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Department of
Public Service and
Administration

MANAGING HIV/AIDS IN THE WORKPLACE

A Guide for
Government Departments



MANAGING HIV/AIDS IN THE WORKPLACE
A GUIDE FOR GOVERNMENT DEPARTMENTS

Commissioned by
The Department of Public Service and Administration
Impact and Action Project on HIV/AIDS

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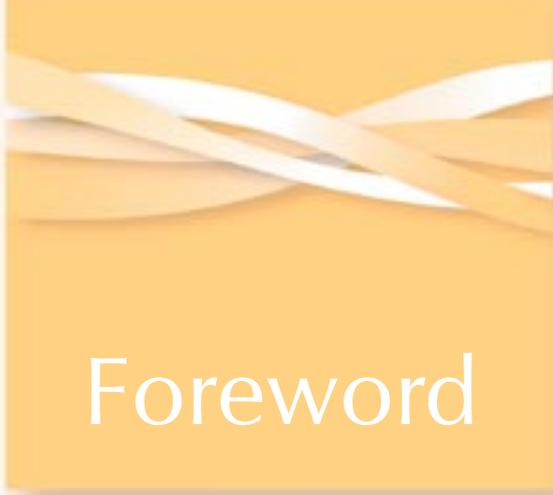
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Foreword

By the Minister for the Public Service and Administration

The impact of HIV/AIDS and other chronic diseases is being felt in the country as a whole, and the workplace is no exception. With infection rates still on the increase, departments must be prepared to deal effectively with HIV/AIDS so as to maintain high productivity and service delivery levels whilst avoiding discrimination of those infected or affected. Partnerships between government and the private sector have to be forged in order to develop and implement policies and programmes that are aimed at combating the spread of the virus and mitigating the impact of the AIDS pandemic.

As the single biggest employer in South Africa, with nearly 1.1 million public servants employed by approximately 140 government departments at national and provincial level, there is no doubt that the Public Service has a crucial role to play in mitigating the impact of HIV/AIDS as part of its overall focus on the health and well-being of its members. Large numbers of people are also direct dependants of public servants, and as a result the fate of society as a whole is closely intertwined with the health and well being of public servants.

Recognising the serious nature of HIV/AIDS and its impact on South Africa, I initiated the Impact and Action Project in January 2000 which is aimed at ensuring that the Public Service is able to sustain a quality service in spite of the progression of the AIDS pandemic.

In consultation with stakeholders the Department of Public Service and Administration has developed a policy framework to guide departments on the minimum requirements to effectively manage HIV/AIDS in the workplace and to ensure a co-ordinated Public Service response.

To give effect to this policy framework I have, on 21 June 2002 under Section 41 of the Public Service Act, 1994, amended the Public Service Regulations, 2001, with regard to the proper management of HIV/AIDS in the workplace. The policy framework is aimed at ensuring that the working environment supports effective and efficient service delivery, while as far as reasonably possible, taking employees' personal circumstances, including disability, HIV/AIDS and other health conditions into account.

To assist with the implementation of the Regulations, the DPSA has developed this Guide which provides practical guidance and information on how departments should respond to the threat of HIV/AIDS in the workplace and as such the Guide complements the Regulations. In essence the Guide is expected to assist departments in planning, developing, implementing and monitoring and evaluating workplace HIV/AIDS policies and programmes.

In conclusion, I wish to express my gratitude to the Impact and Action Project Steering Team and its subcommittees for the important role that they played in the development of this Guide. My special thanks go to all government departments as well as individuals in both the Public Service and the private sector who gave their invaluable inputs to this Guide. The authors deserve a special thanks. I am also pleased to acknowledge the assistance received from the Canadian International Development Agency (CIDA) and United States Agency for International Development (USAID) for sponsoring the development of this Guide.



Ms GJ FRASER-MOLEKETI
MINISTER

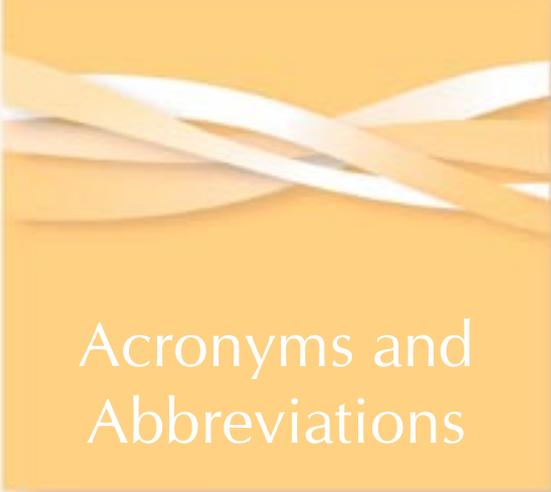
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Glossary of Terms and Concepts

AIDS	Acquired Immune Deficiency Syndrome - a syndrome (collection of diseases) that results from infection with HIV
Antibodies	Substances produced by cells in the human body's immune system in response to foreign substances that have entered the body
Asymptomatic	Infected by a disease agent but exhibiting no medical symptoms
Care	A broad term referring to the steps taken to promote a person's well-being through medical, psychosocial, spiritual and other means
Clinical trial	Research to determine the safety and efficacy of a new drug or treatment
Confidentiality	The right of every person, employee or job applicant to have their medical information, including HIV status, kept private
ELISA test	Enzyme Linked ImmunoSorbent Assay - the test used to identify the presence or absence of HIV antibodies
Epidemic	A disease, usually infectious, that spreads quickly through a population
Epidemiology	The study of the distribution and determinants of disease in human populations
Evaluation	The assessment of the impact of a programme at a particular point in time
Health promotion	Programmes aimed at ensuring the physical and mental health and well-being of employees
HIV	Human immunodeficiency virus - the name of the virus which undermines the immune system and leads to AIDS
HIV testing	Any form of testing designed to identify the HIV status of a person, including blood tests, saliva tests or medical questionnaires
Immune system	A complex system of cells and cell substances that protects the body from infection and disease
Incidence of HIV	The number of new cases of HIV in a given time period, often expressed as a percentage of the susceptible population
Minimum Standards on HIV/AIDS	Amendments to Part VI of Chapter 1 of the Public Service Regulations, 2001, as gazetted in the Government Gazette - Regulation Gazette No.7389 (Vol. 444, No. 23517, Pretoria, 21 June 2002) and subsequently reissued on 12 July 2002

