

Directive: compliance is mandatory

SA Code for the Case Management of Behaviours that Present a Risk for HIV Transmission

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Summary

This Code is for the management of persons with HIV whose behaviour places others at risk of infection. Case management is according to levels ranging from referral, assessment and support to the coercive measures of the *Public and Environmental Health Act 1987*

This Code is for persons (including case workers, social workers, psychologists, counsellors, medical practitioners, nurses and other clinicians) who work with persons infected with HIV in a clinical, counselling or community setting and for relevant staff in communicable disease control within SA Health.

Keywords

Code, Case Management, Behaviours, Risk, HIV Transmission, AIDS, infection, responsibility, principles, compliance, medical practitioners, SA Police, statutory order, genotyping evidence, IMVS, Medical Records, Forensic psychiatrist, evaluation, notification, panel, lawyer, case coordinator, evaluation, education, counselling, support, mental health act, Guardianship Act, legislation, warning, warrant, incarceration, magistrate, isolation, detention, appeals, review, SA Health

Policy history

Is this a new policy? **N**
Does this policy amend or update an existing policy? **Y**
Does this policy replace an existing policy? **N**

Applies to

All SA Health Portfolio
All Department of Health Divisions
All Health Regions
AHS, CYWHS, Country Health SA, SAAS

Staff impact

All Clinical, Medical, Nursing, Allied Health, Emergency, Dental, Mental Health, Pathology

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South Australian Department of Health Code
for the Case Management
of Behaviours that Present a Risk
for HIV Transmission

Communicable Disease Control Branch
SA Health
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Foreword

This Code has been developed pursuant to the provisions of the *Public and Environmental Health Act 1987* and has been adopted by the South Australian Health Commission on 17 March 2008. Following the proclamation of the *Health Care Act 2008* it has become a Directive of the Chief Executive of SA Health.

This Code is guided by a National framework for the management of people with HIV whose behaviours present a risk of transmission, as are similar Codes in most other jurisdictions.

Specifically, this Code relates to the management of persons known to be infected with HIV and whose behaviour is reasonably suspected of placing others at risk of the transmission of the disease. It is designed to prevent or limit the spread of HIV in the community by ensuring that the behaviours of persons who may be placing others at risk are properly managed in a way that eliminates or reduces the risk to the greatest extent possible.

This Code is for persons (including case workers, social workers, psychologists, counsellors, medical practitioners, nurses and other clinicians) who work, or may be working, in a professional capacity with persons infected with HIV in a clinical, counselling or community setting and for relevant staff working in communicable disease control within the Department of Health.

This Code is set within wider clinical and public health responsibilities for the protection of the public's health. In particular this means that the provisions of this Code do not detract from or diminish the responsibility of delegated officers under the *Public and Environmental Health Act 1987* or the *South Australian Health Care Act 2008* or from officers performing official duties under those Acts from the requirement to exercise their statutory responsibilities.

Note:

The Statutory Authority referred to in this Code is the Chief Executive of the Department of Health. This reflects the current position in the *Public and Environmental Health Act 1987* as amended 2008, which retains powers in Part 4 (Notifiable Diseases) with the Chief Executive of the Department of Health.

In practice, the Chief Executive's powers and responsibilities under this Code may be delegated to the Director of the Communicable Disease Control Branch.

Introduction

This Code applies where a person who has been diagnosed with HIV is known or reasonably believed to be engaged in behaviours that may be placing others at risk of the transmission of the virus. It reflects a nationally agreed approach to the management of the public health risks that such behaviours might present. It operates within an understanding that persons who have HIV ordinarily pose no risk to others and that there is no case to restrict their activities or to place any coercive controls on them. By focusing only on the behaviours of particular individuals who might be placing others at risk, this Code seeks to avoid any general implication that persons with HIV are a threat to the community.

