed because:

- You have a disability;
- Someone thinks you have a disability;
- You had a disability in the past;
- You will or may have a disability in the future.

Disability includes physical, intellectual and psychiatric disabilities, learning and emotional disorders, as well as HIV/AIDS.

### Homosexual or lesbian discrimination

It is against the law to be treated unfairly or harassed because you are gay or lesbian, or someone thinks you are gay or lesbian;

### Transgender discrimination

You can't be treated unfairly or harassed because you are transgender, or others think you are. You are counted as transgender if you live as a member of the opposite gender (sex) to your birth gender.

### Carer discrimination

You can't be discriminated against because you care for or support a child or other family member, which now includes your same sex partner.

### When is it unlawful to discriminate on the basis of my HIV status?

- In most types of employment, when you apply for a job and at any time during your employment;
- In obtaining educational services;
- When you try to get goods or services, for example from shops, banks and medical practitioners;
- When you try to enter or join a registered club or when you are inside one.

There are exceptions making it lawful to discriminate. These include where not to discriminate would be a risk to public health and where it would impose unreasonable cost or hardship to the service provider.

### **What is vilification?**

Vilification is any public act that could encourage hatred, contempt or severe ridicule because of a person's or group's actual or presumed characteristics. Vilification on the basis of a person's HIV status is unlawful in NSW.

### **What can I do about discrimination or vilification?**

If you feel you have been discriminated against or vilified you can make a complaint to the NSW Anti-Discrimination Board or the Human Rights and Equal Opportunity Commission. You can get legal advice to help you with your complaint. (See the Useful Contacts section).

## CASE STUDY 1

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X complained that he was being harassed and threatened by new neighbours in the flat below him after he had told them of his HIV status. X obtained a court order to stop them harassing him but the harassment and threats of violence continued. He then asked the owners of the building to help him. At first they refused, saying it was a private dispute. When X lodged a complaint with the Anti-Discrimination Board, the owners helped him find other accommodation. They also evicted the neighbours for breaching their lease.

## CASE STUDY 2

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Y lived in a rural town in New South Wales. When she visited her local dental clinic and was told that she needed a filling, Y disclosed that she was HIV positive. The dentist then refused to treat her because of her HIV status. Y complained to the Anti-Discrimination Board. The complaint was settled when the clinic reviewed and changed their policy on treating patients with HIV.

## CASE STUDY 3

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Z was a cook in a restaurant. His health was poor and he needed time off work. Z's employer suspected Z was HIV positive and asked him about it. Z voluntarily disclosed his HIV status and was then sacked. The employer claimed that Z posed a public health risk. Z successfully complained against his employer and was awarded some financial compensation.

# USEFUL CONTACTS

HIV/AIDS Legal Centre (HALC)	(02) 9206 2060 1800 063 060
Administrative Decisions Tribunal (ADT)	1800 060 410
AIDS Council Of NSW (ACON)	(02) 9206 2000
Australian Federation of AIDS Organisations Centrelink	(02) 9557 9399 131 021
Commonwealth Privacy Commissioner	1300 363 992
Consumer Credit Legal Centre	(02) 9212 4111
Department of Foreign Affairs and Trade	(02) 9356 6222
Human Rights & Equal Opportunity Commission	1300 369 711
LawAccess NSW	1300 888 529
NSW Anti-Discrimination Board	(02) 9268 5544
NSW Department of Education and Training	(02) 9561 8000
NSW Department of Housing	1800 629 212
NSW Health Department	(02) 9391 9000
People Living With HIV/AIDS (NSW) (PLWHA)	1800 245 677
Telephone Interpreter Service (TIS)	131 450
Welfare Rights Centre	1800 226 028

## USEFUL WEBSITES

HALC [www.halc.org.au](http://www.halc.org.au)

ACON [www.acon.org.au](http://www.acon.org.au)

Legal Information Access Centre (LIAC) [www.liac.sl.nsw.gov.au](http://www.liac.sl.nsw.gov.au)

PLWHA [www.plwha.org.au](http://www.plwha.org.au)

Immigration Advice and Rights Centre (IARC) [www.iarc.asn.au](http://www.iarc.asn.au)

**For information on discrimination:**

HREOC [www.hreoc.gov.au](http://www.hreoc.gov.au)

NSW Anti-Discrimination Board [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)

Law Access [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

**For international travel information:**

[www.aidsmap.com](http://www.aidsmap.com)

Department of Immigration and Multi-Cultural Affairs

[www.immi.gov.au](http://www.immi.gov.au)

**For occupational health and safety policies:**

For Federal OH&S policies [www.comcare.gov.au/publications/safety/physical\\_injury\\_-\\_disease](http://www.comcare.gov.au/publications/safety/physical_injury_-_disease)

For NSW policies [www.workcover.nsw.gov.au/Publications/LawandPolicy/CodesofPractice](http://www.workcover.nsw.gov.au/Publications/LawandPolicy/CodesofPractice)

## USEFUL REFERENCES

The Law Handbook: Your Practical Guide to the Law in NSW (10th edition) – Redfern Legal Centre Publishing – August 2007

HIV/AIDS Legal Guide (2nd edition) – Australian Federation of Aids Organisations – Federation Press 1993

# NOTES

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