Monitoring	The systematic and continuous assessment of a programme over a period of time
Occupational exposure	Exposure to blood or other body fluids, which may be HIV infected, during the course of carrying out working duties (for example, a health care worker may be exposed to HIV in the case of a needlestick injury)
Opportunistic infections	Infections that occur because a person's immune system is so weak that it cannot fight the infections
Pandemic	An epidemic occurring simultaneously in many countries
Policy	A document setting out a department's or organisation's position on a particular issue (for example, a policy setting out the steps to be taken following occupational exposure to HIV)
Positive living skills	Skills that empower people living with AIDS (PLWAs) to cope with the difficulties and challenges they might face, and to live a long and fulfilling life
Prevalence of HIV	The number of people with HIV at a point in time, often expressed as a percentage of the total population
Prevention programme	A programme designed to prevent HIV transmission, including components such as awareness, education and training, condom distribution, treatment of sexually transmitted infections, occupational infection control
Rapid HIV testing	An HIV testing process which enables a test result to be achieved within 10 to 30 minutes
Seroconversion	The point at which the immune system produces antibodies and at which time the HIV antibody test can register an HIV infection
Support	Services and assistance that could be provided to help a person deal with difficult situations and challenges
Treatment	A medical term describing the steps being taken to care for and manage an illness
Unfair discrimination	Unfair discrimination occurs when an employee is treated differently due to their real or perceived HIV status, in a way that impairs their fundamental dignity. Discrimination is not unfair if it is based on the inherent requirements of a job
Wellness programme	A programme designed to promote the physical and mental health as well as the well-being of employees, including components such as counselling, support groups, nutritional supplements, provision of treatment for opportunistic infections, provision of anti-retroviral therapy
Window period	The period between infection with HIV and seroconversion (when HIV antibodies can be detected by the HIV antibody test)
Workplace programme	An intervention to address a specific issue within the workplace (for example, providing staff access to a voluntary HIV counselling and testing programme)



Acronyms and Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
CIDA	Canadian International Development Agency
CCMA	Commission for Conciliation, Mediation and Arbitration
DOH	Department of Health
DOTS	Directly Observed Treatment Short-course
DPSA	Department of Public Service and Administration
EAP	Employee Assistance Programme
EIA	Enzyme immunoassays
FOSAD	Forum of South African Directors-General
GEPF	Government Employees' Pension Fund
HOD	Head of Department
HIV	Human Immunodeficiency Virus
HR	Human resources
HSRC	Human Sciences Research Council
IDC	Interdepartmental Committee on HIV/AIDS
ILO	International Labour Organisation
KAP	Knowledge, attitudes and practices
M&E	Monitoring and evaluation
MRC	Medical Research Council
MTEF	Medium-term Expenditure Framework
NAPWA	National Association of People living with HIV/AIDS
PEP	Post-exposure prophylaxis
PFMA	Public Finance Management Act
PHRC	Provincial Health Restructuring Committee
PLWA	Person living with HIV/AIDS
PMTCT	Prevention of mother to child transmission
PSCBC	Public Service Co-ordinating Bargaining Council
SACMA	South African Civil Military Alliance
SADC	Southern African Development Community
SAPS	South African Police Services
SANAC	South African National AIDS Council
SANDF	South African National Defence Force
SMS	Senior Management Service
STD	Sexually transmitted disease
STI	Sexually transmitted infection
TB	Tuberculosis
UNAIDS	Joint United Nations Programme on HIV/AIDS
USAID	United States Agency for International Development
VCT	Voluntary counselling and testing
WHO	World Health Organisation

PART A

INTRODUCTION, FRAMEWORK AND PRINCIPLES

- Chapter 1 Introducing Managing HIV/AIDS in the workplace:
A Guide for Government Departments
 - Chapter 2 Background information on HIV/AIDS and the Public Service
 - Chapter 3 Governing framework for a response to HIV/AIDS
 - Chapter 4 Principles to guide a workplace response
- 

Chapter 1

Introducing Managing HIV/AIDS in the workplace: A Guide for Government Departments

1. What is the Guide?

The Department of Public Service and Administration (DPSA) recognises the serious nature of the HIV/AIDS epidemic and its impact on the Public Service, and is committed to ensuring that the impact of HIV/AIDS on the efficient and effective delivery of services is minimised.

Managing HIV/AIDS in the Workplace: A Guide for Government Departments was developed as a practical and user-friendly resource to assist government departments to plan, implement and monitor appropriate and effective responses to HIV/AIDS within the Public Service working environment. As such, it focuses on **internal** workplace issues and contains guidelines on how to manage the impact of HIV/AIDS on the Public Service from an employment perspective. It contains some references to the **external** functions of government, but primarily in relation to the ability of the Public Service to maintain high levels of service delivery.



Internal and external HIV/AIDS responses

It is important to note that an internal HIV/AIDS workplace response is simply one part of a broader, integrated HIV/AIDS strategy that includes a range of external responses to HIV/AIDS.

Internally, the Public Service must respond as an employer, recognising the impact on both infected and affected employees.

Externally, the Public Service is a sector that, along with the private sector and civil society, must act collectively to address the epidemic, in accordance with the HIV/AIDS and STD Strategic Plan for South Africa (2000-2005).

For example, certain departments will have a role in:

- Protecting and supporting vulnerable groups, like orphans;
- Prevention, by reducing the risk of HIV transmission in high transmission situations or areas, such as border posts;
- Mobilising and supporting their stakeholders' involvement in the partnership against HIV/AIDS; and
- Modifying or scaling up services to cater for increased demand, for example health and welfare services.

A comprehensive Public Service response to HIV/AIDS strategy thus requires the integration of HIV/AIDS issues into every function and service of the department.

See **Part B**, the Chapter on **Structures and partnerships, leadership and commitment** for more detail on using partnerships to broaden a departmental HIV/AIDS response.

2. What is the purpose of the Guide?

The objectives of the Guide are to:

- Contextualise the HIV/AIDS epidemic within the country as a whole, and within the Public Service in particular;
- Identify key challenges to the Public Service in the context of HIV/AIDS;
- Assist departments to plan, develop, implement and maintain HIV/AIDS workplace policies and programmes within a human rights and gender framework;
- Provide practical guidance and information to departments on managing the HIV/AIDS epidemic; and
- Promote the application of the **Minimum Standards on HIV/AIDS** as contained in the amended Public Service Regulations, 2001.

3. Who will use the Guide?

The Guide is for use by Public Service officials, at both national and provincial level. It will primarily be used by those officials designated by Heads of Departments (HODs) to oversee the development and implementation of HIV/AIDS policies and programmes, as well as by those directly involved in workplace management issues, such as:

- Senior Managers tasked with HIV/AIDS responsibilities;
- Special Programmes Officers;
- Labour Relations Officers;
- Human Resource Personnel; and
- Employee Assistance Practitioners.

4. Why was the Guide developed?

The Guide was developed as part of the work of the DPSA Impact and Action Project initiated in 2000 by the Minister for the Public Service and Administration.

The Impact and Action Project originated as a response to the serious nature of the HIV/AIDS epidemic and the need to ensure that the Public Service is able to maintain quality services in the context of the epidemic.

The Project has progressed through various phases, including the following:

- The commissioning of an impact study to identify the impact of HIV/AIDS on the Public Service.
- A technical planning phase, which included a thorough process of consultation and investigation of leading practices and existing research on responding to HIV/AIDS, both internationally and nationally, by a Technical Team made up of representatives of DPSA and other government departments, international agencies such as USAID and CIDA, and local and international experts.
- The development of a Programme of Action by the Impact and Action Project Steering Team in 2001 – to identify targeted outcomes for 2001 and 2002, as recommended by the Impact and Action Report, and in consultation with various stakeholders.

- The setting up of a number of small Technical Task Teams to research, investigate, make recommendations on and carry out the various targeted outcomes outlined in the Programme of Action.