The Code also recognises that a person with HIV may be placing others at risk for a range of reasons including an incomplete knowledge or understanding of their condition and the risks that it presents, or a complex of personal issues or circumstances which might influence their behaviours or limit their options. As such this Code aims to operate in a non-judgmental way to achieve safe behaviours through education and voluntary co-operation with supports available through treatment services and the Department of Health.

Management through co-operation and agreement and the creation of trust between the person and their case workers is the most effective way of intervening to change behaviours and is the primary approach established in the Code. The case for a formal level of restriction on a person's rights and liberties exists only where the primary approach has been tried and shown not to work, or when it is clear at the outset that it will not work. Where these restrictions are required, the coercive powers available through sections 32 and 33 of the *Public and Environmental Health Act* (the Act) will be used as appropriate in each case.

Responsibility for this Code

The Chief Executive, through the Director of the Communicable Disease Control Branch, is responsible for the administration and operation of this Code, for assessing its effectiveness and for giving advice and reasonable assistance to agencies involved in its administration.

The administration of this Code is principally conducted by the Communicable Disease Control Branch with reference to the HIV Risk Behaviour Panel (the Panel), a group of experts convened to provide specialist advice. The composition of the Panel is described under 'Level 1' in this Code.

Guiding Principles

The following principles shall inform the interpretation of this Code:

- The *overriding principle* is that members of the South Australian community have the right to protection against infection.
- Those persons who do not have HIV have responsibilities to not engage in behaviours that might place themselves at risk of contracting HIV and
- As with all persons infected with a communicable disease, persons with HIV have responsibilities to not engage in behaviours that might place others at risk of contracting HIV.
- That in responding to cases where a person with HIV may be having difficulty maintaining safe behaviours, any restrictions that may be placed on that person's rights and personal liberties shall only be imposed in proportion to the risk presented to others and that the least restrictive options be used, consistent with the overriding principle.
- Wherever possible and subject to the overriding principle, a person who may be subject to this Code has the following rights, to:

- privacy & the protection of patient/client confidentiality, subject to the specific provision of this Code and the Act;
 - dignity and appropriate care and treatment, without any discrimination other than that genuinely necessary to protect public health;
 - be given information about their options under the Code and to be involved in the decision making process;
 - be given reasons in writing for any recommendations or decisions made under this Code; and
 - receive support from family and friends.
- That it is in the interest of the community and the person involved that decisions made in accordance with this Code are made as promptly as possible, consistent with its proper implementation.

This Code will be implemented in conformity with the guiding principles and persons implementing it shall at every stage have regard to these principles and seek to further them.

Preliminary to Application of the Code

The Code is not intended to be used as a prevention education tool and therefore does not replace primary interventions by health and allied workers:

Ideally, at diagnosis a person with HIV receives information about the medical and social consequences of living with the virus including guidance on ways to prevent transmission to others. This may need to be repeated at intervals. If concerns persist about a person's behaviour they should receive further counselling, focussing on the ways in which transmission can be avoided. Where necessary, counselling could also emphasise the legal responsibilities to avoid behaviours that might place others at risk. People living with HIV should continue to receive the range of treatments, supports and counselling suitable for their individual needs. These interventions are best placed to occur in the community, primary and allied health care settings and are the responsibility of the diagnosing clinician/agency and the primary care agencies involved in the ongoing treatment, care and support of the individual. Skilled practitioners should continue to incorporate this information and these interventions into their daily interactions with clients well before consideration is given to referral under The Code.

Successful management at these stages averts the need for involvement in the process outlined in The Code.

When the Code should be applied

- The Code applies when a person is known to be infected with HIV *and* it is reasonable to believe that the person's behaviour is, or may be, presenting a risk of the spread of HIV to others.
- The Code does *not* apply where a view can reasonably be formed, either prior to the application of this Code or at any stage in the process of implementing it, that the person's behaviour and the risk that they present to others will not be removed through any intervention available in the Code. In these cases the person should be referred to the Chief Executive as soon as practicable for consideration of the application of a statutory order to detain the person under s32 of the *Public & Environmental Health Act* and/or referral to the SA Police (see below).

