

# Appendix 1

## The Basics of HIV/AIDS Transmission

Before labor leaders or managers can take appropriate action to address HIV/AIDS, they need solid information about the disease and its impact. This section provides basic facts about HIV/AIDS transmission. It is not intended to be a complete HIV/AIDS education program. It does provide information employers, labor leaders, and workers need as a foundation for developing appropriate HIV/AIDS policies and effective HIV/AIDS education, prevention, care and support programs for the workplace.

### What are HIV and AIDS, and what is the difference between them?

AIDS stands for *Acquired Immunodeficiency Syndrome*, a disease in which the body's immune system breaks down due to infection with a virus called the *Human Immunodeficiency Virus*, or HIV. In other words, HIV (a virus) causes AIDS (one or more serious illnesses). People with immune deficiency are more vulnerable to certain infections and diseases. Some of these are called “opportunistic infections” (OIs) because they use the opportunity provided by a weakened immune system to develop.

AIDS is the late stage of the infection caused by the HIV virus. No one will develop AIDS unless s/he has been infected with HIV. Preventing HIV infection prevents AIDS.

*HIV/AIDS* is a common and professional way of referring to the range of issues associated with HIV infection and AIDS-related illnesses. This Guide refers to HIV/AIDS programs, HIV/AIDS policies, and people living with HIV/AIDS (PLWHA).

### How is HIV transmitted?

HIV, the virus that causes AIDS, is most often a sexually transmitted infection (STI).<sup>1</sup> However, the HIV virus can be transmitted in several ways:

- **By having *unprotected* sexual intercourse—anal, vaginal, or oral—with an infected person.** Unprotected means that a condom (or female condom) is not used. Studies have shown that the risk of infection is highest from unprotected anal and vaginal intercourse, and much lower from unprotected oral intercourse.
- **By sharing contaminated drug needles, syringes, or other skin-piercing instruments with someone who is infected with HIV.** These include, for example, razor blades used by midwives or healers, needles used for injecting medications or vitamins, and tattooing and piercing needles.
- **From a woman infected with HIV to her child during pregnancy or birth or through breastfeeding.** New drug therapies used during pregnancy, such as single or low dosages of nevirapine, greatly reduce the risk of mother-to-child transmission (MTCT) of HIV.
- **By receiving blood or blood products, organs, or tissues from an infected person.** Unless blood donors are carefully screened and the blood supply is laboratory-tested, blood transfusions can transmit HIV. There is no risk of contracting HIV by *donating* blood, unless unclean needles are used.
- **By contact with the blood of a person with HIV.** This kind of contact occurs when there is no use of a physical barrier—such as latex or vinyl gloves or a piece of plastic. This can occur during accidents or during dental or medical care.
- **In very rare instances, through prolonged or “deep” mouth-to-mouth kissing.** Studies show that this kind of transmission occurs only when blood is present in the mouth. One reason that this method of transmission is rare is that special substances present in saliva may inactivate HIV.

Because of biological differences, women are generally more vulnerable than men to infection during unprotected sexual intercourse. However, both men and women are at serious risk of contracting HIV from an infected partner during unprotected sexual intercourse, and this risk increases substantially if either person has an STI.

### How is HIV/AIDS *not* transmitted?

- **HIV *cannot* be transmitted from one person to another from casual contact, such as shaking hands or a hug.** Unlike cold or flu viruses, HIV is *not* spread by coughs or sneezes. Numerous studies have shown that people do *not* become infected from sharing cups and dishes, tools, telephones, or bathroom facilities.
- **HIV is *not* passed through everyday contact with people at work, home, school, or anywhere else.** Transmission of HIV requires exchange of bodily fluids containing the virus, which does not occur through casual contact with an infected person.

- **HIV cannot be transmitted through a mosquito bite.** HIV will not live in a mosquito, and it is *not* transmitted through a mosquito's salivary glands like other diseases, such as malaria or yellow fever. A person *cannot* get it from bed bugs, lice, flies, or other insects or animals.
- **HIV is *not* transmitted through sweat, tears, or sneezes.** Tears very rarely carry the virus, and never enough of it to infect people.

## What are some ways to prevent HIV transmission?

A few simple, consistently followed practices can greatly reduce the chance of transmitting HIV.

- **Using a latex condom during sexual intercourse.** The risk of HIV is greatly reduced when a latex condom is used consistently and correctly (each and every time from start to finish) during sexual intercourse, whether vaginal, anal, or oral. A latex condom will prevent the transmission of HIV. New condoms, when properly stored in a cool place away from direct sunlight, may be kept for about two years. Oil-based lubricants, such as Vaseline or cooking oils, should *not* be used with latex condoms because they weaken the condom in a short period of time. Only water-based lubricants, such as KY Jelly, should be used. Studies have shown that condom failure is usually caused by user error rather than defects in the condoms. Training and practice sessions can help ensure that people know how to use condoms consistently and correctly.
- **Abstaining from sexual relations or maintaining a stable sexual relationship with a single partner.** The safest way to avoid infection is not to have sexual intercourse. A stable relationship with one partner minimizes risks so long as neither party is infected, and neither has other sex partners or engages in other high-risk behavior such as needlesharing.
- **Preventing blood-to-blood contact and contact with bodily fluids by using “Universal Precautions.”** Recommended procedures are described in a set of guidelines called Universal Precautions, which were developed to protect health care workers as well as patients from exposure to HIV and other germs that are found in the blood and certain bodily fluid and tissues. The Universal Precautions involve treating all patients as if they were infectious.<sup>2</sup> They involve eliminating contact with blood through the use of protective materials (e.g., latex gloves) during workplace accidents will reduce the risk of transmitting HIV, as well as hepatitis and other blood-borne diseases. Protective materials should be used when handling bodily fluids or waste products. Most public health authorities can provide detailed information on how to implement appropriate procedures for preventing and handling workplace accidents.

- **Ensuring that needles and other skin-piercing instruments are new or sterilized.** Ideally, these instruments should be used only once and for only one person. However, if one-time use is not practical, instruments should be properly sterilized between each use and/or before they are used on another person. Only sterile instruments should be used for tattoos and piercing for insertion of rings in the nose, umbilical area, or any other area of the body.
- **Protecting the blood supply.** Donated blood should be screened for HIV before being given to another person.
- **Enabling infected women to make knowledgeable decisions about breastfeeding.** Breastfeeding increases the risk of MTCT, but substitute feeding methods also pose risks to the baby. HIV-infected mothers need information and counseling regarding treatment to prevent transmission during pregnancy and delivery, as well as “the risks and benefits of various infant feeding options, and specific guidance in selecting the option most likely to be suitable for their situation.”

### How is it possible to tell whether someone is infected with HIV?

The only way to know whether someone is infected is by seeing HIV medical test results. There is no way to tell whether people are infected by looking at them. People infected with HIV may show no symptoms for ten years. They might be infected but look completely healthy. However, because they are carrying the virus, they can infect other people through sexual relations or other methods of transmission.

### How can employers and labor leaders find more information about HIV/AIDS?

It is very common for people to feel unsure of the facts about HIV/AIDS. Understanding HIV transmission and prevention takes time, thought, information, asking questions, getting answers, and patience. A doctor, nurse, or someone from a community organization who works in HIV prevention may be able to provide more information.

## For More Information About HIV/AIDS...

- Obtain fact sheets about HIV/AIDS through the U.S. Centers for Disease Control and Prevention (CDC) website at: [www.cdc.gov](http://www.cdc.gov). Obtain information on a wide range of HIV/AIDS topics through the CDC National AIDS Clearinghouse, at: [www.cdcnpin.org](http://www.cdcnpin.org).
- Obtain detailed statistics and other information about HIV/AIDS throughout the world from the Joint United Nations Programme on HIV/AIDS website, at: [www.unaids.org](http://www.unaids.org).
- Among many other websites that provide up-to-date information about HIV/AIDS transmission, prevention, and care are the following:
  - AIDS and Africa, at: [www.aidsandafrika.com](http://www.aidsandafrika.com)
  - AIDS Education Global Information System, at: [www.aegis.com](http://www.aegis.com)
  - Caribbean Epidemiology Centre, at: [www.carec.org](http://www.carec.org)
  - International AIDS Vaccine Initiative (IAVI), at: [www.iavi.org](http://www.iavi.org)
  - National Agency for AIDS Research in France, Agence Nationale de Recherches sur le SIDA, at: <http://igs-server.cnrs-mrs.fr/anrs/index2.html>
  - World Health Organization, which provides information and links, at: [www.who.int/m/topics/hiv\\_aids/en/index.html](http://www.who.int/m/topics/hiv_aids/en/index.html)
- See Appendix 8 for a glossary of HIV/AIDS terms and Appendix 10 for some frequently used HIV/AIDS acronyms.
- See Appendix 11 for References and Resources, including many websites that can provide updated information on HIV/AIDS.

## References

<sup>1</sup> These used to be known as sexually transmitted diseases (STDs). STI is a more descriptive term because many such infections are asymptomatic.

<sup>2</sup> The Universal Precautions can be found in Centers for Disease Control and Prevention. *MMWR*, 1988; vol. 37, no. 24. "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings." They are described in American Red Cross, This Month's AIDS Facts, "What Are Universal Precautions?" on the website at: [www.redcross.org/services/hss/tips/june/juntip01.html](http://www.redcross.org/services/hss/tips/june/juntip01.html).

# Appendix 2

## Sample HIV/AIDS Policies

This appendix provides examples of workplace HIV/AIDS policies, including sample policies from a number of different types of organizations operating in several different parts of the world, including:

- SMARTWork Model Comprehensive Workplace HIV/AIDS Policy
- Sample Employer Policy from the (U.S.) National AIDS Fund
- Sample Human Resources Policy Statement from the Allan Vincent Smith Foundation of Bermuda
- Policies from the South African Afrikaanse Handelsinstituut
- DaimlerChrysler South Africa (Pty) Ltd. Workplace Policy on HIV/AIDS
- Heineken HIV/AIDS Policy
- Draft Policy: Asian Business Coalition on HIV/AIDS



# SMARTWork Model Comprehensive Workplace HIV/AIDS Policy

## Our Guiding Principles

SMARTWork is concerned about all its workers and wants to ensure a healthy and productive workforce. This has been the guiding principle in developing our policy and program on HIV/AIDS.

SMARTWork does not discriminate against a qualified individual with a disability with regard to job applications, hiring, advancement, discharge, compensation, benefits, training, or other terms, conditions, or privileges of employment. We are committed to complying with all relevant laws, regulations, collective bargaining, and trade agreements.

Furthermore, SMARTWork recognizes that employees with life-threatening illnesses—including but not limited to heart disease, multiple sclerosis, cancer, and HIV disease—and other disabilities may wish to and be able to engage in as many of their normal pursuits as their conditions allow, including work.

SMARTWork firmly opposes discrimination, in general, including discrimination of employees with HIV, and will make every effort—including the provision of information, education, and communication about HIV/AIDS—to ensure that employees are not stigmatized.

SMARTWork will not oblige anyone to undergo a HIV test or treatment, and HIV testing is not a prerequisite for recruitment, continued employment, access to training, or for promotion. However, we do support and facilitate access to confidential, voluntary counseling and testing (VCT) for employees and their families or partners. Counseling includes pre- and post-test counseling.

SMARTWork seeks to accommodate employees with life-threatening illnesses or disabilities, as long as they are able to meet acceptable performance standards and medical evidence indicates that their conditions are not a threat to themselves or others.

While accommodating employees with life-threatening illnesses and disabilities, SMARTWork recognizes its obligation to provide a safe work environment for all employees and customers/clients. Every precaution should be taken to ensure that an employee's condition does not present a health and/or safety threat to other employees or customers/clients.

## Management Responsibilities

Managers, labor representatives, and any other staff with relevant human resource-related responsibilities should:

- Remember that an employee's personnel records, including medical information, is personal and confidential, and take reasonable precautions to protect information regarding an employee's personnel records and medical condition.
- Contact Human Resources if you believe that you or other employees need information about terminal illnesses or a specific life-threatening illness, or if you need further guidance in managing a situation that involves an employee with a life-threatening illness.
- Contact Human Resources if you have any concerns about the possible contagious nature of an employee's illness.
- Make reasonable accommodations, if warranted, for employees with life-threatening illnesses consistent with the needs of the department or division.
- Make a reasonable attempt to transfer employees with life-threatening illnesses who request a transfer because they are experiencing undue stress.
- Be sensitive and responsive to coworkers' concerns, and emphasize employee education available through Human Resources. No special consideration will be given beyond normal transfer requests for employees who feel threatened by a coworker's life-threatening illness.
- Be sensitive to the fact that continued employment for a person with a life-threatening illness provides self-supporting income and other benefits, may be therapeutically important, may assist in the remission or recovery process, and may help to prolong an employee's life.
- Encourage employees to seek appropriate medical treatment and counseling services. Information on these services can be requested through Human Resources.

## Our HIV/AIDS Prevention, Care, and Support Programs

To inform employees about HIV/AIDS and encourage employees to practice behaviors that are known to reduce the risk of HIV transmission, SMARTWork will offer a regular program of education about HIV/AIDS. Employees will receive formal prevention training sessions and have access to informal peer educators.

Voluntary counseling and testing for HIV (VCT) for all employees and their families is available at an off-site, health services center upon request, and at no expense to the

employee. Confidentiality will be maintained for all clients, and test results will not be divulged to anyone other than the client without written, voluntary, and fully informed consent. Counseling is offered with confidential testing because it has been shown to be effective in risk reduction.

Counseling and support services help employees and their families cope with social, emotional, and other concerns associated with HIV/AIDS and sustain behavior changes that reduce the risk of HIV transmission. Confidential counseling and support services may be requested by employees and their families at the clinic or Human Resources Department, or from peer educators.