This included the formation of the following task teams:

- A Policy and Legislation Review Task Team
- A Workplace Policy Framework and Minimum Standards Task Team
- A Conditions of Service Task Team
- A Capacity Development, Support and Training Task Team.
- The development of **Minimum Standards on HIV/AIDS**, endorsed by the National Public Service HIV/AIDS Indaba in October 2001, and by a variety of stakeholders, through a process of broad consultation.
- The gazetting of the **Minimum Standards on HIV/AIDS** by the Minister for the Public Service and Administration, for incorporation into Part VI of Chapter 1 of the Public Service Regulations, 2001.

The Guide will complement the **Minimum Standards on HIV/AIDS** by providing guidance to government departments on how best to implement HIV/AIDS workplace policies and programmes within the framework of the **Minimum Standards**.

5. How was the Guide developed?

The Guide itself has been developed through several phases including:

- A review of literature on HIV/AIDS in the workplace in general, and in the Public Service in particular. This included a review of literature regarding the impact of HIV/AIDS on the Public Service, the governing framework for HIV/AIDS in the Public Service, and existing workplace HIV/AIDS responses in various Public Service sectors nationally and internationally, and within the private sector;
- Broad consultation within the Public Service through wide dissemination of the first draft Guide for comment, and workshops and interviews with a range of Public Service stakeholders; and
- Guidance and input from the Impact and Action Project Steering Team made up of key members of various sectors of the Public Service.

6. What does the Guide contain?

This is a guide on planning, developing, implementing, monitoring and evaluating an HIV/AIDS workplace response. It is made up of FOUR parts:

- **Part A** introduces the Guide and describes the framework for and principles to guide a workplace HIV/AIDS response.

Part A consists of four chapters:

- The first introduces the Guide;
- The second contains key information on the HIV epidemic, its impact within the world of work and on the Public Service, and a review of responses, including some of the key challenges facing the Public Service;
- The third contextualises an effective HIV/AIDS response within a legal and policy governing framework. It also describes the existing HIV/AIDS structures in the Public Service; and
- The fourth chapter covers the principles to guide a workplace HIV/AIDS response.
- **Part B** focuses on policy and planning for an effective workplace HIV/AIDS response.

Part B consists of five chapters:

- The first consists of an introduction to HIV/AIDS policy and planning for a workplace response;
 - The second provides guidance on partnerships and on harnessing leadership and commitment for workplace HIV/AIDS responses;
 - The third chapter describes workplace policies – both content and development processes;
 - The fourth covers issues related to HIV/AIDS impact assessments; and
 - The final chapter presents how HIV/AIDS can be integrated within Public Service functions such as strategic planning, budgeting and human resource planning.
- **Part C** focuses on the development and implementation of effective HIV/AIDS workplace responses.

Part C consists of five chapters:

- The first provides an introduction to workplace HIV/AIDS programmes;
 - The next chapter focuses on HIV/AIDS and STI prevention programmes;
 - This is followed by a chapter dealing with treatment, care and support programmes; and
 - The last two chapters identify two critical requirements for successful workplace HIV/AIDS responses – namely capacity building and communication strategies.
- **Part D** covers the process of reporting on, monitoring and evaluating workplace programmes.

Part D consists of two chapters:

- The first provides an introduction to reporting on, monitoring and evaluating workplace HIV/AIDS responses; and
- The second contains practical guidelines for reporting, monitoring and evaluation.

The Guide is intended to support action, and each chapter contains similar sections, namely:

- **Key information** about the element, as well as any particular **challenges** that have been identified.
- How the particular element should be addressed in terms of the **Minimum Standards on HIV/AIDS**.
- Issues to consider when **developing** each of the elements of a comprehensive HIV/AIDS workplace response.
- Issues to consider when **implementing** each of the elements of a comprehensive HIV/AIDS workplace response.
- The **introductory chapters** in Parts B, C and D contain information that applies generally, across a number of elements, such as key issues for employers, employees, trade unions and the Public Service Co-ordinating Bargaining Council (PSCBC).
- **Checklists and examples of Leading Practices** are provided throughout to assist with interpretation, development and implementation. They should not be regarded as definitive, rather as a starting point or tool for departments to modify and use as appropriate to improve their workplace responses.
- **Additional resources** are provided at the end of each chapter, as well as cross references, where relevant, to other chapters in the Guide, where extra information can be obtained.

7. What other references are important?

The Guide should be read in conjunction with relevant legislation, policies and guidelines, including:

- The International Labour Organisation (ILO) **Code of Practice on HIV/AIDS and the World of Work**;
- The Southern African Development Community (SADC) **Code of Good Practice on HIV/AIDS in the Workplace**;
- The Department of Labour **Code of Good Practice on Key Aspects of HIV/AIDS and Employment**;
- The Department of Labour **Technical Assistance Guidelines** which supplement the abovementioned Code;
- The DPSA **Integrated HR Planning Guidelines in the Public Service**;
- The DPSA **Guide on Disciplinary and Incapacity Matters**; and
- The Public Service Regulations, 2001.



Information on where to obtain copies of these documents is provided below.

The ILO *Code of Practice on HIV/AIDS and the World of Work* can be accessed from the International Labour Organisation Tel: 012 341 2170 or the ILO website at: <http://www.ilo.org/public/english/protection/trav/aids/code/codemain.htm>

The Southern African Development Community's *Code of Good Practice on HIV/AIDS in the Workplace* can be accessed from the AIDS Law Project website at: <http://www.hri.ca/partners/alp/resource/thesadc.shtml>

The Department of Labour *Code of Good Practice on Key Aspects of HIV/AIDS and Employment* can be accessed from the Department of Labour Tel: 012 309 4313 or the Department of Labour website at: <http://www.labour.gov.za/docs/aids/index.htm>

The Department of Labour *Technical Assistance Guidelines on HIV/AIDS* were not yet finalised at the time of developing the Guide. Please contact the Department of Labour at Tel: 012 309 4313 for further information.

The Department of Public Service and Administration *Integrated HR Planning Guidelines in the Public Service* are available from DPSA Tel: 012 314 7911 or on the DPSA website at: <http://www.dpsa.gov.za>.

The Department of Public Service and Administration *Guide on Disciplinary and Incapacity Matters* can be accessed from DPSA Tel: 012 314 7911, or on the DPSA website at: <http://www.dpsa.gov.za/LabourRelations/GuideOnDisciplinary&IncapacityMatters.htm>

The Public Service Regulations, 2001 are available from DPSA Tel: 012 314 7911 or on the DPSA website at: <http://www.dpsa.gov.za>.

Two important reference documents are attached to the Guide as Appendices.

Part VI of Chapter 1 of the Public Service Regulations, 2001, called the *Minimum Standards on HIV/AIDS*, is attached as **Appendix Two**.

Collective Agreement, PSCBC Resolution No.8 of 2001 is attached as **Appendix Three**.

Chapter 2

Background Information on HIV/AIDS and the Public Service

1. The HIV/AIDS epidemic in South Africa

In South Africa, a survey is conducted annually to establish the prevalence of HIV infection amongst pregnant women attending antenatal clinics. Extrapolating from the 2001 antenatal survey it is estimated that 4.74 million adults were infected with HIV – 2.65 million women between the ages of 15 and 49, and 2.09 million men in the same age group.