In determining whether or not the Code should be applied, the Chief Executive or the Panel may request and consider all relevant information that will assist them in coming to a decision, including (but not limited to) the following:

- Genotyping information;
- Information from relevant service providers;
- Medical Records;
- Forensic psychiatric evaluation.

The Framework

The Code establishes 4 levels of management for the behaviours of a person who may be placing others at risk of contracting HIV.

These levels seek to ensure that persons whose behaviours are of concern receive the opportunities and encouragement to cease placing others at risk. Each level involves a higher degree of intervention, moving from counselling and information through to a formal detention order imposed by a court.

The levels are:

- **Level 1** – The Chief Executive is notified of a person whose behaviours may be placing others at risk and, after a preliminary consideration and assessment, there may be a referral to the HIV Risk Behaviour Panel (The Panel) convened by the Director Communicable Disease Control Branch at the request of the Chief Executive.
- **Level 2** – Ongoing oversight by the Panel for the development of behaviour modification and case management recommendations and their implementation by the Chief Executive.
- **Level 3** – An order under section 33 of the Act imposing restrictions on the person's activities.
- **Level 4** – Isolation or detention ('quarantine') under section 32 of the Act.

As a general principle these levels should be applied in ascending order, commencing with Level 1. However, if the Chief Executive, having considered the advice of the Panel and having regard to the guiding principles, believes that more restrictive responses should be imposed earlier in the management process, then the Chief Executive will use the powers in the Act and make such orders as they consider appropriate. Alternatively, a person who has been managed at a higher level of management may continue to be managed at a lower level of management should the Panel recommend that it is appropriate to do so.

Confidentiality

The Code seeks wherever possible to promote co-operation and trust between the person and those working to curtail the risks that their behaviours present. A central aspect of that trust is the knowledge that personal information, especially information likely to be identifying, will not be released or be available to others unless there is a compelling reason to do so. Therefore, as a general principle all information obtained by persons pursuant to this Code is confidential and should only be obtained or released as envisaged by this Code or as allowed by law.

Confidentiality is protected by section 42 of the *Public and Environmental Health Act* which provides that where a person in the course of 'official duties' obtains medical information or information relating to the personal affairs of another, the information shall not be intentionally disclosed unless that is done in the course of official duties or if the person to whom it relates consents to the disclosure. *Official duties* (which is not defined in the Act) is taken to include the work of any person involved in the administration of this Code.

There is also a power to require information. Under section 41 of the *Public and Environmental Health Act* the Chief Executive may require a person to 'furnish such information relating to public or environmental health as may be reasonably required for the purposes of this Act'. The administration of this Code is part of the purposes of the Act. Once a request is made it *must* be

complied with and the person providing it is protected from any assertion that he or she has breached confidentiality. The only exception to the obligation to comply with a request is where the information requested might incriminate the person providing it (where it might relate to evidence of the commission of an offence).

Courts and tribunals also have the power to require the disclosure of information.

Level 1: Referral and Initial Assessment of the Person's Behaviours

Level 1 involves referral by a person or agency to the Chief Executive and is the first step in the operation of this Code involving an initial assessment of the person's behaviours and the risks that these might present for the transmission of HIV. Management continues in the community by the client's primary health care provider, with the assistance of the Chief Executive, as appropriate, without the ongoing involvement of the HIV Risk Behaviour Panel.

Referral to the Chief Executive:

Should a person or agency involved in treating, caring for or counselling a person, have reasonable grounds to believe that, despite being given the information outlined in the 'Preliminary to Application of the Code' section above, the person's behaviours will continue to present a risk of the transmission of HIV, the person or agency may provide the Chief Executive with the name and contact details of the person and a brief description of the reason why the referral is being made.

Where a *medical practitioner* involved in treating, caring for or counselling a person has formed a reasonable suspicion that the person has *intentionally infected, or is seeking to infect*, others with HIV, the medical practitioner should, as soon as is reasonably practicable, provide the Chief Executive with the name and contact details of the person and a brief description of the reason why the referral is being made.