Condoms are an effective barrier to sexually transmitted infections (STIs) and HIV transmission. To provide easy access to condoms for employees and partners who wish to use them, SMARTWork will make condoms available at reasonable cost in the restrooms and clinic.

Workplace use of illegal drugs or drugs not obtained through appropriate prescriptions is not permitted. Drug treatment is available through on-site counseling. During drug treatment, based on the recommendation of counselors, clean needles and syringes are provided at no cost to employees through medical services.

Untreated STIs are injurious and increase the risk of HIV transmission. To reduce the number of cases of STIs and improve the general welfare of employees and their families, SMARTWork provides STI diagnosis and treatment at the health services center, ensuring that treatment is confidential and services meet medical standards. Such services will be provided at no cost to the worker. Workers with repeated cases of STIs will be counseled about the risks associated with unsafe sexual practices.

Basic treatment for STIs, TB, and opportunistic infections associated with HIV treatment will be made available for every affected employee and his/her spouse/partner. The health service center will provide and monitor treatment for TB and opportunistic infections.

Because we value all our employees, SMARTWork will offer highly active antiretroviral therapy (HAART) at no cost to all HIV-infected employees and family members. Adherence to therapy and routine monitoring will be available in conjunction with treatment.

If you have any questions or concerns regarding this policy, please contact the Human Resources Department or any member of the HIV/AIDS Workplace Planning Committee.



# Sample Employer Policy From the National AIDS Fund (U.S.)

### Contact Information:

National AIDS Fund  
1030 15th Street NW, Suite 860  
Washington, DC 20005  
Tel: 202-408-4848  
Fax: 202-408-1818  
Email: [Info@aidsfund.org](mailto:Info@aidsfund.org)  
[www.aidsfund.org](http://www.aidsfund.org)

(Company) does not unlawfully discriminate against employees or applicants living with or affected by HIV (Human Immunodeficiency Virus) or AIDS (Acquired Immune Deficiency Syndrome). The (Company) recognizes that HIV infection and AIDS, the most serious stage of disease progression resulting from HIV infection, pose significant and delicate issues for the workplace. Accordingly, we have established the following guidelines and principles to serve as the basis for handling employee situations and concerns related to HIV infection and AIDS.

1. The (Company) is committed to maintaining a safe and healthy work environment for all employees. This commitment stands on the recognition that HIV, and therefore AIDS, is not transmitted through any casual contact.

*HIV is a blood/borne virus, and is spread only through intimate contact with blood, semen, vaginal secretions, and breast milk. For over ten years, scientists have made new discoveries about HIV infection and AIDS. But one piece of information has never changed—the disease spreads. Scientists have recognized this fact since 1982. The basic facts about HIV transmission and prevention are sound.*

2. The (Company) will treat HIV infection and AIDS the same as other illnesses in terms of all our employee policies and benefits, including health and life insurance, disability benefits and leaves of absence. Employees living with or affected by HIV infection and AIDS will be treated with compassion and understanding, as would employees with other disabling conditions.
3. In accordance with the law, the (Company) will provide reasonable accommodations for employees and applicants with disabilities who are qualified to perform

the essential functions of their positions. This applies to employees and applicants living with HIV infection and AIDS.

Generally, disabled employees have the responsibility to request an accommodation. It is the policy of (the Company) to respond to the changing health status of employees by making reasonable accommodations. Employees may continue to work as long as they are able to perform their duties safely and in accordance with performance standards. Supervisors and managers are encouraged to contact the Human Resources Department for assistance in making reasonable accommodations.

4. Coworker concerns will be handled in an educational fashion. The Human Resources Department can provide information and educational materials. In addition, the names of community-based organizations in our operating areas are appended. Consult one of these groups for support and information. Supervisors and managers are encouraged to contact the Human Resources Department for assistance in providing employees with information and assistance.

Recognizing the need for all employees to be accurately informed about HIV infection and AIDS, the (Company) will make information and educational materials available. Employees who want to obtain information and materials should contact the Human Resources Department.

5. Coworkers are expected to continue working relationships with any employee who has HIV infection or AIDS. Coworkers who refuse to work with, withhold services from, harass or otherwise discriminate against an employee with HIV infection or AIDS will be subject to the same disciplinary procedures that apply to other policy violations.
6. Information about an employee's medical condition is private and must be treated in a confidential manner. In most cases, only managers directly involved in providing a reasonable accommodation or arranging benefits may need to know an employee's diagnosis. Others who may acquire such information, even if obtained personally from the individual, should respect the confidentiality of the medical information.
7. (Company) maintains an "open-door" policy. Employees living with or affected by HIV infection and AIDS, and those who have any related concerns, are encouraged to contact their supervisor, office administrator, (Company-wide) director, the Employee Relations and Development Manager, or the Chief Administrative Officer to discuss their concerns and obtain information.

If you have questions about this policy, its interpretation, or the information upon which it is based, please contact any of the individuals listed in item (7) above.

Appendix: List of local HIV/AIDS information and service organizations (optional).

# Sample Human Resources Policy Statement From the Allan Vincent Smith Foundation of Bermuda

### Contact Information:

P.O. Box HM2726  
Hamilton HM LX, Bermuda  
Tel: +441-295-6882  
Fax: +441-296-1180  
Email: avsf@ibl.bm  
<http://www.avsf.bm/index.html>

**YOUR COMPANY NAME** will treat HIV/AIDS the same as other life-threatening illnesses and handicaps in terms of our policies and benefits where they apply. **YOUR COMPANY NAME** does not discriminate against a qualified individual with regard to job applications, hiring, advancement, discharge, compensation, training, or other terms, conditions or privileges of employment.

**YOUR COMPANY NAME** recognizes that employees with HIV/AIDS or another life-threatening illness may wish to continue in as many of their normal pursuits as their illness allows, including work.

**YOUR COMPANY NAME** will be supportive of and make reasonable accommodation for the employee who is medically able to perform his or her job. An employee's medical information is personal and will be treated as confidential.

While accommodating employees with life-threatening diseases and other disabilities, **YOUR COMPANY NAME** recognizes its obligation to provide a safe work environment for all employees.

**YOUR COMPANY NAME** is sensitive and responsive to coworkers' concerns and will emphasize employee education. We will continue our efforts to be adequately informed about HIV/AIDS and will make this information available to employees on a regular basis.

The following work practices are an adaptation from those developed by the Allan Vincent Smith Foundation in Hamilton, Bermuda. The work practices have been modi-

fied to suit the needs of the environment of **YOUR COMPANY NAME**, but the meaning of each point remains the same.

- People with AIDS or HIV infection are entitled to the same rights, benefits and opportunities as people with other serious or life-threatening illnesses.
- Employment practices comply with local laws and regulation and/or the practices of the parent company, if any, which ever is greater, and where applicable.
- Employment practices are based on the scientific and epidemiological evidence that people with HIV infection or AIDS do not pose a risk of transmission of the virus to coworkers through ordinary workplace contact.
- Senior management unequivocally endorses nondiscriminatory employment practices and education programs or information about AIDS.
- **YOUR COMPANY NAME** will communicate policies and practices to employees in simple, clear, and unambiguous terms.
- **YOUR COMPANY NAME** will provide employees with sensitive, accurate, and up-to-date information about risk reduction in their personal lives.
- **YOUR COMPANY NAME** will protect the confidentiality of employee's medical insurance information.
- To prevent work disruption and rejection by coworkers of an employee with AIDS or HIV infection, **YOUR COMPANY NAME** will undertake education for all employees before such an incident occurs and as needed thereafter.
- **YOUR COMPANY NAME** does not require HIV screening as part of pre-employment or general workplace physical examinations.

If you have any questions or concerns regarding this policy, please contact the Manager—Human Resources and Administration.

# Policies from the South African Afrikaanse Handelsinstituut

### Contact Information:

AHI, Lynnwood Galleries, First Floor,  
354 Rosemary Road,  
Lynnwood, 0081,  
P O Box 35100,  
Menlopark, 0102  
South Africa  
Tel: +27 12 348 5440  
Fax: +27 12 361 0203  
Email: [pta@ahi.co.za](mailto:pta@ahi.co.za)  
[www.ahi.co.za/eng.html](http://www.ahi.co.za/eng.html)

The following are some adapted examples of policies which have been developed. These may help you develop your organization's policy.

### EXAMPLE 1

#### Draft HIV Policy for a Large Group of Companies

##### Employment

- Applicants for employment need to pass a standard pre-employment medical examination which, at present, does not include an HIV test.
- Employees who contract HIV will continue to be employed until they become medically unfit for work.

##### Employee Benefits

- Medical assistance will be provided for employees with HIV, in accordance with the rules of the relevant medical scheme. Group companies must ensure that employees are aware of any limitation of benefits imposed by their respective schemes.
- When an employee is no longer able to continue in employment due to ill-health, the company's rules governing ill-health retirement will apply.

## Confidentiality

- An employee who contracts HIV will not be obliged to inform management.
- If employees with HIV inform their supervisors or the personnel department of their situation, then all reasonable precautions will be taken to ensure confidentiality and the employees' right to disclosure.

## Counselling

Access to appropriate support and counselling services will be made available to employees affected by the disease.

## Education

Employees will have access to information and education programmes on HIV and AIDS.

## Policy Review

This policy will be reviewed on a regular basis to take account of the progression of the epidemic, developments in medical care, experience in managing it in the workplace, and its impact on employee benefit schemes.

## EXAMPLE 2

### Management Statement on AIDS

The company treats AIDS and HIV-infection as disabilities in accordance with our policy on Equal Employment Opportunity (EEO). The company's EEO, non-discriminatory policy makes reasonable accommodation for disability. In addition, the following guidelines are intended to assist managers in:

- maintaining a work environment that responds to the workplace issues created by AIDS and HIV infection;
- responding to the concerns of employees who may request management assistance; and
- recognising that a supportive and caring response is an important factor in maintaining the quality of life for an employee who has HIV or AIDS.

Managers should be sensitive to the special needs of employees and assist them by demonstrating personal support, referring them to counselling services and arranging for benefits counselling, as necessary. Studies show that the support for others in the workplace can be therapeutic for the employee and may help to prolong the employee's life.

AIDS does not present a risk to the health or safety of co-workers or customers. On the basis of current medical and scientific evidence, the company recognises that AIDS is a life-threatening illness that is not transmitted through casual personal contact under normal working conditions. Co-workers are expected to continue working relationships with employees with HIV or AIDS.

Managers are encouraged to contact the personnel department for assistance in providing employees with general information about AIDS and HIV infection. Any employee who is unduly concerned about contracting AIDS may be further assisted through individual counselling.

An employee's health condition is private and confidential. An employee with AIDS or HIV infection is under no obligation to disclose his/her condition to a manager or any other employee. Managers are expected to take careful precautions to protect the confidentiality of information regarding any employee's health condition, including an employee with AIDS or HIV infection.

An employee with AIDS or HIV infection is expected to meet the same performance requirements that apply to other employees, with reasonable accommodation, if necessary. If an employee becomes disabled from performing the work involved, managers will make reasonable accommodation, as with any other employee with a disability, to enable the employee to meet established performance criteria. Reasonable accommodation may include, but is not limited to, flexible or part-time working schedules, leave of absence, work restructuring or reassignment.

The company is following the process of medical research on AIDS and HIV infection. If any significant developments occur, these guidelines will be modified accordingly.

### EXAMPLE 3

#### Draft HIV/AIDS and STD Policy for Government Departments

##### Preamble

This Department:

- acknowledges the seriousness of the HIV/AIDS epidemic;
- seeks to minimise the social, economic and developmental consequences to the Department and its staff; and
- commits itself to providing resources and leadership to implement an HIV/AIDS and STD programme.

## Principles

The Department affirms that:

- the policy shall be developed and implemented in consultation with staff and their representatives;
- staff living with HIV/AIDS have the same rights and obligations as all staff;
- staff living with HIV/AIDS shall be protected against discrimination;
- HIV status shall not constitute a reason to preclude any person from employment;
- no staff member shall be required to undergo HIV testing. Where testing is done at the insistence of the employee, this will be with his/her informed consent and accompanied by counselling; and
- confidentiality regarding the HIV status of any member of staff shall be maintained at all times.

## HIV/AIDS and STD Programme in the Workplace

### Co-ordination and Implementation

The Department shall appoint an HIV/AIDS Programme Co-ordinator and Working Group to:

- communicate the policy to all staff;
- implement, monitor and evaluate the Department's HIV/AIDS Programme;
- advise management regarding programme implementation and progress;
- liaise with local AIDS service organisations and other resources in the community; and
- create a supportive and non-discriminatory working environment.

### Management of Infected Employees

HIV/AIDS shall be treated in the same way as other disabling or terminal conditions.

### Programme Components

The HIV/AIDS programme of the Department shall provide all staff access to:

- information, education and communication activities, including media materials and peer education;
- barrier methods (male condoms);
- health services for the appropriate management of STDs;

- treatment of opportunistic infections for infected staff, along with testing and counselling services;
- personal protective equipment for staff who may potentially be exposed to blood or blood products; and
- support for both infected and affected staff.

### **Planning**

The Department shall conduct regular impact analyses in order to understand the evolving epidemic and how it will impact on the future of the Department, its structure, operations and functions.

### **Benefits**

HIV infected staff are entitled to the same benefits as all staff.

### **Budget**

The Department shall allocate an adequate budget to implement every aspect of the programme.

### **Interactions with civil society**

The Department shall try to utilise all opportunities in which it interacts with civil society to contribute to the mission and objectives of the National HIV/AIDS and STD Programme.

### **Interactions with government**

The Department shall serve on the Inter-departmental Committee to ensure a uniform and concerted response by Government to the epidemic.