The epidemic is different in different parts of the country, as illustrated in the following table:

HIV prevalence among antenatal clinic attendees SA by province and nationally (1999-2001)

Province	1999 (%)	2000 (%)	2001 (%)	Province	1999 (%)	2000 (%)	2001 (%)
KwaZulu-Natal	32.5	36.2	33.5	Eastern Cape	18.0	20.2	21.7
Mpumalanga	27.3	29.7	29.2	Limpopo	11.4	13.2	14.5
Gauteng	23.9	29.4	29.8	Northern Cape	10.1	11.2	15.9
Free State	27.9	27.9	30.1	Western Cape	7.1	8.7	8.6
North West	23.0	22.9	25.2	National	22.4	24.5	24.8

SOURCE: Department of Health, 2001 Antenatal Survey

The epidemic also affects certain age groups more than others, as illustrated in the following table:

HIV prevalence by age group among antenatal clinic attendees in SA (1999-2001)

Age	1999 (%)	2000 (%)	2001 (%)	Age	1999 (%)	2000 (%)	2001 (%)
<20	16.5	16.1	15.4	35-39	16.2	15.8	19.3
20-24	25.6	29.1	28.4	40-44*	12.0	10.2	9.1
25-29	26.4	30.6	31.4	45-49*	7.5	13.1	17.8
30-34	21.7	23.3	25.6				

* low figures – results should be interpreted with caution.

SOURCE: Department of Health, 2001 Antenatal Survey

The impact of the HIV/AIDS epidemic is significant, affecting all spheres of life and all sectors. It has the potential to reverse many development gains. The Department of Social Development in the *State of South Africa's Population Report 2000*, estimates that:

- Life expectancy has dropped from 63 years in 1990 to 56.5 years in 2000;
- Child mortality has increased from 75 per 1 000 in 1990 to 91 per 1 000 in 2000; and
- The probability of a 15 year old dying before the age of 60 was 27 per 1 000 in 1990 and has risen to 40 per 1 000 in 2000.

The impact is well illustrated by the population pyramid below, typical of a society with a mature epidemic. It clearly shows how the epidemic distorts the normal population distribution as it decimates young adults.

The implications are obvious – high levels of mortality in the age group that traditionally has the lowest rates of mortality. Increased numbers of infant deaths as a result of births to HIV infected women and increased numbers of elderly people who will need support.

Typical population pyramid of a country with a mature HIV/AIDS epidemic



See **Additional resources** at the end of this chapter for useful websites with information on international and national HIV/AIDS statistics and on the impact of the epidemic.

2. HIV/AIDS and the world of work

2.1 The clinical course of HIV disease

A good starting point for understanding the impact of HIV/AIDS on workplaces is to understand the clinical course of the disease in a person who is HIV infected.

HIV affects the body by affecting the immune system. The immune system is the body's defence against infection by micro-organisms (bacteria and viruses) that cause diseases.

Amongst the cells that make up the immune system is one called a CD4 lymphocyte. HIV is able, by attaching to the surface of the CD4 lymphocyte, to enter, infect and eventually destroy the cell. Over time this leads to a progressive and finally a profound impairment of the immune system, resulting in the infected person becoming susceptible to infections and other diseases such as cancer.

In **adults**, the typical course from infection with HIV to AIDS-defining conditions is as follows:

- About 6 weeks to 3 months after becoming infected the person will develop antibodies to HIV. At this point some people will experience a 'flu-like or glandular fever-like illness. Until this time, the usual tests to establish HIV infection will be negative, although the infected person is infectious and can transmit the virus.
- There is usually thereafter a long 'silent' period – on average about 8 years – during which the person may have no symptoms.
- Following that, almost all (if not all) infected persons will progress to HIV-related diseases and AIDS. They may develop skin conditions, chronic diarrhoea, weight loss or they might develop one or more opportunistic infections such as tuberculosis, pneumonia, fungal infections, meningitis and certain cancers.

2.2 The impact of HIV/AIDS in the workplace

Within workplaces where many employees are HIV infected, the impact of HIV/AIDS will be experienced in many areas, such as:

- **Morbidity and absenteeism**
As infected employees become ill they will take additional sick leave. This will disrupt the operation of the institution for which they work. The disruption will be amplified when the more qualified and experienced employees are absent. Increases in deaths will lead to increased absenteeism, as employees attend funerals for family members, friends and colleagues. Women employees, due to their socially defined role as care givers, will have to care for sick children and partners, which may involve time off from work.
- **Mortality or retirement**
The impact of the death or retirement of an infected employee is similar to morbidity, although the problems are permanent. The loss of an employee requires an appropriate replacement to be appointed and trained. For highly qualified staff this is often difficult, particularly in developing economies with skills shortages. Training and recruitment are costly and disrupt operations.
- **Staff morale**
The epidemic has a negative impact on morale in the workplace. There is a fear of infection and death, which may lead to increased suspicion of others as well as resistance to shouldering the additional responsibilities for colleagues who are off sick, away from work or newly recruited and not yet fully functional.
- **Benefits**
Employers and employees will feel the impact as the cost of employee benefits increases.
- **Demand for services**
Demand for services, particularly health and welfare services, is likely to increase dramatically. This will have major implications for departments that provide these services and even more so if they already face capacity constraints or are short staffed.

3. HIV/AIDS and the Public Service

In South Africa, the Public Service is the largest employer, with approximately 1.1 million employees – with about 30% of employees in national departments, and 70% in provincial departments. Women now constitute 51% of the total Public Service, only one per cent short of their proportion in the total population.

The table below shows the distribution of employees by sector.

Sector	% of Public Service
Social Services	61
Core Civil Services	2
Economic Services	6
Infrastructure	7
Criminal Justice	16
Defence and Intelligence	8
Other	0
TOTAL	100

SOURCE: Public Service Review Report, 1999/2000

Although it remains difficult to predict the extent of the future impact of HIV/AIDS on the Public Service, it is clear that:

- All departments are already, and increasingly will be affected, though there is likely to be a wide variation in risk, due to the differing profile of each department's workforce and the nature of the services it renders.
- Service delivery will be negatively affected – not only due to the number of infected employees, but also due to the increased demand for certain services, especially health and welfare, and the ability of the Public Service to attract and retain adequate levels of skilled staff (within the broader labour market).
- Services in remote areas and disadvantaged communities will be particularly vulnerable to absenteeism or deaths among staff, because of shortages of skilled staff and resource constraints.
- HIV/AIDS will increase the need for training of replacement staff, whilst at the same time compromising the potential for mentoring and skills transfer.
- Sick leave could increase dramatically.

The epidemic is thus likely to impact on many areas of the Public Service, such as:

- Skills development;
- Employment equity;
- Service delivery improvement; and
- Poverty alleviation.

Clearly a co-ordinated and effective response is required to minimise the impact of HIV/AIDS on the Public Service, because:

- Unless managed, the impact of HIV/AIDS will make it difficult to achieve the transformation goals of government;
- The principles for public administration outlined in the Constitution require that "resources be utilised efficiently, economically and effectively";
- An integrated HIV/AIDS response will promote confidence and increase morale in the Public Service, with spin-offs that will benefit all South Africans; and
- Such a response will allow the Public Service to demonstrate its commitment to fairness, equity and compassion.