Referral can also be made to the Chief Executive by the SA Police.

Preliminary consideration by the Chief Executive:

Having received a referral, the Chief Executive can consider the circumstances in which it has been made and consider any other relevant issues, with a view to deciding whether or not:

- there is substance to the information that prompted the referral;
- the person's behaviours should be referred to the Panel with a view to their being managed under the Code;
- some other course of action is appropriate.

In making these determinations, the Chief Executive will engage the HIV Case Coordinator (see below) to gather the required information to inform these decisions.

Referral for the purposes of an examination:

Where a person whose HIV status is unknown, but there are reasonable grounds for believing that they may be infected with the virus, is engaged in behaviours that present a risk of the transmission of the virus to others, a person involved in treating, caring for or counselling that person in a professional capacity may provide the Chief Executive with the name and contact details of the person and a brief description of the reason why the referral is being made. The Chief Executive may then investigate

whether or not it is appropriate to require the person to undergo an examination under s31 of the *Public and Environmental Health Act 1987* in order to determine their HIV status.

Referral to the HIV Risk Behaviour Panel:

On receiving a referral from a person or agency and after the preliminary consideration outlined above, the Chief Executive may assign the matter to the Panel.

The Panel comprises the following members, to be appointed by the Chief Executive:

- the Director, CDC Branch or their nominee (who will convene the Panel)
- a person living with HIV, with community organisation involvement, to represent the interests of the HIV positive community
- The HIV Case Coordinator as secretariat and
- other persons with specialist expertise who may be co-opted as required.

Any person in a therapeutic or other relationship with the person that might amount to a conflict of interests should not be a member of the Panel.

A Department of Health Legal Officer will be present at each Panel meeting. The role of the Legal Officer is to advise the Panel on questions of law and procedure relating to the Act, the operation of this Code and related questions.

Assessment by the Panel:

The Panel will meet as soon as reasonably practicable to assess the risks the person presents and in undertaking its assessment the Panel can:

- consider any case notes relating to the person or any other information that is relevant to its determinations;
- interview the person in respect of whose behaviours the referral is made;
- interview any other person who can assist in its decision; and
- decide that more information is warranted and if necessary that a medical and psycho-social assessment of the person be undertaken.

The Chief Executive will give the Panel whatever assistance it reasonably requires to complete its assessments.

Recommendations by the Panel to the Chief Executive:

Having undertaken an assessment, the Panel may recommend any of the following courses of action to the Chief Executive:

- that there is no basis for the complaint or that there is insufficient substance in the complaint to require further investigation and that the case be closed until such time as additional relevant information becomes available to warrant a reassessment;
- that on the information available there is no likelihood of the person presenting a future risk of the transmission of HIV and that the case be closed;
- that the Chief Executive request specified additional information if the information before the Panel is insufficient for the Panel to reach a recommendation;
- that the person's behaviour be monitored subject to the Panel reconvening to make a further assessment of whether it warrants management under a specific level of this Code;

- that the Chief Executive initiate management under a specified level of the Code because, in the Panel's view, the person is likely to be either 'unwilling' or 'unable' to change their behaviour and may warrant the making of an order under sections 32 or 33 of the *Public and Environmental Health Act*;
- that the Chief Executive refer the matter to the SA Police because the Panel has formed a reasonable suspicion that the behaviour is intentional.

The Panel's convener will notify the Chief Executive of its recommendation as soon as possible.

HIV Case Coordinator

The Chief Executive and the Panel engages the services of the HIV Case Coordinator who undertakes the following roles:

- to undertake the initial information gathering exercise that informs the Chief Executive's subsequent decisions
- to maintain as far as possible an active and ongoing involvement with the person's primary care providers and where indicated, with the person while he or she is subject to the Code;
- to be the point of contact with the person for the purposes of the Code;
- to provide reports on the person's behaviour and management and other relevant information as requested;
- to maintain contact with the relevant medical and treatment agencies;
- to liaise with any guardian appointed for the person in relation to matters relevant to this Code; and
- to undertake any other function specified in this Code.

