

New research calls for better guidance about HIV transmission and the law

5 March 2013

Support services for people living with HIV will benefit from better information about prosecutions for the sexual transmission of HIV, according to a report released today by researchers from Sigma Research at the London School of Hygiene & Tropical Medicine, and Birkbeck, University of London.

The study, called 'Keeping Confidence: HIV and the criminal law from service provider perspectives', explores how criminal [prosecutions](#) for HIV transmission in England and Wales are handled by those who deliver health and social care services for people with HIV. The researchers found that there is "significant confusion" about the legal meaning of "recklessness" and the specific precautionary behaviours that would provide a sufficient defence.

In England and Wales a person can be prosecuted if it is alleged that they have recklessly transmitted HIV to a sexual partner.

The report is to be launched today (Wednesday 6 March) at Birkbeck at a conference to discuss its findings. Its conclusions aim to assist people living with HIV by improving best practice among HIV health and social care professionals, the police and others involved in criminal investigations and trials. Key recommendations arising from the study include:

- One dedicated online resource containing information about the latest clinical and scientific developments that may impact on legal decision-making
- Training about legal definitions and defence arguments for those who provide clinical and non-clinical HIV services
- A list of experts with an interest in criminal prosecutions in each clinical and non-clinical HIV service organisation

The report's lead author, Dr Catherine Dodds, lecturer at the London School of Hygiene & Tropical Medicine, said: "Although HIV health and social care professionals expressed diverse views about their potential role in such cases, they gave a clear sense that [criminal prosecutions](#) for the [transmission of HIV](#) would not improve public health. Instead, it was most common to hear descriptions of such cases leading to increased stigma, reduced trust between service users and providers, and traumatic consequences for those involved in such cases."

Study co-investigator, Matthew Weait, Professor of Law and Policy at Birkbeck, said: "This important and innovative research demonstrates both the problems that HIV criminalisation creates for clinical and social care providers and the need for solutions at both national and regional level. Care providers working in HIV and sexual health are concerned primarily with the health and wellbeing of their service users - which is of course as it should be; but there is also evidence that criminalisation is compromising their work. Increased awareness and understanding of, and inter-organisational communication about, legal issues is critical, and Keeping Confidence makes practical recommendations as to how that work might be taken forward for the benefit of prevention and support."

The research is based on discussions with seven focus groups in England and Wales, including hospital-based staff, and professionals from HIV charities, [social care](#) services, and other organisations supporting people diagnosed with [HIV](#).

More information: 'Keeping Confidence: HIV and the criminal law from service provider perspectives' can be accessed at sigmaresearch.org.uk/projects/policy/project55/.

Provided by London School of Hygiene & Tropical
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