4. The status of Public Service responses to HIV/AIDS

A survey of current HIV/AIDS responses by national and provincial departments showed the following:

- **Policies**
Those departments with developed HIV/AIDS policies endorsed the principle of non-discrimination on the basis of HIV status, however, most policies lacked guidelines on key strategies and implementation plans.
- **Prevention**
Many departments have prevention programmes in place such as awareness and active condom distribution campaigns. Only some departments have integrated HIV/AIDS prevention into existing programmes and none of the departments have formally evaluated their prevention programmes.
- **Testing, confidentiality and disclosure**
Some departments reported voluntary disclosure of HIV status by certain employees. Voluntary counselling and testing (VCT) services, however, are not widely utilised.
- **EAP**
Employee Assistance Programmes are available in most departments and many HIV/AIDS responses have been integrated into or linked to departmental EAPs.
- **Leadership**
Leadership commitment by and support from top and middle management is varied.
- **Universal infection control**
The availability of protective equipment for universal infection control (eg gloves) is mostly unknown.
- **Budgets**
Dedicated budgets for HIV/AIDS generally do not exist, but awareness materials are mainly sourced through the Department of Health.

In summary, it is clear that the response to HIV/AIDS varies from department to department and that co-ordination, monitoring and evaluation measures are inadequate.

5. Key challenges

The Public Service is faced by a number of key challenges for improved responses to the epidemic. These are that:

- AIDS education and prevention programmes must receive solid, sustained support and become more rigorous and strategic.
- Active on-going management commitment is needed for a successful response.
- Partnerships with unions should be actively forged to develop a common vision of how to address HIV/AIDS impacts on employees and on service delivery.
- The adequacy of existing structures should be assessed and capacity to develop and implement departmental HIV/AIDS programmes should be strengthened and then periodically reviewed.
- HIV/AIDS policies and programmes should be developed as a matter of urgency in departments that do not have them. Policies should be critically evaluated on a regular basis.
- Specific issues related to HIV/AIDS should be more explicitly incorporated into (i) planning and implementation of core departmental functions and (ii) strategies and plans for skills development.
- Active steps should be taken to encourage acceptance of employees infected by HIV/AIDS, as well as openness and non-discrimination.



6. Additional resources

Global HIV/AIDS statistics are available from the Joint United Nations Programme on HIV/AIDS on the website:

<http://www.unaids.org>

South African HIV/AIDS statistics are available from the Department of Health on the website:

<http://www.doh.gov.za>

Information on the impact of HIV/AIDS is available from loveLife on the website:

<http://www.lovelife.org.za>

General information on HIV/AIDS is available on:

<http://www.aegis.org>, www.thebody.com and

<http://www.sahealthinfo.org>

Chapter 3

Governing Framework for a Response to HIV/AIDS

The Bill of Rights within the Constitution protects the rights of every person to, amongst others, the right to equality, dignity, privacy and fair labour practices. Any workplace response to HIV/AIDS must therefore be based on an understanding of the rights of persons infected and affected by HIV/AIDS. This requires knowledge of:

- International guidelines for responding to HIV/AIDS;
- The South African legislative and policy framework; and
- Public Service legislation and policy on HIV/AIDS.

1. International guidelines

There are a number of important international guidelines that have been developed to guide the response of governments to HIV/AIDS. The most significant of these are the following:

- **The UNAIDS HIV/AIDS and Human Rights International Guidelines (1998)**
These are international guidelines to assist states in creating a positive, rights-based response to HIV/AIDS, which is effective in reducing the transmission of HIV, the impact of the epidemic and which is consistent with human rights and fundamental freedoms.
- **The SADC Code of Good Practice on HIV/AIDS and Employment (1997)**
The SADC Code was developed through a consultative tripartite process and adopted at a meeting of Ministers of Labour in Pretoria, South Africa in August 1997. Although the Code is not a legally binding document, all those who were signatories to it agreed that:
 - The national and regional implications of the HIV/AIDS epidemic meant that there was a need to have regional employment standards; and
 - All member countries should develop tripartite national codes that are reflected in national law.
- **The ILO Code of Practice on HIV/AIDS and the World of Work (2001)**
This Code binds all employers and employees in the private and public sector and all aspects of work, formal and informal. Standards that can be used in developing a response to HIV/AIDS in the workplace are set out in the ILO Code in the following way:
 - HIV/AIDS must be recognised as a workplace issue;
 - Responses to HIV/AIDS must be based on the principle of non-discrimination;

- Gender equality must be pursued as part of any HIV/AIDS response;
- Every employee has a right to a healthy and safe working environment;
- Social dialogue between employers, workers, their representatives, government and PLWAs must take place on HIV/AIDS issues;
- There must be no HIV screening of job applicants or employees;
- Every employee has the right to confidentiality regarding their HIV status;
- Workers must be enabled to continue working for as long as possible;
- Workplaces must promote HIV prevention; and
- Care and support should be provided to infected workers.

2. South African laws

South Africa has a good legislative framework for responding to HIV/AIDS in the workplace. Some of the most important pieces of legislation are described below, including how the principles established within international law have been integrated into South African domestic law and policies.

2.1 The Constitution

The **South African Constitution Act, No. 108 of 1996** is the supreme law of the country and all other laws must comply with it. The Bill of Rights within the Constitution sets out a number of specific provisions which protect workplace rights. Section 23(1) states that “Everyone has the right to fair labour practices”. There are also more general rights, which apply to the employment relationship, such as the right to equality and non-discrimination (section 9), and privacy (section 14).

2.2 Labour legislation

There are a number of important labour statutes, though only one of them, the Employment Equity Act, specifically refers to HIV/AIDS. However all are general enough to cover most HIV/AIDS related problems that may arise in the workplace. These Acts apply to all employees except those employed by the SANDF, the National Intelligence Agency and the Secret Service.

The relevant labour statutes are:

- The **Employment Equity Act, No. 55 of 1998**, which aims at ensuring equality and non-discrimination in the workplace through anti-discrimination measures and affirmative action provisions. It also has two clauses which expressly refer to HIV/AIDS:
 - A prohibition on unfair discrimination based on ‘HIV status’; and
 - A prohibition on HIV testing without Labour Court authorisation.
- The **Labour Relations Act, No. 66 of 1995**, which aims at regulating the relationships between employees, trade unions and employers, for example by setting out when trade unions may meet with their members at the workplace. It also regulates the resolution of disputes between employers and employees and sets out the rights of workers with regard to dismissal.
- The **Occupational Health and Safety Act, No. 29 of 1996**, which places a duty on all employers to ensure that, as far as is reasonably practicable, the working environment is safe and healthy for employees. For example, employers are required to provide safety equipment such as latex gloves to prevent the transmission of HIV during an accident involving a blood spill in the workplace.
- The **Compensation for Occupational Injuries Act, No. 130 of 1993**, which gives every employee the right to apply for compensation if injured in the course and scope of their employment. This would include compensation for HIV infection if it can be shown that the employee was infected in the course and scope of their employment.

2.3 Other relevant legislation

There are also a number of other pieces of legislation, which, although not directly employment related, impact on the management of HIV/AIDS in the workplace.

These are:

- The **Promotion of Equality and the Prevention of Unfair Discrimination Act, No. 4 of 2000**, which sets out measures for dealing with various forms of unfair discrimination and inequality. It also sets out the steps that must be taken to promote equality. This Act is broad enough to cover unfair discrimination based on HIV status. It applies to all agencies, including those not covered by existing labour legislation namely the SANDF, the Secret Service and the National Intelligence Agency, providing protection against discrimination against employees living with HIV/AIDS.
- The **Medical Schemes Act, No. 131 of 1998**, which regulate Government Gazette 20556, 20 October 1999 medical schemes. It provides that a medical scheme may not unfairly discriminate, directly or indirectly, against any person on the basis of their HIV status. This Act also allows the Minister of Health to gazette a minimum standard of benefits to be provided to members of the medical scheme.