# DaimlerChrysler South Africa (Pty) Ltd. Workplace Policy on HIV/AIDS

### Contact Information:

Karl-Heinz Schlaiss, DCSA  
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P.O. Box 13732  
Pretoria 0028  
Hatfield Gardens, Corner Arcadia and Hilda street Block C, 2nd Floor  
South Africa  
Tel: (012) 3421981  
Fax: (012) 3421982  
Cell: 083 6800160  
Email: Knigge.GTZ-Suedafrika@za.gtz.de

## I. PURPOSE, PREAMBLE AND GENERAL PRINCIPLES

### 1. Purpose:

The Purpose of this HIV/AIDS Workplace Policy is to ensure a uniform and fair approach to the effective prevention of HIV/AIDS amongst employees and their families, and the comprehensive management of HIV positive employees and employees living with AIDS.

### 2. Preamble:

The Management and the HIV/AIDS Task Force of Daimler/Chrysler South Africa (DCSA) acknowledges the seriousness of the HIV/AIDS epidemic in South Africa and its significant impact on the workplace. It shares the understanding of AIDS as a chronic, life threatening disease with social, economic and human rights implications. DCSA, moreover, seeks to minimize these implications through comprehensive, proactive HIV/AIDS workplace programs; and commits itself to providing leadership in implementing such programs.

### 3. General Principles:

Consultation: This DCSA HIV/AIDS workplace policy has been developed and will be implemented in consultation with the DCSA employees at all levels

- Equity: Employees living with HIV/AIDS have the same rights and obligations as all staff members and they will be protected against all forms of unfair discrimination based on their HIV status
- Confidentiality: All information and test results of an employee concerning HIV and AIDS are confidential. An employee may give informed consent to release such information to individuals specifically identified by an employee
- Rights and responsibilities: This policy is in compliance with existing South African laws regarding HIV/AIDS [1], as well as with the Southern African Development Community (SADC) Code on HIV/AIDS and Employment [2].
- Breaches of this policy will be dealt with under the normal disciplinary and grievance procedures of DCSA.

## II. BASIC INFORMATION ON HIV/AIDS:

### 1. What is HIV?

AIDS is a disease that affects millions of South Africans. It is caused by a virus called HIV, which stands for Human Immune Deficiency Virus. This virus slowly weakens a person's ability to fight off other diseases, by attaching itself to and destroying important cells that control and support the human immune system (CD 4+ cells). After a person is infected with HIV, he or she, although infectious to others, can look and feel fine for many years before AIDS is developed.

### 2. HIV Causes AIDS

There is no question among the majority of the world's scientists that HIV causes AIDS.

The average period between getting infected with HIV and developing AIDS is 5 to 7 years in the absence of treatment. AIDS is an abbreviation for Acquired Immune Deficiency Syndrome, which is a term to describe a set of opportunistic infections and cancers, which would not be life-threatening, if HIV had not destroyed the body's immune system in the first place.

### 3. Transmission and Factors Fueling the Epidemic

There is very little chance of HIV being transmitted in the workplace. In order for a person to be infected, the virus must gain entrance into a person's blood stream. These are

limited number of modes of transmission. The modes of transmission in order of importance are:

- Unprotected sex with an HIV infected person
- From an infected mother to her child (during pregnancy, at birth, through breast feeding)
- Intravenous drug use with contaminated needles
- Transfusion with infected blood and blood products
- Unsafe, unprotected contact with infected blood and the bleeding wounds of an infected person

Other circumstances which increase the risk of HIV transmission and the development of AIDS include among others, factors related to poverty (overcrowding, poor housing, high prevalence of tuberculosis, etc), limited access to health and social services ( untreated STDs, drug shortages, etc), migrant labour, rapid urbanization, unemployment, poor education, and the inferior position of women in society( sexual violence, powerless to insist on condoms, etc). These continue to fuel the epidemic in spite of individual behavior modification attempts.

#### 4. Treatment

There is no cure or vaccine for HIV/AIDS, yet. However, there are some major advances in medical treatment. Anti-retroviral drug combinations are available, which, when properly used result in significantly prolonged survival of people living with HIV. Holistic care of people living with AIDS (PWA) and comprehensive treatment of opportunistic infections dramatically improves quality of life.

### III. CREATING A NONDISCRIMINATORY AND CARING ENVIRONMENT

#### 1. Stigmatization and Discrimination

Through the provision of information, education and communication about HIV and AIDS and normal DCSA disciplinary and grievance procedures, this policy aims to protect all HIV positive employees from stigmatization and discrimination by coworkers, based on their HIV status. It guarantees that job access, -status, -promotion, -security, and training will not be influenced merely by the HIV status of an employee.

## 2. Counseling and Testing

DCSA rejects HIV testing as a prerequisite for recruitment, access to training, or for promotion. However, DCSA promotes and facilitates access to Voluntary Counseling and Testing (VCT) for all employees. Counseling includes pretest and post-test counseling.

## 3. Confidentiality and Disclosure

DCSA guarantees confidentiality of any medical information relating to HIV status that any of its representatives may have in their possession by virtue of their position in the company. DCSA strives to create a climate that allows for and encourages voluntary disclosure of an individual's positive HIV status. DCSA also guarantees that an employee will not be unfairly discriminated based on their disclosed HIV status.

## 4. Performance Management

With this policy, DCSA acknowledges the desire and the ability of HIV positive employees to work. It therefore, guarantees that employees living with HIV and AIDS may continue to work as long as they are able to perform their duties in accordance to the job requirements. When due to medical reasons an employee may no longer be able to continue with his or her normal employment duties, DCSA will make efforts to reasonable accommodate an employee in another position in line with existing legislation and company policies.

## 5. Occupational Health and Safety

Risk of HIV infection at the workplace is managed through the following means:

- Standard procedures are applied to reduce risk following injury at work involving blood, and potential exposure to bloodborne pathogens, including HIV. Appropriate HIV/AIDS information is included into occupational health training and First Aid training.
- Emergency care and treatment for DCSA medical personnel and people performing First Aid in and after medical HIV exposure will be provided.

# IV. DCSA HIV/AIDS PROGRAM

## 1. Comprehensive Health Care

The DCSA HIV/AIDS Program provides Comprehensive Health Care services, including:

- The Syndromic Approach to treatment of Sexually Transmitted Diseases (STD)

- Appropriate treatment for people with Tuberculosis in line with the Ministry of Health's National TB Control Policy. Directly Observed Treatment/ Short Course Chemotherapy (DOTS) for people with Tuberculosis will be the cornerstone of treatment.
- Employee Wellness Services & an Employee Assistance Program
- Voluntary Counseling and Testing for HIV (by trained and supervised counselors and qualified health personnel)
- A sustained commitment to access to anti-retroviral drugs, treatment according to standard protocols, and appropriate treatment of opportunistic infections within the framework of the company medical aid
- Condom availability and distribution

## 2. Education and Awareness

The DCSA HIV/AIDS Program will facilitate continuous HIV/AIDS education and awareness through ensuring:

- The systematic and ongoing provision of credible information about HIV/AIDS using all company media and communication methods. This will include, but not be limited to, regular features in the company newspaper, articles on the DCSA Intranet, features on internal company television broadcasts, AIDS Information Kiosks, the establishment of a DCSA Intranet Health Help Desk, distribution of informative publications and referrals to the National HIV/AIDS Helpline and other Support and Information Resources
- Appointment of and ongoing support to Peer Educators in the workplace
- Health Promotion Campaigns including promotion of VCT and proper condom use
- Outreach to, partnership with-, and promotion of organizations involved in community-based HIV/AIDS initiatives and advocacy.

## 3. Organisational and Human Resource Resources Development

The DCSA HIV/AIDS Program will prioritize the critical need to proactively manage the impact of HIV/AIDS on the company and its employees. DCSA will

- Conduct baseline and periodic formal HIV/AIDS Risk Assessments of the organisation, its employees, and their families. This will include HIV prevalence and impact studies without compromising confidentiality of HIV status of any individuals. It will be done in consultation and with the consent of employees and employee organisations

- Continuously review and improve appropriate organisational—and human resource development measures to manage current and future HIV/AIDS impacts
- Continually review and remodel health-related employee benefits to meet current and future HIV/AIDS impacts. Health-related employee benefits include insured death and disability benefits, funeral cover, and the company medical aid scheme.

## V. IMPLEMENTATION AND COORDINATION RESPONSIBILITIES

### 1. Coordination

To coordinate and implement the HIV/AIDS program and its policy, DCSA employs a HIV/AIDS Program Coordinator. As the major decision making body an AIDS Task Force has been created. The Task Force consists of employees representing all constituents of the company. Participants are drawn from the representative Trade Union, Staff Committee, Medical Services, Production Management and Human Resources Management, and representatives of the GTZ.

### 2. Community Involvement and Partnerships

DCSA considers community involvement and partnerships with other stakeholders and institutions an integral part of its HIV/AIDS strategy. It therefore, supports community based initiatives in its employee's communities. DCSA is committed to create and foster partnerships with governmental and non-governmental organisations for the implementation of its HIV/AIDS programmes.

### 3. Monitoring and Evaluation

In order to thoroughly design, plan and evaluate this policy and its connected HIV/AIDS prevention and care services. DCSA will launch a HIV prevalence survey to establish baseline data and will regularly conduct HIV/AIDS Risk Assessment and Knowledge, Attitudes, Practice/Behavior (KAP/B) Studies among its employees and their family members. For the same reasons, a monitoring, evaluation and reporting system for all service components has been designed. Continuous monitoring, evaluation and reporting is critical in ongoing programme impact evaluation.

### 4. Communication

DCSA commits itself to regular and formal communication within the company about the HIV/AIDS Program and its development.

## 5. Policy Review

The HIV/AIDS Task Force will review this policy at regular intervals and conduct a formal review in the 1st Quarter of each year.

[1]

- Constitution of the Republic of South Africa act No. 108 of 1996.
- Employment Equity Act, 55 of 1998
- Occupational Health and Safety Act, 85 of 1993
- Mine and Health Safety Act No.29 of 1996
- Compensation for Occupational Injuries an Diseases Act No. 130 of 1993
- Basic Conditions of Employment Act, 75 of 1997
- Labor Relation Act No. 66 of 1995 (arbitrary dismissal, ability to work of HIV+ staff)
- The Medical Scheme Act, No 131 of 1998
- The Commission for Employment Equity Code of Good Practice on key aspects of HIV/AIDS and Employment, 2000

[2]

Adopted in 1997 by the SADC Council

For more information, visit the AIDS Law Project: [www.hri.ca/partners/alp](http://www.hri.ca/partners/alp)

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# Heineken HIV/AIDS Policy

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### FOREWORD

HIV/AIDS has significant negative implications both for world-wide public health and global economic development. But the problem also has direct and indirect effects for Heineken. That is why Heineken has been executing HIV/AIDS prevention and care programmes in its facilities for many years.

We believe that public health is primarily the responsibility of national governments. However, we have to face the facts that in some areas of the world governments fail to fill their primary public health duties. In such areas, Heineken accepts, under certain conditions, a supplementary role in the organization of health care.

With the right medical infrastructure, therapy could prolong productive life and reduce sickness. Heineken as an employer can meet these conditions and has decided to include anti-retroviral therapy in existing local medical curative programmes, unless those concerned are eligible for a comparable external programme.

Anti-retroviral therapy is a complex therapy and must and will be properly monitored and managed. Open channels of communication are maintained with international agencies, local governments, and non-governmental organizations. In many cultures, the issue is still sensitive, and there is always a danger of stigmatization and discrimination of HIV-positive people.

This HIV/AIDS policy has been developed to clarify Heineken's position and to define the conditions and principles of its prevention and medication policy. We sincerely hope that Heineken will set an example for both international businesses and governments to jointly fight this pandemic, which has had and unfortunately will have such a devastating impact on development of the world community.

Bart de Jonge  
Director, Corporate Human Resources  
Heineken international  
January 2002

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## Preamble

In formulating the Heineken HIV/AIDS policy, the following principles are of primary importance:

- Employee health and safety is a high priority for Heineken.
- The company's main focus is on the prevention of work-related accidents and damage to health.

Heineken believes that public health is primarily the responsibility of national governments. This includes health problems resulting from environmental factors (e.g., malaria) and also damage to health, which might have been caused or aggravated by individual behavior outside the working environment (e.g., HIV/AIDS). In so far as national governments fail to assume their primary public health duties, and if this failure affects employee performance, the company will accept a supplementary role in the organization of health care.

When determining the nature and extent of its responsibility in this area, Heineken takes into consideration the positions of international bodies (such as the World Health Organization [WHO], the International Labor Organization [ILO]) and international business. However, Heineken reserves the right to conduct its own evaluation of the effect of its policy on the local company.

## Basic Principles of Heineken's HIV/AIDS Policy

Given the nature and development of the disease and its effect on business, Heineken focuses primarily on prevention and on health support for HIV and AIDS patients. Heineken firmly opposes discrimination, in general, including discrimination of employees with HIV, and will make every effort to ensure that employees are not stigmatized. Their HIV status will not affect job security, terms of employment, or any other element of social policy. They will be treated in the same way as employees suffering from any other chronic disease with regard to absenteeism, assessment, and transfer to a less demanding position or working environment. HIV status will not be a criterion in redundancy selection.

Heineken will not oblige anyone to undergo an HIV test or treatment, whether it concerns employees, potential employees, their families, or third parties.

Personal medical information, including a request for and the result of voluntary HIV tests, will be treated in the strictest confidence.

Heineken will co-operate where possible with relevant translations and institutions.

Heineken will do its utmost to allow local communities to benefit from the spin-off of preventive activities that Heineken organizes for its employees.