Powers of the Chief Executive:

The Chief Executive is not bound by the recommendations of the Panel and may at any time exercise their powers under the *Public and Environmental Health Act*.

The Chief Executive will inform the Panel of the outcome of any recommendation made to them by the Panel.

Level 2: Behaviour Modification and Management using Education, Counselling and Support Measures

Active management of the person's behaviours commences at Level 2 of the Code. This stage involves undertakings and formal expectations that the behaviours in question will be modified. These will be recommended by the Panel which will meet with the person and their advocate and monitor the person's progress. The Panel may also meet for case conferences without the person concerned. The Chief Executive will formally communicate the Panel's expectations and outline support measures to the person. However, Level 2 remains voluntary and does not involve the making of formal orders under the Public and Environmental Health Act.

Panel to Recommend Strategies:

Having assessed the person and determined the extent to which they present a risk of the transmission of HIV as part of the Level 1 process, the Panel must consider whether or not it is likely that the person's behaviour will continue to present a risk of transmission of HIV. In so considering, the Panel may seek any relevant information from the Case Coordinator or other sources.

Where, having considered the HIV Case Coordinator's reports or any other relevant information, the Panel believes that a risk is likely to continue, the Panel will meet with the person and their personal advocate (see below) to determine, as far as possible, the causes of this behaviour and the strategies that are needed to address them.

In determining these strategies the Panel should consider:

- the range of treatment and care options such as drug substitution therapy, provision of housing, training in living skills, therapeutic counselling etc where it is believed that these interventions would have a positive effect; and
- whether there is a need to use powers under the *Mental Health Act* or the *Guardianship Act*.

Ongoing monitoring by the Panel:

- the Panel will monitor information provided by the HIV Case Coordinator about the person's behaviour, assess the risks that it presents and provide ongoing advice to the Chief Executive with respect to the levels of management necessary to reduce the risk of transmission;
- the Chief Executive may request detailed proposals from the Panel for the modification and/or management of the behaviour
- the Chief Executive will formally approve in writing any management measures arising from Panel meetings and refer their implementation to the Case Coordinator. The Case Coordinator will implement the management measures approved by the Chief Executive and provide reports to the Chief Executive and to subsequent reviews by the Panel as required.

Meetings of the Panel:

The Panel will meet as often as is necessary to discharge its monitoring and management functions. In addition to its specific roles set out in the Code it will:

- monitor the person's compliance with any management strategies recommended (or if proceeding to Level Three, directions imposed on them) by the Chief Executive;
- meet with the person as often as is necessary to monitor their general management and compliance;
- request the Chief Executive to provide such reports and information relevant to the carrying out of its ongoing functions.

Warning Letter:

The Panel may also recommend that the Chief Executive send a warning letter to the person concerned as soon as practicable. This letter should:

- require the person to discontinue any activity which may place others at risk of HIV infection;
- explain the legal powers under the *Public and Environmental Health Act* including the options of restriction of movement and detention; and
- reiterate the availability of counselling, education and support services.

The Case Coordinator, with the assistance of the personal advocate (see below) should as far as possible ensure that the person understands the contents of this letter.

Personal Advocate:

The Panel will allow a personal advocate to attend meetings with the person to provide them with support and assistance. However, the Panel may exclude the advocate if it reasonably believes that their presence is impeding the process or not assisting the person.

Appointment of a Guardian:

Where the person is unable to understand the process they are involved in and unable to give informed consent to any proposed actions, the Panel should recommend that the Chief Executive ask the Office of the Public Advocate to consider appointing a guardian to represent the person. The Panel's recommendation shall only be made after discussion with the Guardianship Board or Public Advocate and shall have regard to any comments made in those discussions.