2.4 Common law

The common law protects the **personality rights** of all individuals. These rights include the right to privacy and bodily integrity. This means that medical treatment (including HIV testing) must be carried out with the informed consent of the person concerned. Furthermore a person's HIV status may only be disclosed with their consent.

3. Policy framework

There are a number of policies that define good practice related to aspects that have HIV/AIDS implications. These include:

- The **Code of Good Practice on Key Aspects of HIV/AIDS and Employment**, which is attached to both the Labour Relations and Employment Equity Acts. It is essentially a standard setting out the content and scope of an appropriate response to HIV/AIDS in the workplace.

The Code has two objectives:

- To set out guidelines for employers and trade unions to implement so as to ensure that individuals infected with HIV are not unfairly discriminated against in the workplace; and
- To provide guidelines for employers, employees and trade unions on how to manage HIV/AIDS within the workplace.
- The **Code of Good Practice on Dismissal**, which is a code attached to the Labour Relations Act. It provides guidelines, for example, on when and how an employer may dismiss an employee for incapacity.
- The **Draft Code of Good Practice on Key Aspects of Disability and Employment**, which is currently being finalised by the Department of Labour. This code will give detailed guidelines on how to accommodate disabled employees, such as those with advanced HIV disease and how to adapt their working environments.

4. Rights established by the legal and policy framework

A number of the rights within international law are also protected in South African laws and policies. The rights of employees living with HIV/AIDS include that:

- Everyone has the right to equality and non-discrimination. This includes protection on the basis of 'HIV status' (ref. the Constitution, the Employment Equity Act and the Promotion of Equality and the Prevention of Unfair Discrimination Act).
- Every employee has the right to be tested only following Labour Court authorisation (ref. the Employment Equity Act).
- Everyone has the right to privacy and confidentiality (ref. the Constitution and common law).
- Every employee has the right to a safe working environment and compensation if injured at work (ref. the Occupational Health and Safety Act and the Compensation for Occupational Injuries and Diseases Act).
- Every employee has the right to equal access to employee benefits (ref. the Medical Schemes Act).
- Every employee with HIV or AIDS has the right to a minimum level of medical aid benefits from their medical aid scheme (ref. the Medical Schemes Act).
- Every employee has the right to be protected from unfair dismissal based on HIV status (ref. the Labour Relations Act).

5. Common legal cases and questions relating to HIV/AIDS in the workplace

5.1 Non-discrimination

- **Unfair discrimination due to "HIV status" or "perceived HIV status"**
Unfair discrimination occurs when an employee infected or affected by HIV/AIDS is treated differently due to their HIV status (which may be real or perceived) and this different treatment is unfair as it impairs their fundamental human dignity. For example if staff find out that a cleaner is HIV positive and they ask for her to be moved to another section because they refuse to work with an HIV positive person, this would be a form of unfair discrimination.
- **What legal rights do employees have who are being discriminated against?**
Every HIV positive employee has the right not to be unfairly discriminated against in the workplace. The Employment Equity Act states in section 6(1) that:

No person may unfairly discriminate directly or indirectly against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, **HIV status**, conscience, belief, political opinion, culture, language and birth.

The Employment Equity Act includes a job applicant in the definition of an employee for purposes of section 6(1). This means that both employees and job applicants with HIV or AIDS are protected against unfair discrimination in the working environment.



Example of a Leading Practice on assisting employees to assert their rights

Many employees within the Public Service report instances of unfair discrimination in the workplace or fears that if they disclose their HIV status they will be discriminated against. If an employee is being discriminated against they may:

- Report the matter to their supervisor and ask for assistance in using the internal grievance procedures to ensure that the matter is investigated and resolved;
- If the discrimination relates to disciplinary action taken against an employee, employees should use the internal disciplinary appeal procedures to appeal the decision taken. If unsatisfied with the outcome, an employee may declare a dispute in terms of the dispute resolution mechanism of the relevant sectoral bargaining council.
- Finally, an employee may approach the CCMA for an arbitration or the Labour Court, if still unsatisfied with the outcome of a dispute in relation to disciplinary action.

See **Public Service legislation and policy**, below, for more information on the DPSA Guide on Disciplinary and Incapacity Matters.

See **Part C** for more information on how to deal with stigma and discrimination through a workplace policy and programme.

5.2 Confidentiality

• Breaches of confidentiality regarding an employee's HIV status

Many infected employees are afraid of disclosing their HIV status to others within the workplace fearing that the information will not be kept confidential. A breach of confidentiality occurs when a person who is under a legal or ethical duty to keep certain information to themselves, discloses this information without permission.

• What legal rights do employees have to privacy or confidentiality?

Every person is entitled to privacy. This right protects personal information about a person from others, thus allowing the individual to decide on what they want kept private. People living with HIV/AIDS are entitled to privacy regarding their HIV status and they should consent to all disclosures that are made regarding their condition.

The duty of confidentiality is particularly strong within the doctor-patient relationship, where medical practitioners are under a legal and an ethical duty to protect patient confidentiality. There are very few exceptions to the confidentiality rule, described as when:

- Disclosure of a person's HIV status to a third party is authorised in terms of the ethical guidelines of doctors, psychologists and social workers in circumstances where a third party is at risk of infection;
- A person is ordered by a court to disclose the information; or
- It is in the public interest that the information be disclosed.

5.3 HIV testing within the workplace

Voluntary counselling and testing (VCT) is a programme where employees voluntarily agree to undergo a process of counselling and HIV testing in order to find out their HIV status.

The Employment Equity Act prohibits testing of an employee for HIV without authorisation by the Labour Court. In this context, all departments should determine whether there are any special instances in which HIV testing should be offered to employees, for example before intense physical training, to protect employees living with HIV/AIDS from becoming ill as a result of the physical stress of the training.

- **Labour Court authorisation**

If a department wishes to offer or require HIV testing in any circumstance, they must apply to the Labour Court for a court order granting permission to test employees for HIV. If granted, they must ensure that all HIV testing takes place:

- With the informed and voluntary consent of every employee;
- Following confidential and appropriate counselling; and
- With protection of the right to confidentiality.

- **What are an employee's legal rights regarding VCT?**

Participation in a VCT programme must be with informed consent. No employee may be compelled to participate, unless ordered to do so by the Labour Court.

See **Part C** on workplace programmes for more information on VCT.

5.4 Incapacity

An employee is incapacitated when they are unable to perform the key functions of their position, either due to poor performance, or due to ill-health.

- **Dismissal of incapacitated employees**

In the case of HIV/AIDS, the issue of dismissals for incapacity due to ill-health arises frequently. In all cases of dismissal for incapacity, employees living with HIV/AIDS should be accorded the same rights as other employees.