## Prevention and Health Support Programme

### A. Prevention programme

- A prevention programme should result in changes in behavior.
- An integrated prevention programme will include at least:
  - information and education;
  - measures to increase the availability of condoms;
  - general protection and preventive measures:
  - management of sexually transmitted diseases (STDs);
  - counseling;
  - opportunities for voluntary HIV tests;
  - measures for the prevention of vertical transmission from mother to child.

Additional programmes will be developed locally for groups with an increased risk of infection (e.g., promotion girls, employees who live apart from their families). Evaluation of the risks could lead to radical changes in working conditions, training, coaching, and management control.

## B. Health Support Programme for HIV and AIDS Patients

Employees who test positive for HIV can be productive for a long time if they receive the right help and guidance. Heineken will establish an effective health support programme for employees with HIV and their immediate family. This will consist of:

- prevention and treatment of opportunistic infections;
- counseling and care for AIDS patients.

## Anti-retroviral Therapy

### A. Basic Principles

The Executive Board of Heineken has decided to include, under conditions set out below, anti-retroviral therapy in existing local medical curative programmes unless one is eligible for a comparable external programme. This decision applies in principle to all Heineken organizations world-wide. A temporary different position of one of the organizational units or countries is only permissible if there are objective differences in local circumstances that make implementation of such a policy unattainable.

Heineken will organize access to anti-retroviral therapy in so far and as long as such therapy is not otherwise available, or, in the company's view, this therapy cannot be afforded and/or there is no access to the proper medical infrastructure. Heineken will offer anti-retroviral therapy within the context of existing local medical policy, including the conditions of entry and exclusion rules adopted as part of this policy.

The term anti-retroviral therapy should in this context also be understood to mean the necessary tests, the actual medication, and, where necessary, additional medical care.

Heineken solely offers *anti-retroviral* therapy if a controlled supply of medication is reasonably guaranteed over an extended period without interruption. Therapy will not be offered if Heineken cannot guarantee a high level of quality.

Therapy will solely be offered in accordance with protocols laid down by Heineken International Medical Services (HIMS). A competent external body will internationally monitor the quality of the necessary infrastructure, level of knowledge, and treatment.

HIMS reserves the right to reconsider both the medical organization and the procedures adopted to ensure their compatibility with the HIV/AIDS policy. The company does not accept responsibility in cases of voluntary termination of the therapy, failure to observe the conditions associated with provision of the medication, or possible failure and side effects of the therapy.

## B. Eligibility

Only those who qualify for medical treatment under the existing policy also qualify in principle for the therapy referred to herein. Generally speaking, these are staff, their partners, and their dependent children up to a set age. To establish whether someone qualifies for therapy, no distinction is made according to the position of an employee in the organization or any other irrelevant discriminatory criteria. Qualification for therapy will be based on medical grounds only.

In so far as and as long as one qualifies for the medical treatments under existing arrangements, any therapy in place will in principle be continued unless the individual fails to observe the stated terms for therapy or is eligible for a comparable external programme. By way of exception from this, therapy already started will, subject to conditions remaining the same, also be continued after redundancy due to reorganizations.

The local management will endeavor to promote access to an alternative external programme for those no longer qualifying for anti-retroviral therapy under the existing entry/exclusion rules. Those receiving therapy will be expected to make a reasonable personal financial contribution and to take the steps necessary to ensure that the therapy can be effective.

## C. Organization and Management

The local management is responsible for implementing the HIV/AIDS policy. In doing so, it endeavors to involve international organizations, local authorities, non-governmental organizations, and, if possible, other local and international companies.

Where necessary, the formulation of programmes can be adapted to the local culture, as long as this does not affect efficacy and safety and as long as implementation takes place within the HIMS policy formulated in this brochure.

Support for programmes will be established among employee representatives, usually trade Unions and/or internal consultative bodies.

In every operating company where this is relevant, a committee will be established to advise on the organization of the prevention and health support programmes, as well as anti-retroviral therapy and associated problems. Ethical dilemmas should be submitted by the management to the Corporate Medical Ethics Committee (being established) which, after consultation, takes a decision on individual cases and develops guidelines for medical ethical action within Heineken worldwide.

The local management will assess the possibility of placing the infrastructures and expertise of Heineken—both medical and organizational—at the disposal of the local

business community so that they can initiate similar programmes. Furthermore, the local management will actively draw its policy to the attention of local business partners and other enterprises, and, where possible, enter into partnerships with them to pursue effective policy concerning HIV/AIDS prevention and therapy as a shared initiative.

Heineken will grant assistance to research initiatives on biomedical and psychosocial aspects of HIV/AIDS prevention and anti-retroviral therapy.

## Communication

For Heineken and for the success of any HIV/AIDS programme, it is important that the participants, authorities, and general public are informed correctly. Information should cover the nature of the measures taken and the reasons behind them. The local management is responsible for full and proper communication in this regard, which should be based on the following principles:

- Heineken will not pro-actively publicize its policy, and the latter will be implemented in a “low profile” way. It is not the intention to use this policy for “competitive advantage.”
- If collaboration with other companies does not prove possible, Heineken will ensure timely communication of its chosen policy to the most relevant parties in good time.
- Collaboration will be sought with international bodies such as the WHO, UNAIDS, the World Bank, the ILO, the Global Business Council on HIV/AIDS, and the Global Health Initiative (GHI) of the World Economic Forum.
- Criticism about the policy or its components should be countered by engaging in an open dialogue.
- Local management will, particularly in the initial phase, have to monitor public opinion actively.
- Local management will do its utmost to support local initiatives that are aimed at supplying medication, including initiatives not aimed at its target group.
- In view of the policy of the ILO and others, local management should consider making the issue of alcohol and AIDS part of its Alcohol Policy.

## Costs

The costs of the HIV/AIDS policy are borne by the enterprise.

A personal contribution is expected from those included in the test and medication programme. The level of this contribution is determined by the local management, but it should be reasonable in relation to disposable income. The object of this contribution is primarily to promote compliance with the requirements imposed by the therapy.

The costs of developing the programmes, the materials, staff and the training and supervision of the medical staff will in principle be charged to HIMS.

The local implementation of these programmes, including the costs of any medication, will in principle be charged to the local organization, unless the management of the national umbrella organization or cluster decides to take care of these costs.

# Draft Policy: Asian Business Coalition on HIV/AIDS

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To help maintain harmony at the workplace, as well as strengthen the existing bond between [the company] and our employees, [the company] policy on HIV/AIDS will be as follows:

1. [The company] will provide a safe and health work environment for all our employees.
2. [The company] will educate our employees and their families in prevention, care and counseling on HIV/AIDS by providing information through posters, leaflets, articles in the company newsletter and conduct interactive sessions where appropriate. Particular attention will be given to dispel ill-conceived notions and myths.
3. HIV positive employees will be allowed to continue work in his/her job unless medical conditions interfere with that specific job. In this case, and only if it is absolutely necessary, will the employee be shifted to another position where he/she will be more comfortable.
4. [The company] will educate our employees in safe blood, blood donations and transfusion issues.
5. In case an employee is infected, information about the illness will be kept with absolute confidentiality. Only the immediate superior will be advised to prevent any spread of information.

6. No employee can refuse to work alongside with an HIV positive colleague. [The company] expects all employees to ensure that the HIV positive colleague will be comfortable and supported in his/her work.
7. [The company] will not discriminate against any employee infected with HIV with regard to promotion, training and other privileges as applicable to all employees of [the company].
8. While [the company] can ask a person who is being offered a job, to undergo general medical tests before the issue of the appointment letter, the test will not cover HIV/AIDS.
9. An HIV/AIDS test will not be a part of the annual health checkup, unless specifically requested by the employee.
10. [The company] will arrange for easy availability of condoms at the workplace.

It is hoped that with this policy, it will be possible to control the epidemic from spreading, help build positive attitudes towards those infected and promote health and safety amongst the employees. This in turn will assist in bringing about higher productivity and efficiency in the company's operations.

# Appendix 3

## Ten Principles for the Workplace

This appendix provides the original Ten Principles developed in 1988 by the Citizens Commission on AIDS in New York City and Northern New Jersey.

## Ten Principles for the Workplace

1. People with AIDS or HIV (Human Immunodeficiency Virus) infection are entitled to the same rights and opportunities as people with other serious or life-threatening illnesses.
2. Employment policies must, at a minimum, comply with federal, state, and local laws and regulations.
3. Employment policies should be based on the scientific and epidemiological evidence that people with AIDS or HIV infection do not pose a risk of transmission of the virus to coworkers through ordinary workplace contact.
4. The highest levels of management and union leadership should unequivocally endorse nondiscriminatory employment policies and educational programs about AIDS.
5. Employers and unions should communicate their support of these policies in simple, clear, and unambiguous terms.
6. Employers should provide employees with sensitive, accurate, and up-to-date education about risk reduction in their personal lives.
7. Employers have a duty to protect the confidentiality of employees' medical information.
8. To prevent work disruption and rejection by coworkers of an employee with AIDS or HIV infection, employers and unions should undertake education for all employees before such an incident occurs and as needed thereafter.
9. Employers should not require HIV screening as part of general pre-employment or workplace physical examinations.
10. In those special occupational settings where there may be a potential risk of exposure to HIV (for example, in health care, where workers may be exposed to blood or blood products), employers should provide specific, ongoing education and training, as well as the necessary equipment, to reinforce appropriate infection control procedures and ensure that they are implemented.

CITIZENS COMMISSION ON AIDS  
February 1988

# Appendix 4

## Labor Guidelines, Codes, and Policies on HIV/AIDS and the Workplace

This appendix provides the ILO Code of Practice as well as sample policies from a labor union and a labor federation in South Africa and a U.S. public employees' union.



# International Labor Organization (ILO) Code of Practice

## KEY PRINCIPLES OF THE ILO CODE OF PRACTICE ON HIV/AIDS AND THE WORLD OF WORK

- HIV/AIDS should be treated like any other serious illness/condition. This is necessary because the workplace, as part of the local community, can play a vital role in the wider struggle to limit the spread and effects of the epidemic.
- Workers, employers and governments should collaborate to promote prevention, particularly in changing attitudes and behaviours through the information and education, and in addressing socio-economic factors.
- In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination and stigmatization against workers on the basis of real or perceived HIV status.
- The gender dimensions of HIV/AIDS should be recognized. More equal gender relations and the empowerment of women are vital to successfully preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.
- HIV/AIDS screening should not be required of job applicants or persons in employment and testing for HIV should not be carried out at the workplace except as specified in this code. Even outside the workplace, testing for HIV should involve voluntary informed consent and be performed by qualified personnel only, in conditions of strictest confidentiality.
- Asking job applicants, workers or co-workers to disclose HIV-related personal information is unjustified. Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with existing ILO codes of practice.
- HIV infection is not cause for termination for employment and persons with HIV-related illnesses should be able to work for as long as medically fit in available, appropriate work.
- There should be no discrimination against workers and their dependants living with HIV/AIDS in access to and receipt of benefits from statutory social security programs and occupational schemes.

- Successful implementation of an HIV/AIDS policy and program requires social dialogue between employers, workers and their representatives and government, where appropriate, with the active involvement of workers infected or affected by HIV/AIDS.

<http://www.ilo.org/public/english/bureau/inf/magazine/40/iloaids.htm>

#### **4.1 Recognition of HIV/AIDS as a workplace issue**

HIV/AIDS is a workplace issue, not only because it affects the workforce, but also because the workplace can play a vital role in limiting the spread and effects of the epidemic.

#### **4.2 Non-discrimination**

There should be no discrimination or stigmatization against workers on the basis of real or perceived HIV status.

#### **4.3 Gender equality**

More equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.

#### **4.4 Healthy work environment**

The work environment should be healthy and safe, and adapted to the state of health and capabilities of workers.

#### **4.5 Social dialogue**

A successful HIV/AIDS policy and programme requires cooperation, trust and dialogue between employers, workers, and governments.

#### **4.6 Screening for purposes of employment**

HIV/AIDS screening should not be required of job applicants or persons in employment, and testing for HIV should not be carried out at the workplace except as specified in this code.

#### **4.7 Confidentiality**

Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with existing ILO codes of practice.

#### **4.8 Continuing the employment relationship**

HIV infection is not a cause for termination of employment. Persons with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

## 4.9 Prevention

The social partners are in a unique position to promote prevention efforts through information and education, and support changes in attitudes and behaviour.

## 4.10 Care and support

Solidarity, care and support should guide the response to AIDS at the workplace. All workers are entitled to affordable health services and to benefits from statutory and occupational schemes.

Created by AW. Approved by FL. Last updated: March 2002

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## AN ILO CODE OF PRACTICE ON HIV/AIDS AND THE WORLD OF WORK

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## PREFACE

The HIV/AIDS epidemic is now a global crisis, and constitutes one of the most formidable challenges to development and social progress. In the most affected countries, the epidemic is eroding decades of development gains, undermining economies, threatening security and destabilizing societies. In sub-Saharan Africa, where the epidemic has already had a devastating impact, the crisis has created a state of emergency.

Beyond the suffering it imposes on individuals and their families, the epidemic is profoundly affecting the social and economic fabric of societies. HIV/AIDS is a major threat to the world of work: it is affecting the most productive segment of the labour force and reducing earnings, and it is imposing huge costs on enterprises in all sectors through declining productivity, increasing labour costs and loss of skills and experience. In addition, HIV/AIDS is affecting fundamental rights at work, particularly with respect to discrimination and stigmatization aimed at workers and people living with and affected by HIV/AIDS. The epidemic and its impact strike hardest at vulnerable groups including women and children, thereby increasing existing gender inequalities and exacerbating the problem of child labour.