Level 3: Restrictions Imposed by way of a Formal Order

Level 3 involves the imposing of a formal order under section 33 of the Public and Environmental Health Act. Such an order can impose directions on a person's activities and medical care, restrict their behaviours, where they live or the work that they can or cannot do.

Directions under Section 33:

If the Chief Executive, having received advice from the Panel, believes that the person continues to place other people at risk of HIV infection and that all other management options at levels 1 and 2 have been utilised or considered, then the Chief Executive may issue a direction under section 33 of the *Public and Environmental Health Act*.

The Chief Executive may make directions they consider appropriate and are allowed under section 33, usually at the advice of The Panel. These directions to the person may include to:

- reside at a specific place;
- be placed under the supervision of a member of the Health Department or a specified medical practitioner and to obey the reasonable directions of that person;
- submit to an examination as required;
- refrain from performing specified work or any work other than specified work; or
- comply with such other directions that should apply in order to prevent the spread of HIV.

A person who is subject to a section 33 direction will, through the Case Coordinator, continue to have access to any treatment counselling, education and support as recommended by the Panel and determined by the Chief Executive. Where the person did not voluntarily take up services or assessments at Level Two, they may be directed to do so at Level Three, if deemed necessary by the Panel.

The Case Coordinator, in collaboration with the personal advocate, will explain the consequences of any order made under section 33 and explain the person's right to seek legal advice. The Chief Executive is under no obligation under this Code to ensure that the person has legal advice

Failure to Comply with Section 33 Directions:

If a person fails to comply with a direction made under section 33 and the Chief Executive considers that the person's behaviour will continue to place others at risk the Chief Executive may:

- apply to a magistrate for a warrant to apprehend the person as provided for by section 33(6);
- refer the matter to the Crown Solicitor to consider prosecuting the person for breaching the order as provided for by section 33(5).

Level 4: Isolation or Detention

Section 32 of the Act allows a magistrate on the application of the Chief Executive to detain a person with HIV 'if it is in the interests of public health'. Detention and / or isolation for the purposes of managing HIV public health risk are expected to be rare occurrences, as public health legislation and The Code provide for a flexible range of responses, with detention and isolation considered to be strategies of last resort.

The Panel may recommend Detention:

The Panel may recommend that the Chief Executive seek an order for detention under section 32 of the Public and Environmental Health Act when the following circumstances apply, namely, where a person:

- has been subject to directions made under section 33;
- has not complied with them; and
- in the Panel's opinion is exhibiting behaviour which has not been adequately modified by other interventions under this Code or the Act.

When making recommendations in relation to detention, the Panel should:

- favour the least restrictive circumstances of detention consistent with the overriding guiding principle, which is to protect the community from the risk of infection by the person so detained;
- in cases where the person subject to an order is ill or in need of medical assessment, consider detention in a hospital setting for as long as medical treatment is needed;
- in cases where the person has a psychiatric condition or may also have committed criminal offences, take into account the views of other relevant Agencies as to the most appropriate placement for the person;
- have regard to the appropriateness of the environment in which the person may be detained, particularly where the person may put other residents of the place of detention at risk;
- recommend a place of detention that can be staffed by those who, in its view, can best meet the needs of the person involved.

The Chief Executive should have regard to these issues when making an application for the detention of a person under s32 of the *Public and Environmental Health Act* 1987.

Application for a Detention Order:

The Chief Executive, having received any advice from the Panel, may if they are 'of the opinion that in the interests of public health the person should be kept in a suitable place of quarantine' make an application to a magistrate for the detention of the person at a suitable place of 'quarantine', outlining the need for detention and the circumstances – Section 32(1)(b) of the Act.

Rights of the Person Detained:

Section 32(3) of the Act provides that the person must be 'given a notice setting out the reason for their detention and any other information that may be prescribed'.

Section 32(4) of the Act provides that a person may not be held in detention for more than 72 hours unless the Chief Executive applies for an extension of the period and the magistrate agrees to extend it. Before deciding whether or not to do this, the Magistrate must consider any 'representations by or on behalf of the person under detention.'