- **What are the legal rights of employees regarding dismissals for incapacity due to ill-health?**

The Labour Relations Act provides that no employee may be unfairly dismissed. The **Code of Good Practice on Dismissal** attached to the Act explains that in the context of incapacity due to ill-health an employer must make full enquiries into:

- The nature of an employee's incapacity, and whether it is temporary or permanent;
- The extent to which an employee is able to perform the functions of the job;
- Alternatives to dismissal, such as considering a change from full-time to part-time employment; and
- Possibilities to accommodate the employee, such as how the employee's duties or working environment could be adapted to allow them to carry on working, for example, installing wheel chair ramps for disabled staff.

The DPSA has also published a **Guide on Disciplinary and Incapacity Matters**, which provides detailed guidelines on dismissals for incapacity due to both ill-health and poor performance. The Guide is based on the rights of the employer and employee as contained in the Labour Relations Act.

When published, the **Code of Good Practice on Key Aspects of Disability and Employment** will provide more detailed guidance on an employer's responsibilities regarding adapting and accommodating disabled or incapacitated staff.

- **When is a dismissal for incapacity due to ill-health fair?**

Dismissal of an employee living with HIV/AIDS, on the basis of incapacity due to ill-health, will be fair if done in accordance with the guidelines set out in both the DPSA Guide and the Labour Relations Act. There are no hard and fast rules relating to when an employee is no longer able to fulfil their job functions, but the guidelines facilitate the fair and effective use of this sanction.

An employee living with HIV/AIDS may appeal the outcome of a dismissal for incapacity due to ill-health; and thereafter may declare a dispute in terms of the dispute resolution mechanism of the relevant sectoral bargaining council. If still unsatisfied, an employee may approach the CCMA for arbitration in the matter, or the Labour Court for an order.

See **Public Service legislation and policy** below for more details of the *DPSA Guide on Disciplinary and Incapacity Matters*.

6. Public Service legislation and policy

6.1 Relevant legislation

- The **Public Service Act, No. 103 of 1994**, governs the employment of public servants. Section 2 of the Act provides that the provisions of the Act apply to all public servants, unless:
 - The Public Service sector or institution is specifically excluded from the provisions of the Act;
 - The provisions of the Act are clearly inappropriate in the context; or
 - The provisions are contrary to the laws governing employment in a specific sector of the Public Service.

The Public Service Act itself makes no specific reference to HIV/AIDS. However, the general terms and conditions set out in the Act are nevertheless important, and apply equally to employees affected by HIV/AIDS as well as to other employees.

For example: Section 17 of the Public Service Act provides that:

The power to discharge an officer or employee shall rest in the relevant executing authority, who may delegate that power to an officer, and the said power shall be exercised with due observance of the applicable provisions of the Labour Relations Act, 1995.

These provisions apply equally to employees with HIV/AIDS. An employee with HIV/AIDS may not be dismissed simply on the basis of their HIV status, but should be dismissed with due observance of the provisions of the Labour Relations Act relating to dismissals for incapacity.

- The **Public Service Regulations, 2001** have recently been amended to incorporate new **Minimum Standards on HIV/AIDS**. These Minimum Standards contain mandatory guidelines to heads of departments (HODs) on the minimum requirements for managing HIV/AIDS within government departments. HODs must ensure:
 - That the working environment takes account of the personal circumstances of employees living with HIV/AIDS;
 - That steps are taken to identify and reduce the risk of HIV transmission in the working environment;
 - That steps are taken to manage occupational exposure to HIV/AIDS;
 - That measures are taken to prohibit unfair discrimination and promote non-discrimination on the basis of HIV status or AIDS;
 - That HIV testing of a public servant is prohibited;
 - That voluntary counselling and testing for HIV (VCT) is encouraged;
 - That the confidentiality of HIV status is maintained;
 - That health promotion programmes are introduced to deal with HIV/AIDS prevention, and care and acceptance of PLWAs;

- That support for HIV/AIDS policies and programmes is established through allocating responsibilities, human and financial resources, structures and communication strategies; and
- That measures are put into place to monitor and evaluate HIV/AIDS policies and programmes.

These regulations are to be implemented by an SMS member, and facilitated by a representative stakeholder committee.

See **Appendix Two** for a copy of the *Minimum Standards on HIV/AIDS*.

6.2 Public Service policies and guidelines

• **DPSA Guide on Disciplinary and Incapacity Matters**

In 1999, the parties to the PSCBC concluded several agreements, namely:

- A new disciplinary code and procedures for the Public Service;
- An Incapacity Code and Procedures (poor performance); and
- An Incapacity Code and Procedures in respect of ill-health.

The Codes set out detailed steps to be taken in the event of:

- The need for disciplinary action against an employee;
- An employee wishing to appeal or declare a dispute in terms of disciplinary action taken;
- An employee's incapacity due to poor performance; and
- An employee's incapacity due to ill-health.

The Guide does not refer specifically to HIV/AIDS. However, the provisions apply equally to employees with HIV/AIDS; and the provisions relating to an employee's incapacity due to ill-health are of particular relevance to employees who may become so ill, as a result of HIV infection, that their capacity to work is affected.

- The Public Service Co-ordinating Bargaining Council (PSCBC) Resolution No. 8 of 2001, (see **Appendix Three**) defines an HIV/AIDS policy and training framework, which binds the employer, Public Service employees who are members of the trade union parties to the Agreement, and Public Service employees who fall within the registered scope of the Council.

The policy commits the PSCBC to support and mobilise social partners to implement HIV/AIDS workplace policies and programmes, including:

- Gender sensitive HIV/AIDS prevention programmes;
- Wellness programmes for members affected by HIV/AIDS;
- Policies and programmes to create a non-discriminatory work environment in the context of HIV and AIDS;
- Policies and programmes to ensure the provision of non-discriminatory employee benefits, for members living with HIV/AIDS, including compensation for occupational transmission of HIV; and
- Education and training programmes including basic information on HIV and AIDS, prevention, management of HIV infection, legal and ethical issues, care and support and home-based care.

See **Part C** for guidance on implementing the provisions of the *Minimum Standards and the PSCBC Resolution*.

6.3 Sector/department-specific workplace HIV/AIDS policies

A number of government departments, at both national and provincial level, have developed workplace HIV/AIDS policies to govern their particular departments. In these cases, these policies will guide the department's workplace HIV/AIDS programme. However, it is recommended that all departments review existing workplace HIV/AIDS policies to ensure that they comply with the regulated Minimum Standards on HIV/AIDS.



Example of a Leading Practice - a sector-specific policy on HIV/AIDS

Purpose:

- To provide employment practices and procedures and to combat discrimination and irrational responses with regard to employees living with HIV/AIDS;
- To provide practices and procedures in the workplace for employees who are exposed to infection with HIV/AIDS, and precautionary health and safety measures to be undertaken in the working environment with regard thereto.

Scope of Application:

This policy is applicable to all employees appointed in terms of the South African Police Service Act, 1995 and the Public Service Act, 1994.

SOURCE: Employees of the South African Police Service Living with HIV/AIDS Policy, 2001.

See **Part C** for more information regarding reviewing policies and programmes to ensure that they comply with the Minimum Standards on HIV/AIDS.