This is why the ILO is committed to making a strong statement through a code of practice on HIV/AIDS and the world of work. The code will be instrumental in helping to prevent the spread of the epidemic, mitigate its impact on workers and their families and provide social protection to help cope with the disease. It covers key principles, such as the recognition of HIV/AIDS as a workplace issue, non-discrimination in employment, gender equality, screening and confidentiality, social dialogue, prevention and care and support, as the basis for addressing the epidemic in the workplace.

This code is the product of collaboration between the ILO and its tripartite constituents, as well as cooperation with its international partners. It provides invaluable practical guidance to policy-makers, employers' and workers' organizations and other social partners for formulating and implementing appropriate workplace policy, prevention and care programmes, and for establishing strategies to address workers in the informal sector. This is an important ILO contribution to the global effort to fight HIV/AIDS.

The code will help to secure conditions of decent work in the face of a major humanitarian and development crisis. Already, valuable lessons have been learned in attempting to deal with this crisis. A few countries have achieved a degree of success in slowing down the spread of the infection and mitigating its effects on individuals and their communities. The best practices have included committed leadership, multi-sectoral approaches, partnership with civil society, including people living with HIV/AIDS, and education.

These elements are reflected in the key principles of the code and its reliance on the mobilization of the social partners for effective implementation.

This is a forward-looking and pioneering document which addresses present problems and anticipates future consequences of the epidemic and its impact on the world of work. Through this code, the ILO will increase its support for international and national commitments to protect the rights and dignity of workers and all people living with HIV/AIDS.

Geneva, June 2001

Juan Somavia,  
Director-General

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- 8.3. Epidemiological surveillance
- 8.4. Voluntary testing
- 8.5. Tests and treatment after occupational exposure

## 9. Care and support

- 9.1. Parity with other serious illnesses
- 9.2. Counselling
- 9.3. Occupational and other health services
- 9.4. Linkages with self-help and community-based groups
- 9.5. Benefits
- 9.6. Social security coverage
- 9.7. Privacy and confidentiality
- 9.8. Employee and family assistance programmes

*Note: Appendices are not included here, but are available from the ILO website, [www.ilo.org](http://www.ilo.org).*

## 1. Objective

The objective of this code is to provide a set of guidelines to address the HIV/AIDS epidemic in the world of work and within the framework of the promotion of decent work. The guidelines cover the following key areas of action:

- (a) prevention of HIV/AIDS;
- (b) management and mitigation of the impact of HIV/AIDS on the world of work;
- (c) care and support of workers infected and affected by HIV/AIDS;
- (d) elimination of stigma and discrimination on the basis of real or perceived HIV status.

## 2. Use

This code should be used to:

- (a) develop concrete responses at enterprise, community, regional, sectoral, national and international levels;
- (b) promote processes of dialogue, consultations, negotiations and all forms of cooperation between governments, employers and workers and their representatives, occupational health personnel, specialists in HIV/AIDS issues, and all relevant stakeholders (which may include community-based and non-governmental organizations (NGOs));
- (c) give effect to its contents in consultation with the social partners:
  - in national laws, policies and programmes of action,
  - in workplace/enterprise agreements, and
  - in workplace policies and plans of action.

## 3. Scope and terms used in the code

### 3.1. Scope

This code applies to:

- (a) all employers and workers (including applicants for work) in the public and private sectors; and
- (b) all aspects of work, formal and informal.

### 3.2. Terms used in the code

*HIV*: the Human Immunodeficiency Virus, a virus that weakens the body's immune system, ultimately causing AIDS.

*Affected persons:* persons whose lives are changed in any way by HIV/AIDS due to the broader impact of this epidemic.

*AIDS:* the Acquired Immune Deficiency Syndrome, a cluster of medical conditions, often referred to as opportunistic infections and cancers and for which, to date, there is no cure.

*Discrimination* is used in this code in accordance with the definition given in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), to include HIV status. It also includes discrimination on the basis of a worker's perceived HIV status, including discrimination on the ground of sexual orientation.

*Persons with disabilities* is used in this code in accordance with the definition given in the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), namely individuals whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment.

*Employer:* a person or organization employing workers under a written or verbal contract of employment which establishes the rights and duties of both parties, in accordance with national law and practice. Governments, public authorities, private enterprises and individuals may be employers.

*Occupational health services (OHS)* is used in this code in accordance with the description given in the Occupational Health Services Convention, 1985 (No. 161), namely health services which have an essentially preventative function and which are responsible for advising the employer, as well as workers and their representatives, on the requirements for establishing and maintaining a safe and healthy working environment and work methods to facilitate optimal physical and mental health in relation to work. The OHS also provide advice on the adaptation of work to the capabilities of workers in the light of their physical and mental health.

*Reasonable accommodation:* any modification or adjustment to a job or to the workplace that is reasonably practicable and will enable a person living with HIV or AIDS to have access to or participate or advance in employment.

*Screening:* measures whether direct (HIV testing), indirect (assessment of risk-taking behaviour) or asking questions about tests already taken or about medication.

*Sex and gender:* there are both biological and social differences between men and women. The term "sex" refers to biologically determined differences, while the term "gender" refers to differences in social roles and relations between men and women. Gender roles

are learned through socialization and vary widely within and between cultures. Gender roles are affected by age, class, race, ethnicity and religion, and by the geographical, economic and political environment.

*STI*: sexually transmitted infection, which includes, among others, syphilis, chancroid, chlamydia, gonorrhoea. It also includes conditions commonly known as sexually transmitted diseases (STDs).

*Termination of employment* has the meaning attributed in the Termination of Employment Convention, 1982 (No. 158), namely dismissal at the initiative of the employer.

*Universal Precautions* are a simple standard of infection control practice to be used to minimize the risk of blood-borne pathogens (see full explanation in Appendix II).

*Workers in informal activities (also known as informal sector)*: this term is described in Appendix I.

*Workers' representatives*, in accordance with the Workers' Representatives Convention, 1971 (No. 135), are persons recognized as such by national law or practice whether they are:

- (a) trade union representatives, namely, representatives designated or elected by trade unions or by members of such unions; or
- (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

*Vulnerability* refers to socio-economic disempowerment and cultural context, work situations that make workers more susceptible to the risk of infection and situations which put children at greater risk of being involved in child labour (for more detail see Appendix I).

## 4. Key principles

### 4.1. Recognition of HIV/AIDS as a workplace issue

HIV/AIDS is a workplace issue, and should be treated like any other serious illness/ condition in the workplace. This is necessary not only because it affects the workforce, but also because the workplace, being part of the local community, has a role to play in the wider struggle to limit the spread and effects of the epidemic.

#### 4.2. Non-discrimination

In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination against workers on the basis of real or perceived HIV status. Discrimination and stigmatization of people living with HIV/AIDS inhibits efforts aimed at promoting HIV/AIDS prevention.

#### 4.3. Gender equality

The gender dimensions of HIV/AIDS should be recognized. Women are more likely to become infected and are more often adversely affected by the HIV/AIDS epidemic than men due to biological, socio-cultural and economic reasons. The greater the gender discrimination in societies and the lower the position of women, the more negatively they are affected by HIV. Therefore, more equal gender relations and the empowerment of women are vital to successfully prevent the spread of HIV infection and enable women to cope with HIV/AIDS.

#### 4.4. Healthy work environment

The work environment should be healthy and safe, so far as is practicable, for all concerned parties, in order to prevent transmission of HIV, in accordance with the provisions of the Occupational Safety and Health Convention, 1981 (No. 155). A healthy work environment facilitates optimal physical and mental health in relation to work and adaptation of work to the capabilities of workers in light of their state of physical and mental health.

#### 4.5. Social dialogue

The successful implementation of an HIV/AIDS policy and programme requires cooperation and trust between employers, workers and their representatives and government, where appropriate, with the active involvement of workers infected and affected by HIV/AIDS.

#### 4.6. Screening for purposes of exclusion from employment or work processes

HIV/AIDS screening should not be required of job applicants or persons in employment.

#### 4.7. Confidentiality

There is no justification for asking job applicants or workers to disclose HIV-related personal information. Nor should co-workers be obliged to reveal such personal information about fellow workers. Access to personal data relating to a worker's HIV status should be bound by the rules of confidentiality consistent with the ILO's code of practice on the protection of workers' personal data, 1997.

#### 4.8. Continuation of employment relationship

HIV infection is not a cause for termination of employment. As with many other conditions, persons with HIV-related illnesses should be able to work for as long as medically fit in available, appropriate work.

#### 4.9. Prevention

HIV infection is preventable. Prevention of all means of transmission can be achieved through a variety of strategies which are appropriately targeted to national conditions and which are culturally sensitive.

Prevention can be furthered through changes in behaviour, knowledge, treatment and the creation of a non-discriminatory environment.

The social partners are in a unique position to promote prevention efforts particularly in relation to changing attitudes and behaviours through the provision of information and education, and in addressing socio-economic factors.

#### 4.10. Care and support

Solidarity, care and support should guide the response to HIV/AIDS in the world of work. All workers, including workers with HIV, are entitled to affordable health services. There should be no discrimination against them and their dependants in access to and receipt of benefits from statutory social security programmes and occupational schemes.

### 5. General rights and responsibilities

#### 5.1. Governments and their competent authorities

- (a) *Coherence.* Governments should ensure coherence in national HIV/AIDS strategy and programmes, recognizing the importance of including the world of work in national plans, for example by ensuring that the composition of national AIDS councils includes representatives of employers, workers, people living with HIV/AIDS and of ministries responsible for labour and social matters.
- (b) *Multi-sectoral participation.* The competent authorities should mobilize and support broad partnerships for protection and prevention, including public agencies, the private sector, workers' and employers' organizations, and all relevant stakeholders so that the greatest number of partners in the world of work are involved.
- (c) *Coordination.* Governments should facilitate and coordinate all interventions at the national level that provide an enabling environment for world of work interventions and capitalize on the presence of the social partners and all relevant

stakeholders. Coordination should build on measures and support services already in place.

- (d) *Prevention and health promotion.* The competent authorities should instigate and work in partnership with other social partners to promote awareness and prevention programmes, particularly in the workplace.
- (e) *Clinical guidelines.* In countries where employers assume a primary responsibility for providing direct health-care services to workers, governments should offer guidelines to assist employers in the care and clinical management of HIV/AIDS. These guidelines should take account of existing services.
- (f) *Social protection.* Governments should ensure that benefits under national laws and regulations apply to workers with HIV/AIDS no less favourably than to workers with other serious illnesses. In designing and implementing social security programmes, governments should take into account the progressive and intermittent nature of the disease and tailor schemes accordingly, for example by making benefits available as and when needed and by the expeditious treatment of claims.
- (g) *Research.* In order to achieve coherence with national AIDS plans, to mobilize the social partners, to evaluate the costs of the epidemic on workplaces, for the social security system and for the economy, and to facilitate planning to mitigate its socioeconomic impact, the competent authorities should encourage, support, carry out and publish the findings of demographic projections, incidence and prevalence studies and case studies of best practice. Governments should endeavour to provide the institutional and regulatory framework to achieve this. The research should include gender-sensitive analyses that make use of research and data from employers and their organizations and workers' organizations. Data collection should, to the extent possible, be sector-specific and disaggregated by sex, race, sexual orientation, age, employment and occupational status and be done in a culturally sensitive manner. Where possible, permanent impact assessment mechanisms should exist.
- (h) *Financial resourcing.* Governments, where possible, in consultation with the social partners and other stakeholders, should estimate the financial implications of HIV/AIDS and seek to mobilize funding locally and internationally for their national AIDS strategic plans including, where relevant, for their social security systems.
- (i) *Legislation.* In order to eliminate workplace discrimination and ensure workplace prevention and social protection, governments, in consultation with the social partners and experts in the field of HIV/AIDS, should provide the relevant regulatory framework and, where necessary, revise labour laws and other legislation.

- (j) *Conditionalities for government support.* When governments provide start-up funding and incentives for national and international enterprises, they should require recipients to adhere to national laws and encourage recipients to adhere to this code, and policies or codes that give effect to the provisions of this code.
- (k) *Enforcement.* The competent authorities should supply technical information and advice to employers and workers concerning the most effective way of complying with legislation and regulations applicable to HIV/AIDS and the world of work. They should strengthen enforcement structures and procedures, such as factory/labour inspectorates and labour courts and tribunals.
- (l) *Workers in informal activities (also known as informal sector).* Governments should extend and adapt their HIV/AIDS prevention programmes to such workers including income generation and social protection. Governments should also design and develop new approaches using local communities where appropriate.
- (m) *Mitigation.* Governments should promote care and support through public healthcare programmes, social security systems and/or other relevant government initiatives. Governments should also strive to ensure access to treatment and, where appropriate, to work in partnership with employers and workers' organizations.
- (n) *Children and young persons.* In programmes to eliminate child labour, governments should ensure that attention is paid to the impact of the epidemic on children and young persons whose parent or parents are ill or have died as a result of HIV/AIDS.
- (o) *Regional and international collaboration.* Governments should promote and support collaboration at regional and international levels, and through intergovernmental agencies and all relevant stakeholders, so as to focus international attention on HIV/AIDS and on the related needs of the world of work.
- (p) *International assistance.* Governments should enlist international assistance where appropriate in support of national programmes. They should encourage initiatives aimed at supporting international campaigns to reduce the cost of, and improve access to, antiretroviral drugs.
- (q) *Vulnerability.* Governments should take measures to identify groups of workers who are vulnerable to infection, and adopt strategies to overcome the factors that make these workers susceptible. Governments should also endeavour to ensure that appropriate prevention programmes are in place for these workers.

## 5.2. Employers and their organizations

- (a) *Workplace policy.* Employers should consult with workers and their representatives to develop and implement an appropriate policy for their workplace,

designed to prevent the spread of the infection and protect all workers from discrimination related to HIV/AIDS. A checklist for workplace policy planning and implementation appears in Appendix III.