Section 32(5) & (6) provides that a person must not be detained for more than 6 months without the authorisation of a Supreme Court judge. Section 32(7) & (8) requires that the person must also be examined by a medical practitioner at least every four weeks unless the person objects to this. More frequent access to medical and complementary treatments should be available as necessary for the person's care and management.

Referral to the SA Police

Behaviours that risk the transmission of HIV can amount to an offence under criminal law and or the *Public and Environmental Health Act*. As such the following procedures will apply.

- In cases where the Chief Executive considers that the Code should not, or should no longer, be applied, the Chief Executive should also consider whether or not it is appropriate to refer the matter to the SA Police, normally through the Sexual Crimes Investigation Branch, in relation to any offence that might have been committed.
- Where a view can reasonably be formed that the person is *intentionally* seeking to infect others, the Chief Executive must make the referral immediately.
- Where a person appears to be *unwilling* to change the behaviours that are placing others at risk, the Chief Executive must make the referral as soon as it appears reasonable to conclude that those behaviours will continue, and that further intervention under this Code is unlikely to curtail that risk.

A referral to the SA Police in this part of the Code does not preclude the person to whom the referral relates from receiving continuing support or treatment or the application of orders under the *Public and Environmental Health Act*.

The levels of management envisaged in the Code may cease to apply if the person is in custody within the criminal system, however it is important at all times to ensure effective prevention and management of infection, therefore, delegated officers and officers performing official duties under the *Public and Environmental Health Act* must continue to apply public health measures. This may include the application of sections 31-33 of the Act where necessary and appropriate, whether or not the provisions of this Code are in operation.

Should the SA Police decide not to take any action against a person who has been referred to them, the Chief Executive may reconsider whether or not the Code should apply to the person.

It should be noted that referrals to the SA Police can also be made outside of the provisions of this Code by any other persons with a legitimate right to make them.

Appeals

In general terms, the *Public and Environmental Health Act* allows appeals from orders that occur at Level Three and Four, (Level's One and Two are voluntarily and do not involve the making of orders). Initially, the person concerned may apply to a magistrate to review the decision. If they

are not satisfied with this decision then a right of appeal exists to the Supreme Court against a decision of a magistrate.

Where a directions order has been imposed by the Chief Executive under section 33, the person may apply to a magistrate to have the order varied or quashed.

Section 34 allows a general right of appeal to the Supreme Court in relation to any decision of a magistrate. The Supreme Court may 'vary or quash the magistrate's decision' or 'make any order that the justice of the case may require'.

A person who is subject to the provisions of this Code may also pursue available avenues of administrative review should they wish to do so.

When Management under this Code ceases

Once the Chief Executive decides that a person will be managed under the Code, the person continues to be managed until either of the following occurs:

- the person's behaviours are such that the Code specifically provides that it no longer applies; or
- the Chief Executive, having considered the recommendation of the Panel, is of the opinion that the person's behaviours no longer pose a risk to public health.

Depending on individual circumstance and recommendations of the Panel, there may be a staged approach to exiting management under the Code. Individuals may enter management under the Code at any Level, may vary Levels during the course of their management and may exit from any Level.

Where a person's management under this Code ceases or Levels of management vary, the Chief Executive shall inform that person, and any organisations engaged by The Panel to provide services to that person, in writing as soon as practicable, including information regarding timeframes for review by The Panel.

Statutory Requirements

This Code is set within wider clinical and public health responsibilities for the protection of the public's health. In particular this means that the provisions of this Code do not detract from or diminish the responsibility of delegated officers under the *Public and Environmental Health Act* (1987) or the *South Australian Health Commission Act* (1976) or from officers performing official duties under those Acts from the requirement to exercise their statutory responsibilities.

Review of this Code

The Chief Executive shall review this Code on a periodic basis and at least every two years.

Flow Chart

Individuals may enter or exit at any Level and may move between Levels during management:

