



Australian Association of Social Workers

Comments re Australian Association of Social Workers Draft *Code of Ethics*

About AFAO

The Australian Federation of AIDS Organisations (AFAO) is the peak body for Australia's community sector response to the HIV/AIDS epidemic. AFAO is charged with representing the views of our members: the AIDS Councils in each state and territory, the National Association of People Living with HIV/AIDS, the Australian Illicit and Injecting Drug Users' League, the Anwernekenhe Aboriginal and Torres Strait Islander HIV/AIDS Alliance (ANA); and Scarlet Alliance, Australian Sex Workers Association. AFAO advocates for its member organisations, promotes medical and social research into HIV/AIDS and its effects, develops and formulates policy on HIV/AIDS issues, and provides HIV policy advice to Commonwealth, State and Territory Governments.

AFAO would like to thank the Australian Association of Social Workers for providing the opportunity for community organisations to comment on the draft Code.

Our comments are provided below under the relevant headings of the Draft Code.

6.2.1 Responsibilities to clients – *Priority of clients' interests*

Some of our primary concerns relate to ethical dilemmas faced by Centrelink social workers, given the pivotal role they play in delivering services to Social Security recipients and applicants living with HIV. While the roles of social workers employed by hospitals, aged-care services or disability services tend to be well-defined, Centrelink social workers roles and duties are diverse. AFAO believes that this creates conflicts of interest for Centrelink social workers that can serve to alienate people who are most in need, including young people with HIV and those in at-risk communities.

The National Welfare Rights Network (NWRN) advises of its long-standing concerns regarding ethical issues arising from the fact that Centrelink social workers are the

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delegated decision-makers in the assessment of claims for independent Youth Allowance on the grounds of "unreasonable to live at home" (UTLA claims). NWRN's view, informed by Network members' casework experience, is that delegating social workers to make decisions in these cases creates a conflict of interest and ethical dilemmas.

Welfare Rights advises that as the decision-making role of the social worker in UTLA claims generally involves contact with the Youth Allowance claimant's parent(s)/guardian(s), ethical issues arise regarding implicit (or at times explicit) disclosure of information provided by their client (the young person) to the social worker. If, for example, the young person's issues with parents relate to the young person's sexuality, they may fear disclosure of this to the social worker due to perceived risk of all this being fed back to the parents, and a UTLA claim that has merit appears to lack foundation. Similar issues would arise regarding disclosure of HIV positive status or of requests for information regarding sexual health services.

Whatever the merits of a homeless young person's claim that they were forced to leave home or that living at home imposes unreasonable stressors, they are hardly likely to return to the social worker for referrals for housing, material assistance, counselling, etc, if the social worker has refused their UTLA claim. The refusal can easily be interpreted by the young person as "they're not on my side – they don't believe me". The result is that the Centrelink social worker's duty of care to their client is compromised and conflicted by their decision-making role as prescribed by the Social Security Act, policy guidelines and procedural manuals and limited social work resources are applied to decision-making rather than to social work.

AFAO supports NWRN's view that Centrelink social workers' role in respect of UTLA claims should be recommendatory – i.e., the social worker's role should be purely to undertake a professional assessment and provide a report to the delegated officer, including an opinion as to whether it is/would be unreasonable for the young person to live at/return home. This would mean that any contact between the social worker and the young person's family would be placed in a different context and the social worker's role would be more readily understood by young people as one of "social work". Most importantly there would be a much reduced risk of alienating vulnerable young people in need of income support and material assistance from Centrelink's social workers – and from Centrelink generally.

6.2.5 Information privacy/confidentiality

The draft ethical guidelines regarding confidentiality, privacy and consent to disclose makes no mention of key legislation providing specific privacy protections for people with certain health conditions such as HIV, nor to reporting obligations regarding infectious diseases under public health law.

We propose that **a new paragraph** open 6.2.5 that makes reference to relevant national and state/territory privacy policies and legal protections applying in respect of HIV, including laws specifically covering infectious health conditions such as HIV. The paragraph should provide commentary on potential ethical considerations for the case management of clients with HIV, so that clients' privacy/confidentiality rights are understood by all involved in their care – and by clients themselves.

6.2.5(d)(ii) We propose that this section be amended to read: "Before taking action to disclose clients' confidences without consent, the level of perceived risk should be carefully assessed, preferably in consultation with other professionals, including

referring health professionals, and with reference to relevant policy and law.'
(Underlining indicates suggested addition.)

National Guidelines for the Management of People with HIV Who Place Others at Risk

Vexed ethical questions can arise for social workers where a client has disclosed unsafe sexual or injecting drug use practices, and they form the view that their client is either knowingly placing others at risk of HIV, or that they are unknowingly placing others at risk as a result of cognitive impairment, mental health issues or behavioural disorder.

We propose that the Code of Ethics should include a section providing guidance by way of steps for social workers to follow in making decisions in relation to the *National Guidelines for the Management of People with HIV Who Place Others at Risk*¹, which has been endorsed by all state/territory health departments. The Code should highlight the need for social workers to consult with clients' referring health professionals before any decisions are made in respect of the National Guidelines.

Given the centrality of privacy/confidentiality considerations in these cases, we suggest that the following section from the National Guidelines be quoted in full, followed by commentary regarding the particular ethical and practical considerations for social work staff in hospitals, area health services, private practices and other contexts such as Community Legal Centres. The Code should stress that where notification to a public authority is deemed necessary, notification should ideally be by the client's treating medical practitioner.

Further comment

Thank you again for the opportunity to comment, and we would be pleased to provide comments on further drafts of the Code.

If you require further information on any aspect of our submission, please contact Linda Forbes, Acting Manager, Policy and Communications, on (02) 8568 1109.

Yours sincerely



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¹ Available at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/phd-hiv-guideline-at-risk-l>