- (b) *National, sectoral and workplace/enterprise agreements.* Employers should adhere to national law and practice in relation to negotiating terms and conditions of employment about HIV/AIDS issues with workers and their representatives, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and workplace/enterprise agreements.
- (c) *Education and training.* Employers and their organizations, in consultation with workers and their representatives, should initiate and support programmes at their workplaces to inform, educate and train workers about HIV/AIDS prevention, care and support and the enterprise's policy on HIV/AIDS, including measures to reduce discrimination against people infected or affected by HIV/AIDS and specific staff benefits and entitlements.
- (d) *Economic impact.* Employers, workers and their organizations, should work together to develop appropriate strategies to assess and appropriately respond to the economic impact of HIV/AIDS on their particular workplace and sector.
- (e) *Personnel policies.* Employers should not engage in nor permit any personnel policy or practice that discriminates against workers infected with or affected by HIV/AIDS. In particular, employers should:
  - not require HIV/AIDS screening or testing unless otherwise specified in section 8 of this code;
  - ensure that work is performed free of discrimination or stigmatization based on perceived or real HIV status;
  - encourage persons with HIV and AIDS-related illnesses to work as long as medically fit for appropriate work; and
  - provide that, where a worker with an AIDS-related condition is too ill to continue to work and where alternative working arrangements including extended sick leave have been exhausted, the employment relationship may cease in accordance with anti-discrimination and labour laws and respect for general procedures and full benefits.
- (f) *Grievance and disciplinary procedures.* Employers should have procedures that can be used by workers and their representatives for work-related grievances. These procedures should specify under what circumstances disciplinary proceedings can be commenced against any employee who discriminates on the grounds of real or perceived HIV status or who violates the workplace policy on HIV/AIDS.

- (g) *Confidentiality*. HIV/AIDS-related information of workers should be kept strictly confidential and kept only on medical files, whereby access to information complies with the Occupational Health Services Recommendation, 1985 (No. 171), and national laws and practices. Access to such information should be strictly limited to medical personnel and such information may only be disclosed if legally required or with the consent of the person concerned.
- (h) *Risk reduction and management*. Employers should ensure a safe and healthy working environment, including the application of Universal Precautions and measures such as the provision and maintenance of protective equipment and first aid. To support behavioural change by individuals, employers should also make available, where appropriate, male and female condoms, counselling, care, support and referral services. Where size and cost considerations make this difficult, employers and/or their organizations should seek support from government and other relevant institutions.
- (i) *Workplaces where workers come into regular contact with human blood and body fluids*. In such workplaces, employers need to take additional measures to ensure that all workers are trained in Universal Precautions, that they are knowledgeable about procedures to be followed in the event of an occupational incident and that Universal Precautions are always observed. Facilities should be provided for these measures.
- (j) *Reasonable accommodation*. Employers, in consultation with the worker(s) and their representatives, should take measures to reasonably accommodate the worker(s) with AIDS-related illnesses. These could include rearrangement of working time, special equipment, opportunities for rest breaks, time off for medical appointments, flexible sick leave, part-time work and return-to-work arrangements.
- (k) *Advocacy*. In the spirit of good corporate citizenship, employers and their organizations should, where appropriate, encourage fellow employers to contribute to the prevention and management of HIV/AIDS in the workplace, and encourage governments to take all necessary action to stop the spread of HIV/AIDS and mitigate its effects. Other partnerships can support this process such as joint business/trade union councils on HIV/AIDS.
- (l) *Support for confidential voluntary HIV counselling and testing*. Employers, workers and their representatives should encourage support for, and access to, confidential voluntary counselling and testing that is provided by qualified health services.
- (m) *Workers in informal activities (also known as informal sector)*. Employers of workers in informal activities should investigate and, where appropriate, develop prevention and care programmes for these workers.

- (n) *International partnerships.* Employers and their organizations should contribute, where appropriate, to international partnerships in the fight against HIV/AIDS.

### 5.3. Workers and their organizations

- (a) *Workplace policy.* Workers and their representatives should consult with their employers on the implementation of an appropriate policy for their workplace, designed to prevent the spread of the infection and protect all workers from discrimination related to HIV/AIDS. A checklist for workplace policy planning and implementation appears in Appendix III.
- (b) *National, sectoral and workplace/enterprise agreements.* Workers and their organizations should adhere to national law and practice when negotiating terms and conditions of employment relating to HIV/AIDS issues, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and workplace/enterprise agreements.
- (c) *Information and education.* Workers and their organizations should use existing union structures and other structures and facilities to provide information on HIV/AIDS in the workplace, and develop educational materials and activities appropriate for workers and their families, including regularly updated information on workers' rights and benefits.
- (d) *Economic impact.* Workers and their organizations should work together with employers to develop appropriate strategies to assess and appropriately respond to the economic impact of HIV/AIDS in their particular workplace and sector.
- (e) *Advocacy.* Workers and their organizations should work with employers, their organizations and governments to raise awareness of HIV/AIDS prevention and management.
- (f) *Personnel policies.* Workers and their representatives should support and encourage employers in creating and implementing personnel policy and practices that do not discriminate against workers with HIV/AIDS.
- (g) *Monitoring of compliance.* Workers' representatives have the right to take up issues at their workplaces through grievance and disciplinary procedures and/or should report all discrimination on the basis of HIV/AIDS to the appropriate legal authorities.
- (h) *Training.* Workers' organizations should develop and carry out training courses for their representatives on workplace issues raised by the epidemic, on appropriate responses, and on the general needs of people living with HIV/AIDS and their careers.

- (i) *Risk reduction and management.* Workers and their organizations should advocate for, and cooperate with, employers to maintain a safe and healthy working environment, including the correct application and maintenance of protective equipment and first aid. Workers and their organizations should assess the vulnerability of the working environment and promote tailored programmes for workers as appropriate.
- (j) *Confidentiality.* Workers have the right to access their own personal and medical files. Workers' organizations should not have access to personnel data relating to a worker's HIV status. In all cases, when carrying out trade union responsibilities and functions, the rules of confidentiality and the requirement for the concerned person's consent set out in the Occupational Health Services Recommendation, 1985 (No. 171), should apply.
- (k) *Workers in informal activities (also known as informal sector).* Workers and their organizations should extend their activities to these workers in partnership with all other relevant stakeholders, where appropriate, and support new initiatives which help both prevent the spread of HIV/AIDS and mitigate its impact.
- (l) *Vulnerability.* Workers and their organizations should ensure that factors that increase the risk of infection for certain groups of workers are addressed in consultation with employers.
- (m) *Support for confidential voluntary HIV counselling and testing.* Workers and their organizations should work with employers to encourage and support access to confidential voluntary counselling and testing.
- (n) *International partnerships.* Workers' organizations should build solidarity across national borders by using sectoral, regional and international groupings to highlight HIV/AIDS and the world of work, and to include it in workers' rights campaigns.

## 6. Prevention through information and education

Workplace information and education programmes are essential to combat the spread of the epidemic and to foster greater tolerance for workers with HIV/AIDS. Effective education can contribute to the capacity of workers to protect themselves against HIV infection.

It can significantly reduce HIV-related anxiety and stigmatization, minimize disruption in the workplace, and bring about attitudinal and behavioural change. Programmes should be developed through consultations between governments, employers and workers and their representatives to ensure support at the highest levels and the fullest participation of all concerned. Information and education should be provided in a variety of forms, not relying exclusively on the written word and including distance learning where necessary.

Programmes should be targeted and tailored to the age, gender, sexual orientation, sectoral characteristics and behavioural risk factors of the workforce and its cultural context. They should be delivered by trusted and respected individuals. Peer education has been found to be particularly effective, as has the involvement of people living with HIV/AIDS in the design and implementation of programmes.

### 6.1. Information and awareness-raising campaigns

- (a) Information programmes should, where possible, be linked to broader HIV/AIDS campaigns within the local community, sector, region or country. The programmes should be based on correct and up-to-date information about how HIV is and is not transmitted, dispel the myths surrounding HIV/AIDS, how HIV can be prevented, medical aspects of the disease, the impact of AIDS on individuals, and the possibilities for care, support and treatment.
- (b) As far as is practicable, information programmes, courses and campaigns should be integrated into existing education and human resource policies and programmes as well as occupational safety and health and anti-discrimination strategies.

### 6.2. Educational programmes

- (a) Educational strategies should be based on consultation between employers and workers, and their representatives and, where appropriate, government and other relevant stakeholders with expertise in HIV/AIDS education, counselling and care. The methods should be as interactive and participatory as possible.
- (b) Consideration should be given to educational programmes taking place during paid working hours and developing educational materials to be used by workers outside workplaces. Where courses are offered, attendance should be considered as part of work obligations.
- (c) Where practical and appropriate, programmes should:
  - include activities to help individuals assess the risks that face them personally (both as individuals and as members of a group) and reduce these risks through decision-making, negotiation and communication skills, as well as educational, preventative and counselling programmes;
  - give special emphasis to high-risk behaviour and other risk factors such as occupational mobility that expose certain groups of workers to increased risk of HIV infection;
  - provide information about transmission of HIV through drug injection and information about how to reduce the risk of such transmission;

- enhance dialogue among governments and employers' and workers' organizations from neighbouring countries and at regional level;
- promote HIV/AIDS awareness in vocational training programmes carried out by governments and enterprises, in collaboration with workers' organizations;
- promote campaigns targeted at young workers and women;
- give special emphasis to the vulnerability of women to HIV and prevention strategies that can lessen this vulnerability (see section 6.3);
- emphasize that HIV cannot be contracted through casual contact, and that people who are HIV-positive do not need to be avoided or stigmatized, but rather should be supported and accommodated in the workplace;
- explain the debilitating effects of the virus and the need for all workers to be empathetic and non-discriminatory towards workers with HIV/AIDS;
- give workers the opportunity to express and discuss their reactions and emotions caused by HIV/AIDS;
- instruct workers (especially health-care workers) on the use of Universal Precautions and inform them of procedures to be followed in case of exposure;
- provide education about the prevention and management of STIs and tuberculosis, not only because of the associated risk of HIV infection but also because these conditions are treatable, thus improving the workers' general health and immunity;
- promote hygiene and proper nutrition;
- promote safer sex practices, including instructions on the use of male and female condoms;
- encourage peer education and informal education activities;
- be regularly monitored, evaluated, reviewed and revised where necessary.

### 6.3. Gender-specific programmes

- (a) All programmes should be gender-sensitive, as well as sensitive to race and sexual orientation. This includes targeting both women and men explicitly, or addressing either women or men in separate programmes, in recognition of the different types and degrees of risk for men and women workers.
- (b) Information for women needs to alert them to, and explain their higher risk of, infection, in particular the special vulnerability of young women.

- (c) Education should help both women and men to understand and act upon the unequal power relations between them in employment and personal situations; harassment and violence should be addressed specifically.
- (d) Programmes should help women to understand their rights, both within the workplace and outside it, and empower them to protect themselves.
- (e) Education for men should include awareness-raising, risk assessment and strategies to promote men's responsibilities regarding HIV/AIDS prevention.
- (f) Appropriately targeted prevention programmes should be developed for homosexually active men in consultation with these workers and their representatives.

#### **6.4. Linkage to health promotion programmes**

Educational programmes should be linked, where feasible, to health promotion programmes dealing with issues such as substance abuse, stress and reproductive health at the workplace. Existing work councils or health and safety committees provide an entry point to HIV/AIDS awareness campaigns and educational programmes. This linkage should highlight the increased risk of infection in the use of contaminated needles in intravenous drug-injection. It should also highlight that intoxication due to alcohol and drugs could lead to behaviour which increases the risk of HIV infection.

#### **6.5. Practical measures to support behavioural change**

- (a) Workers should be provided with sensitive, accurate and up-to-date education about risk reduction strategies, and, where appropriate, male and female condoms should be made available.
- (b) Early and effective STI and tuberculosis diagnosis, treatment and management, as well as a sterile needle and syringe-exchange programmes, should also be made available, where appropriate, or information provided on where they can be obtained.
- (c) For women workers in financial need, education should include strategies to supplement low incomes, for example, by supplying information on income-generating activities, tax relief and wage support.

#### **6.6. Community outreach programmes**

Employers, workers and their representatives should encourage and promote information and education programmes on prevention and management of HIV/AIDS within the local community, especially in schools. Participation in outreach programmes should be encouraged in order to provide an opportunity for people to express their views and enhance the welfare of workers with HIV/AIDS by reducing their isolation and ostracism. Such programmes should be run in partnership with appropriate national or local bodies.

## 7. Training

Training should be targeted at, and adapted to, the different groups being trained: managers, supervisors and personnel officers; workers and their representatives; trainers of trainers (both male and female); peer educators; occupational health and safety officers; and factory/labour inspectors. Innovative approaches should be sought to defray costs. For example, enterprises can seek external support from national AIDS programmes or other relevant stakeholders by borrowing instructors or having their own trained.

Training materials can vary enormously, according to available resources. They can be adapted to local customs and to the different circumstances of women and men. Trainers should also be trained to deal with prejudices against minorities, especially in relation to ethnic origin or sexual orientation. They should draw on case studies and available good practice materials. The best trainers are often staff themselves and peer education is therefore recommended at all levels. It should become part of a workplace's annual training plan, which should be developed in consultation with workers' representatives.

### 7.1. Training for managers, supervisors and personnel officers

In addition to participating in information and education programmes that are directed at all workers, supervisory and managerial personnel should receive training to:

- enable them to explain and respond to questions about the workplace's HIV/AIDS policy;
- be well informed about HIV/AIDS so as to help other workers overcome misconceptions about the spread of HIV/AIDS at the workplace;
- explain reasonable accommodation options to workers with HIV/AIDS so as to enable them to continue to work as long as possible;
- identify and manage workplace behaviour, conduct or practices which discriminate against or alienate workers with HIV/AIDS;
- enable them to advise about the health services and social benefits which are available.

### 7.2. Training for peer educators

Peer educators should receive specialized training so as to:

- be sufficiently knowledgeable about the content and methods of HIV/AIDS prevention so that they can deliver, in whole or in part, the information and education programme to the workforce;
- be sensitive to race, sexual orientation, gender and culture in developing and delivering their training;

- link into and draw from other existing workplace policies, such as those on sexual harassment or for persons with disabilities in the workplace;
- enable their co-workers to identify factors in their lives that lead to increased risk of infection;
- be able to counsel workers living with HIV/AIDS about coping with their condition and its implications.

### 7.3. Training for workers' representatives

Workers' representatives should, during paid working hours, receive training so as to:

- enable them to explain and respond to questions about the workplace HIV/AIDS policy;
- enable them to train other workers in trainer education programmes;
- identify individual workplace behaviour, conduct or practices which discriminate or alienate workers with HIV/AIDS, in order to effectively combat such conduct;
- help and represent workers with AIDS-related illnesses to access reasonable accommodation when so requested;
- be able to counsel workers to identify and reduce risk factors in their personal lives;
- be well instructed about HIV/AIDS in order to inform workers about the spread of HIV/AIDS;
- ensure that any information that they acquire about workers with HIV/AIDS in the course of performing their representative functions is kept confidential.

### 7.4. Training for health and safety officers

In addition to becoming familiar with the information and education programmes that are directed at all workers, health and safety officers should receive specialized training in order to:

- be sufficiently knowledgeable about the content and methods of HIV/AIDS prevention so that they can deliver information and education programmes to workers;
- be able to assess the working environment and identify working methods or conditions which could be changed or improved in order to lessen the vulnerability of workers with HIV/AIDS;
- verify whether the employer provides and maintains a healthy and safe working environment and processes for the workers, including safe first-aid procedures;

- ensure that HIV/AIDS-related information, if any, is maintained under conditions of strict confidentiality as with other medical data pertinent to workers and disclosed only in accordance with the ILO's code of practice on the protection of workers' personal data;
- be able to counsel workers to identify and reduce risk factors in their personal lives;
- be able to refer workers to in-house medical services or those outside the workplace which can effectively respond to their needs.

### 7.5. Training for factory/labour inspectors

The competent authority should ensure that factory and labour inspectors have sufficient means at their disposal to fulfil their supervisory, enforcement and advisory functions, in particular regarding HIV/AIDS prevention in enterprises. To achieve this, they should receive specialized training on HIV/AIDS prevention and protection strategies at the workplace. This training should include:

- information on relevant international labour standards, especially the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and national laws and regulations;
- how to provide awareness about HIV/AIDS to workers and management;
- how to incorporate HIV/AIDS topics into their regular occupational safety and health briefings and workplace training;
- how to assist workers to access available benefits (such as how to complete benefit forms) and to exercise other legal rights;
- how to identify violations, or the lack of implementation of, workers' rights in respect of HIV status;
- skills to collect and analyse data relating to HIV/AIDS in workplaces when this is for epidemiological or social impact studies and in conformity with this code.

### 7.6. Training for workers who come into contact with human blood and other body fluids

All workers should receive training about infection control procedures in the context of workplace accidents and first aid. The programmes should provide training:

- in the provision of first aid;
- about Universal Precautions to reduce the risk of exposure to human blood and other body fluids (see Appendix II);
- in the use of protective equipment;

- in the correct procedures to be followed in the event of exposure to human blood or body fluids;
- rights to compensation in the event of an occupational incident, and emphasize that the taking of precautions is not necessarily related to the perceived or actual HIV status of individuals.

## 8. Testing

Testing for HIV should not be carried out at the workplace except as specified in this code. It is unnecessary and imperils the human rights and dignity of workers: test results may be revealed and misused, and the informed consent of workers may not always be fully free or based on an appreciation of all the facts and implications of testing. Even outside the workplace, confidential testing for HIV should be the consequence of voluntary informed consent and performed by suitably qualified personnel only, in conditions of the strictest confidentiality.

### 8.1. Prohibition in recruitment and employment

HIV testing should not be required at the time of recruitment or as a condition of continued employment. Any routine medical testing, such as testing for fitness carried out prior to the commencement of employment or on a regular basis for workers, should not include mandatory HIV testing.

### 8.2. Prohibition for insurance purposes

- (a) HIV testing should not be required as a condition of eligibility for national social security schemes, general insurance policies, occupational schemes and health insurance.
- (b) Insurance companies should not require HIV testing before agreeing to provide coverage for a given workplace. They may base their cost and revenue estimates and their actuarial calculations on available epidemiological data for the general population.
- (c) Employers should not facilitate any testing for insurance purposes and all information that they already have should remain confidential.

### 8.3. Epidemiological surveillance

Anonymous, unlinked surveillance or epidemiological HIV testing in the workplace may occur provided it is undertaken in accordance with the ethical principles of scientific research, professional ethics and the protection of individual rights and confidentiality. Where such research is done, workers and employers should be consulted and informed that it is occurring. The information obtained may not be used to discriminate against

individuals or groups of persons. Testing will not be considered anonymous if there is a reasonable possibility that a person's HIV status can be deduced from the results.

#### 8.4. Voluntary testing

There may be situations where workers wish at their own initiative to be tested including as part of voluntary testing programmes. Voluntary testing should normally be carried out by the community health services and not at the workplace. Where adequate medical services exist, voluntary testing may be undertaken at the request and with the written informed consent of a worker, with advice from the workers' representative if so requested. It should be performed by suitably qualified personnel with adherence to strict confidentiality and disclosure requirements. Gender-sensitive pre- and post-test counselling, which facilitates an understanding of the nature and purpose of the HIV tests, the advantages and disadvantages of the tests and the effect of the result upon the worker, should form an essential part of any testing procedure.

#### 8.5. Tests and treatment after occupational exposure

- (a) Where there is a risk of exposure to human blood, body fluids or tissues, the workplace should have procedures in place to manage the risk of such exposure and occupational incidents.
- (b) Following risk of exposure to potentially infected material (human blood, body fluids, tissue) at the workplace, the worker should be immediately counselled to cope with the incident, about the medical consequences, the desirability of testing for HIV and the availability of post-exposure prophylaxis, and referred to appropriate medical facilities. Following the conclusion of a risk assessment, further guidance as to the worker's legal rights, including eligibility and required procedures for workers' compensation, should be given.

### 9. Care and support

Solidarity, care and support are critical elements that should guide a workplace in responding to HIV/AIDS. Mechanisms should be created to encourage openness, acceptance and support for those workers who disclose their HIV status, and ensure that they are not discriminated against nor stigmatized. To mitigate the impact of the HIV/AIDS epidemic in the workplace, workplaces should endeavour to provide counselling and other forms of social support to workers infected and affected by HIV/AIDS. Where health-care services exist at the workplace, appropriate treatment should be provided.

Where these services are not possible, workers should be informed about the location of available outside services. Linkages such as this have the advantage of reaching beyond the workers to cover their families, in particular their children. Partnership between gov-

ernments, employers, workers and their organizations and other relevant stakeholders also ensures effective delivery of services and saves costs.

### 9.1. Parity with other serious illnesses

- (a) HIV infection and clinical AIDS should be managed in the workplace no less favourably than any other serious illness or condition.
- (b) Workers with HIV/AIDS should be treated no less favourably than workers with other serious illnesses in terms of benefits, workers' compensation and reasonable accommodation.
- (c) As long as workers are medically fit for appropriate employment, they should enjoy normal job security and opportunities for transfer and advancement.

### 9.2. Counselling

- (a) Employers should encourage workers with HIV/AIDS to use expertise and assistance outside the enterprise for counselling or, where available, its own occupational safety and health unit or other workplace programme, if specialized and confidential counselling is offered.
- (b) To give effect to this, employers should consider the following actions:
  - identify professionals, self-help groups and services within the local community or region which specialize in HIV/AIDS-related counselling and the treatment of HIV/AIDS;
  - identify community-based organizations, both of a medical and non-medical character, that may be useful to workers with HIV/AIDS;
  - suggest that the worker contact his or her doctor or qualified health-care providers for initial assessment and treatment if not already being treated, or help the worker locate a qualified health-care provider if he or she does not have one.
- (c) Employers should provide workers with HIV/AIDS with reasonable time off for counselling and treatment in conformity with minimum national requirements.
- (d) Counselling support should be made accessible at no cost to the workers and adapted to the different needs and circumstances of women and men. It may be appropriate to liaise with government, workers and their organizations and other relevant stakeholders in establishing and providing such support.
- (e) Workers' representatives should, if requested, assist a worker with HIV/AIDS to obtain professional counselling.

- (f) Counselling services should inform all workers of their rights and benefits in relation to statutory social security programmes and occupational schemes and any life-skills programmes which may help workers cope with HIV/AIDS.
- (g) In the event of occupational exposure to HIV, employers should provide workers with reasonable paid time off for counselling purposes.

### 9.3. Occupational and other health services

- (a) Some employers may be in a position to assist their workers with access to anti-retroviral drugs. Where health services exist at the workplace these should offer, in cooperation with government and all other stakeholders, the broadest range of health services possible to prevent and manage HIV/AIDS and assist workers living with HIV/AIDS.
- (b) These services could include the provision of antiretroviral drugs, treatment for the relief of HIV-related symptoms, nutritional counselling and supplements, stress reduction and treatment for the more common opportunistic infections including STIs and tuberculosis.

### 9.4. Linkages with self-help and community-based groups

Where appropriate, employers, workers' organizations and occupational health personnel should facilitate the establishment of self-help groups within the enterprise or the referral of workers affected by HIV/AIDS to self-help groups and support organizations in the local community.

### 9.5. Benefits

- (a) Governments, in consultation with the social partners, should ensure that benefits under national laws and regulations apply to workers with HIV/AIDS no less favourably than to workers with other serious illnesses. They should also explore the sustainability of new benefits specifically addressing the progressive and intermittent nature of HIV/AIDS.
- (b) Employers and employers' and workers' organizations should pursue with governments the adaptation of existing benefit mechanisms to the needs of workers with HIV/AIDS, including wage subsidy schemes.

### 9.6. Social security coverage

- (a) Governments, employers and workers' organizations should take all steps necessary to ensure that workers with HIV/AIDS and their families are not excluded from the full protection and benefits of social security programmes and occupa-

tional schemes. This should also apply to workers and their families from occupational and social groups perceived to be at risk of HIV/AIDS.

- (b) These programmes and schemes should provide similar benefits for workers with HIV/AIDS as those for workers with other serious illnesses.

### 9.7. Privacy and confidentiality

- (a) Governments, private insurance companies and employers should ensure that information relating to counselling, care, treatment and receipt of benefits is kept confidential, as with medical data pertinent to workers, and accessed only in accordance with the Occupational Health Services Recommendation, 1985 (No. 171).
- (b) Third parties, such as trustees and administrators of social security programmes and occupational schemes, should keep all HIV/AIDS-related information confidential, as with medical data pertinent to workers, in accordance with the ILO's code of practice on the protection of workers' personal data.

### 9.8. Employee and family assistance programmes

- (a) In the light of the nature of the epidemic, employee assistance programmes may need to be established or extended appropriately to include a range of services for workers as members of families, and to support their family members. This should be done in consultation with workers and their representatives, and can be done in collaboration with government and other relevant stakeholders in accordance with resources and needs.
- (b) Such programmes should recognize that women normally undertake the major part of caring for those with AIDS-related illnesses. They should also recognize the particular needs of pregnant women. They should respond to the needs of children who have lost one or both parents to AIDS, and who may then drop out of school, be forced to work, and become increasingly vulnerable to sexual exploitation. The programmes may be in-house, or enterprises could support such programmes collectively or contract out for such services from an independent enterprise.
- (c) The family assistance programme may include:
  - compassionate leave;
  - invitations to participate in information and education programmes;
  - referrals to support groups, including self-help groups;
  - assistance to families of workers to obtain alternative employment for the worker or family members provided that the work does not interfere with schooling;

- specific measures, such as support for formal education, vocational training and apprenticeships, to meet the needs of children and young persons who have lost one or both parents to AIDS;
- coordination with all relevant stakeholders and community-based organizations including the schools attended by the workers' children;
- direct or indirect financial assistance;
- managing financial issues relating to sickness and the needs of dependants;
- legal information, advice and assistance;
- assistance in relation to understanding the legal processes of illness and death such as managing financial issues relating to sickness, preparation of wills and succession plans;
- helping families to deal with social security programmes and occupational schemes;
- provision of advanced payments due to the worker;
- directing families to the relevant legal and health authorities or providing a list of recommended authorities.

## CONDITIONS THAT CONTRIBUTE TO VULNERABILITY

### General factors

AIDS thrives where economic, social and cultural rights are violated, and also where civil and political norms are ignored. On the economic side, poverty merits highlighting as a major factor: the illiteracy and marginalization of the poor make them more vulnerable to infection, and poverty puts pressure on women to survive and support their families by engaging in unsafe sex. Poor diet, inadequate housing and lack of hygiene make HIV-infected persons even more vulnerable to AIDS-related diseases. On the social and cultural side, inequality in personal and working relations leads to unwanted sex in conditions of risk. Attitudes and behaviour should also be recognized as factors that may increase risk. HIV may be transmitted through injecting intravenous drugs with contaminated equipment. There is also evidence that drug and alcohol abuse can impair an individual's ability to practice safe sexual and injecting behaviour. The stigmatization of people living with HIV/AIDS fuels a natural desire to keep quiet about infection, thus helping its spread. Cultural pressures and denial mask the extent of infection locally and nationally, thus making it harder to plan an effective response for communities as well as individuals.

On the civil and political side, conflict situations, breakdown of law and order, poor legal frameworks and enforcement mechanisms, together with the denial of organizational rights and collective bargaining, hamper development in general and undermine essential health promotion measures in particular. In many countries, poorly resourced health systems, already weakened by debt and structural adjustment, have been unable to provide the care or the prevention needed.

In summary, a climate of discrimination and lack of respect for human rights leaves workers more vulnerable to infection and less able to cope with AIDS because it makes it difficult for them to seek voluntary testing, counselling, treatment or support; they will also not be in a position to take part in advocacy and prevention campaigns.

### Factors that increase the risk of infection for certain groups of workers

Certain types of work situations are more susceptible to the risk of infection than others although the main issue is one of behaviour, not occupation. The following is an indicative list:

- work involving mobility, in particular the obligation to travel regularly and live away from spouses and partners;
- work in geographically isolated environments with limited social interaction and limited health facilities;

- single-sex working and living arrangements among men;
- situations where the worker cannot control protection against infection;
- work that is dominated by men, where women are in a small minority;
- work involving occupational risks such as contact with human blood, blood products and other body fluids, needle-stick injury and infected blood exposure, where Universal Precautions are not followed and/or equipment is inadequate.

To this list could be added “non-work,” in order to cover situations where: unemployed workers, congregating in urban centres in the hope of obtaining any kind of small income, are exposed to HIV-susceptible pressures, or displaced persons and refugee camp inhabitants, likewise unoccupied and feeling abandoned, may turn to sex or be forced into it, especially the many single mothers in such situations.

### **The special needs of the informal sector<sup>1</sup>**

Informal workers are especially likely to suffer from the consequences of AIDS, first, because they cannot usually access health facilities or social protection benefits available to workers in formal employment; second, because their activities are rarely based on or lead to financial security; and third, because the transient and vulnerable nature of their work means that any absence will probably result in the loss of the means of trading or production. For informal businesses, the loss of one or more employees may have major consequences leading to the collapse of the enterprise. If the owner contracts HIV, becomes ill and dies, the diversion of the enterprise’s capital into treatment, care and funeral costs may ruin future reinvestment, cause bankruptcy, and leave dependant employees and family members bereft. In the rural informal sector, the burden of care often results in the diversion of labour away from agricultural activities, while labour losses due to AIDS lead to lower food production and declining longer term food security. Overall, the downward economic spiral is felt particularly hard by informal businesses when the following pattern emerges: markets contract as consumers die or retain minimal disposable income because of the costs of health treatment and care.

# Code on HIV/AIDS and Employment in the Southern African Development Community (SADC)

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### 1. General Statement

Human Immuno-deficiency Virus (HIV) infection and the Acquired Immune Deficiency Syndrome (AIDS) in the countries of the Southern African Development Community (SADC) (and globally) is a major health problem with employment, economic and human rights implications. As one response to this problem the SADC Employment and Labour Sector has established this code on the industrial relations standards on HIV/AIDS, the “Code on AIDS and Employment.” (Termed after this ‘the code’). It should be noted that the provisions of this code applies only to workplaces and cannot and should not be construed as applying to other areas of law such as national immigration laws, policies and related administrative procedures.

## 2. Policy Principles

The same ethical principles that govern all health/medical conditions in the employment context apply equally to HIV/AIDS. However, the gravity and impact of the HIV/AIDS epidemic and the potential for discrimination create the need for a specific code on HIV/AIDS and employment. At the same time, given the increased risk of spread of the disease under conditions of economic insecurity, non-discriminatory approaches enable economic and public health management. The code will aim to ensure non-discrimination between individuals with HIV infection and those without and between HIV/AIDS and other comparable health-medical conditions.

The regional nature and implications of the epidemic and the desire to harmonise national standards in dealing with HIV/AIDS motivate this regional code. This code aims to ensure that SADC member states develop tripartite national codes on AIDS and Employment that shall be reflected in law. It presents guiding principles for and components of these national codes.

The code on AIDS and Employment is based on the fundamental principles of human rights and patients rights, WHO / ILO and regional standards and guidelines, medical and occupational health ethical principles, sound epidemiological data, prudent business practice and a humane and compassionate attitude to individuals. The approach aims to achieve a balance in protecting the rights of all parties, including those with and without HIV, employers, employees, state and others. This will include obtaining a balance between rights and responsibilities, and between individual protection and co-operation between parties. Employees with HIV should be treated the same as any other employee. Employees with HIV related illness, including AIDS, should be treated the same as any other employee with a life-threatening illness.

In its scope, the code should:

1. cover all employees and prospective employees;
2. cover all workplaces and contracts of employment;
3. cover the specific policy components detailed below, viz: job access, workplace testing, confidentiality, job placement, job status, job security, occupational benefits, training, risk reduction, first aid, workers' compensation, education and awareness, prevention programmes, managing illness, protection against victimisation, grievance handling, information, monitoring and review.

SADC member states should ensure that interactions between them are consistent with the principles and policy components of this code and that they share and disseminate information to enable an effective and planned response to the epidemic.

Policy development and implementation is a dynamic process so that the code on AIDS and employment should be:

1. communicated to all concerned;
2. routinely reviewed in the light of epidemiological and scientific information;
3. monitored for its successful implementation and evaluated for its effectiveness.

### 3. Policy Components

#### 1. Education, Awareness and Prevention Programmes

1. Information, education and prevention programmes should be developed jointly by employers and employees and should be accessible to all at the workplace. Education on HIV/AIDS should where possible incorporate employee families.
2. Essential components of prevention programmes are information provision, education, prevention and management of STDs, condom promotion and distribution and counselling on high risk behaviour. Workplace AIDS programmes should cooperate with and have access to resources of National AIDS Programmes.

#### 2. Job Access

There should be no direct or indirect pre-employment test for HIV. Employees should be given the normal medical tests of current fitness for work and these tests should not include testing for HIV. Indirect screening methods such as questions in verbal or written form inquiring about previous HIV tests and/or questions related to the assessment of risk behaviour should not be permitted.

#### 3. Workplace Testing and Confidentiality

1. There should be no compulsory workplace testing for HIV. Voluntary testing for HIV on the request of the employee should be done by a suitably qualified person in a health facility with informed consent of the employee in accordance with normal medical ethical rules and with pre- and post-test counselling.
2. Persons with HIV or AIDS should have the legal right to confidentiality about their HIV status in any aspect of their employment. An employee is under no obligation to inform an employer of her/his HIV/AIDS status. Information regarding the HIV status of an employee should not be disclosed without the employee's written consent.
3. Confidentiality regarding all medical information of an employee or prospective employee should be maintained, unless disclosure is legally required. This applies also to health professionals under contract to the employer, pension fund

trustees and any other personnel who obtain such information in ways permitted by the law, ethics, the code or from the employee concerned.

#### **4. Job Status**

HIV status should not be a factor in job status, promotion or transfer. Any changes in job status should be based on existing criteria of equality of opportunity, merit and capacity to perform the work to a satisfactory standard.

#### **5. HIV Testing and Training**

In general, there should be no compulsory HIV testing for training. HIV testing for training should be governed by the principle of non-discrimination between individuals with HIV infection and those without and between HIV/AIDS and other comparable health/medical conditions.

#### **6. Managing Illness and Job Security**

1. No employee should be dismissed merely on the basis of HIV status, nor should HIV status influence retrenchment procedures.
2. Employees with HIV related illness should have access to medical treatment and should be entitled, without discrimination, to agreed existing sick leave provisions.
3. HIV infected employees should continue to work under normal conditions in their current employment for as long as they are medically fit to do so. When on medical grounds they cannot continue with normal employment, efforts should be made to offer them alternative employment without prejudice to their benefits. When the employee becomes too ill to perform their agreed functions the standard benefits and conditions and standard procedures for termination of service for comparable life-threatening conditions should apply without discrimination.

#### **7. Occupational Benefits**

1. Government, employers and employee representatives should ensure that occupational benefits are non-discriminatory and sustainable and provide support to all employees including those with HIV infection. Such occupational benefit schemes should make efforts to protect the rights and benefits of the dependents of deceased and retired employees.
2. Information from benefit schemes on the medical status of an employee should be kept confidential and should not be used by the employer or any other party to affect any other aspect of the employment contract or relationship.

3. Medical schemes and health benefits linked to employment should be non-discriminatory. Private and public health financing mechanisms should provide standard benefits to all employees regardless of their HIV status.
4. Counselling and advisory services should be made available to inform all employees on their rights and benefits from medical aid, life insurance, pension and social security funds. This should include information on intended changes to the structure, benefits and premiums to these funds.

## **8. Risk Management, First Aid and Compensation**

1. Where there may be an occupational risk of acquiring or transmitting HIV infection, appropriate precautionary measures should be taken to reduce such risk, including clear and accurate information and training on the hazards and procedures for safe work.
2. Employees who contract HIV infection during the course of their employment should follow standard compensation procedures and receive standard compensation benefits.
3. Under conditions where people move for work, government and organisations should lift restrictions to enable them to move with their families and dependents.
4. People who are in an occupation that requires routine travel in the course of their duties should be provided with the means to minimise the risk of infection including information, condoms and adequate accommodation.

## **9. Protection and Against Victimisation**

1. Persons affected by or believed to be affected by HIV or AIDS should be protected from stigmatisation and discrimination by co-workers, employers or clients. Information and education are essential to maintain the climate of mutual understanding necessary to ensure this protection.
2. Where employers and employees agree that there has been adequate information and education and provisions for safe work, then disciplinary procedures should apply to persons who refuse to work with an employee with HIV/AIDS.

## **10. Grievance Handling**

Standard grievance handling procedures in organisations, in labour and civil law that apply to all workers should apply to HIV related grievances. Personnel dealing with HIV related grievances should protect the confidentiality of the employee's medical information.

## 11. Information

Government should collect, compile and analyse data on HIV/AIDS, sexually transmitted diseases and tuberculosis and make it available in the public domain. SADC member states should co-operate in making available national data for monitoring and planning an affective response to the regional health, human resource, economic and social impact of the AIDS epidemic.

## 12. Monitoring and Review

Responsibility for monitoring and review of the code and its implementation should lie with the parties to the tripartite at national and regional level and with the SADC Employment and Labour Sector.

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# American Federation of State, County and Municipal Employees (AFSCME) (United States) Sample Policies

## AFSCME Catastrophic Illness Policy (Sample)

This policy applies to all AFSCME employees affected by a life-threatening, catastrophic or terminal illness.

### Understandings

Employees with any catastrophic, life-threatening illness should be treated with compassion and understanding. It is in the interest of AFSCME that the physical and emotional health and well being of all employees be of foremost concern.

### Non-discrimination

There shall be no discrimination against employees who have or are believed to have a life-threatening illness in hiring, job assignments, promotions, performance appraisals, or eligibility for benefits because of their condition. AFSCME will adhere to the 1990 Americans with Disabilities Act (ADA) as it applies to all disabilities that are subject to the requirements of this law. Under the ADA an employer may not refuse to hire qualified employees because they have or might have such life-threatening or catastrophic illnesses.

### Work Environment

AFSCME shall make reasonable accommodations that enable qualified employees to continue to work. These include job modifications, flexible scheduling to attend to medical appointments, and leaves of absence. Qualified employees will have the opportunity to be evaluated by the employees' personal physicians to determine their functional abilities and limitations in relation to the essential functions of their jobs.

### Pre-employment/Current Employee Testing

There has not been nor shall there be any mandatory physical screening or testing of current employees or future job applicants.

## Information

All AFSCME employees shall be provided with information regarding this catastrophic illness policy. In addition, informational materials will be made available regarding the nature and prevention of any life-threatening illnesses such as AIDS.

## Confidentiality

Consistent with AFSCME's past practice, all records and other information related to the medical condition or status of AFSCME employees are maintained with strict confidentiality.

## AFSCME AIDS Policy (Sample)

This policy is based on scientific evidence that people with AIDS or HIV infection do not pose a risk of transmission of the virus to co-workers through ordinary workplace contact. It is consistent with the AFSCME Catastrophic Illness Policy.

## Attitudes

Employees who are infected with HIV are to be treated with compassion and understanding as any employees with life threatening illnesses. It is in the interest of AFSCME that the physical and emotional health and well-being of all employees be of foremost concern.

## Non-Discrimination

AFSCME shall continue its policy of non-discrimination against employees who are infected or believed to be infected with HIV/AIDS in hiring, job assignments, promotions, performance appraisals, eligibility for benefits, or termination because of their condition.

AFSCME adheres to the provisions of the 1990 Americans with Disabilities Act (ADA) which classifies HIV infection and AIDS as disabilities that are subject to the requirements of this law. Under the ADA an employer may not refuse to hire qualified employees because they have or are perceived to have HIV/AIDS, and must make reasonable accommodations that allow such employees to continue to work.

## Reasonable Accommodations

AFSCME has made and shall continue to make reasonable accommodations that enable qualified employees to continue to work. These include job modifications, flexible scheduling to attend medical appointments, and leaves of absence. Qualified employees will have the opportunity to be evaluated by the employees' personal physician to determine their functional abilities and limitations in relation to the essential functions of their jobs.

### **Testing**

There has not been, nor shall there be, any mandatory HIV testing of current employees or future job applicants.

### **Training**

All AFSCME employees shall be trained and provided with information about how to prevent AIDS and informed of AFSCME's AIDS and catastrophic illness policies.

### **Confidentiality**

Consistent with AFSCME's past practice, there shall be strict confidentiality of all records and other information related to the medical condition or status of AFSCME employees.