6.4 Department of Health Policy Guidelines on HIV/AIDS

The Department of Health has issued **HIV/AIDS Policy Guidelines** on various issues, including:

- Testing for HIV;
- Rapid HIV testing;
- Management of occupational exposure to HIV;
- Ethical considerations for HIV/AIDS clinical and epidemiological research;
- Prevention and treatment of opportunistic and HIV related diseases in adults;
- Feeding of infants of HIV positive mothers;
- Prevention of mother to child transmission and management of HIV positive pregnant women;
- Managing HIV in children; and
- Tuberculosis (TB) and HIV/AIDS.

While the Guidelines do not specifically deal with workplace HIV/AIDS issues, they do act as national guidelines on the abovementioned aspects of HIV/AIDS management and care. They are therefore important reference materials to be taken into account in the development and implementation of HIV/AIDS policies and programmes in the Public Service.



Example of a Leading Practice – extract from the Department of Health’s Testing for HIV Guidelines

Testing for HIV infection presents serious medical, legal, ethical, economic and psychological implications in the health care setting. Because HIV infection is a life-threatening condition, reasonable persons and health care workers will attach significance to the outcome of an HIV test, especially a positive diagnosis. For these reasons, and in accordance with the Constitutional guarantees of freedom and security of the person, and the right to privacy and dignity, the following HIV testing policy shall constitute national policy. This policy applies to persons who are able to give consent, as well as to those legally entitled to give proxy consent to HIV testing in terms of the law.

SOURCE: Department of Health HIV/AIDS Policy Guideline, *Testing for HIV*, August 2000

See **Additional resources**, below, for information on how to obtain copies of the Department of Health’s HIV/AIDS Policy Guidelines.

7. HIV/AIDS structures

As part of the expanded national response to HIV/AIDS, various government HIV/AIDS structures have been established to manage the response to HIV/AIDS at various levels. These structures fulfill a variety of different functions, and are important vehicles for government departments in building an effective Public Service HIV/AIDS workplace response. Important structures and bodies include:

- The South African National AIDS Council or SANAC;
- The Interdepartmental Committee on HIV/AIDS, or IDC; and
- Provincial HIV/AIDS structures

Other structures, such as Cabinet, MinMEC, the Director-Generals Forum, and the Provincial Health Restructuring Committee, whilst not specifically dealing with HIV/AIDS, are nevertheless important bodies where HIV/AIDS issues and decisions are discussed.

7.1 South African National AIDS Council (SANAC)

SANAC is the highest HIV/AIDS advisory body in the country, set up to advise government on matters of national priority in relation to HIV/AIDS. Its major functions are:

- To advise government on HIV/AIDS/STD policy;
- To advocate for the effective involvement of sectors and organisations in implementing programmes and strategies;
- To monitor the implementation of the HIV/AIDS and STD Strategic Plan for South Africa (2000–2005);
- To create and strengthen partnerships for an expanded national response;
- To mobilise resources for the implementation of the HIV/AIDS programme; and
- To recommend appropriate research.

SANAC is chaired by the Deputy President and is made up of representatives from both government and civil society.

Sectors represented on SANAC

- Government Ministers from selected departments
- Government Communication and Information System
- Portfolio Committee on Health
- Select Committee on Social Services
- Business
- People living with HIV/AIDS
- Non-governmental organisations
- Faith-based organisations
- Trade Unions
- Women
- Youth
- Traditional healers
- Traditional leaders
- Legal and human rights experts
- Disabled people
- Celebrities
- Sport
- Media
- Hospitality industry
- Local Government

7.2 Interdepartmental Committee on HIV/AIDS

The Interdepartmental Committee on HIV/AIDS (IDC) was established in 1998 as a committee of HIV/AIDS Co-ordinators of national government departments. The IDC meets monthly to co-ordinate information, capacity build its members, plan and implement joint programmes, monitor departmental responses and advocate on HIV/AIDS issues.

Its goals include:

- Facilitating the development of HIV/AIDS workplace policies in all government departments;
- Advocating for the allocation of financial resources to HIV/AIDS;
- Developing HIV/AIDS programmes for all government departments; and
- Facilitating information exchange, capacity building and support amongst government departments.

7.3 Provincial HIV/AIDS structures

A number of provinces have set up their own HIV/AIDS structures at provincial level to manage their provincial responses to HIV/AIDS. These structures typically bring together representatives from various government departments to support the development of integrated HIV/AIDS policies and programmes, both within the Public Service working environment and often also within the communities they serve.



Example of a Leading Practice – IDHAC E.C.

IDHAC (Interdepartmental HIV/AIDS Committee) in the Eastern Cape is composed of the HIV/AIDS Co-ordinators from the 12 government departments in the province. The main purpose of this committee is to promote an integrated approach to the management of HIV/AIDS and to ensure that each provincial department plays a role in combating HIV/AIDS. IDHAC has developed a Provincial HIV/AIDS Workplace Policy, available on the provincial website: [http:// www.ecprov.gov.za](http://www.ecprov.gov.za).

SOURCE: IDHAC E.C. pamphlet

7.4 Other general structures

Other general structures include Cabinet, MinMEC, the Forum of South African Directors-General (FOSAD) and the Provincial Health Restructuring Committee (PHRC).

See **Part B** for more detail on the importance of HIV/AIDS structures and committees in managing an HIV/AIDS workplace response.



8. Additional resources

For copies of labour legislation go to:

<http://www.labour.gov.za>

For copies of the *Medical Schemes Act* go to:

<http://www.doh.gov.za>

For copies of the *Codes of Good Practice on Dismissal and Disability* go to:

<http://www.labour.gov.za>

For a copy of the *Code of Good Practice on Key Aspects of HIV/AIDS and Employment* contact the Department of Labour at Tel: 012 309 4313 or go to:

<http://www.labour.gov.za>

For a copy of the Promotion of Equality and the Prevention of Unfair Discrimination Act go to:

<http://www.justice.co.za> or <http://www.gov.za>

For a copy of the *Guide on Disciplinary and Incapacity Matters* contact DPSA at Tel: 012 314 7911 or go to:

<http://www.dpsa.gov.za/LabourRelations/GuideOnDisciplinary&IncapacityMatters.htm>

For copies of the *HIV/AIDS Policy Guidelines* contact the Department of Health at Tel: 012 312 0122 or go to:

<http://www.doh.gov.za>

For a copy of the *HIV/AIDS & STD Strategic Plan for South Africa, (2000-2005)* contact the Department of Health at Tel: 012 312 0122, or go to:

<http://www.doh.gov.za>

For a copy of the UNAIDS *HIV/AIDS and Human Rights International Guidelines* go to: <http://www.unaids.org>

For a copy of the ILO *Code of Good Practice on HIV/AIDS and the World of Work* go to:

<http://www.ilo.org>

For a copy of the SADC *Code of Good Practice on HIV/AIDS in the Workplace* go to: <http://www.hri.ca/partners/alp>

Barrett Grant, Fine, Heywood and Strode; *AIDS and the Law: A Resource Manual* (2nd ed), AIDS Law Project and AIDS Legal Network, 2001 is available from the AIDS Law Project Tel: 011 717 8600

The PSCBC Resolution No. 8 of 2001 *Policy on HIV/AIDS and HIV/AIDS Training Framework in terms of Resolution 7/2000* is attached to the Guide in **Appendix Three**

Chapter 4

Principles to Guide a Workplace Response

Consensus has been developed internationally on the core principles which should underlie a workplace response to HIV/AIDS. As detailed in Chapter 3, these principles form the basis for, and have informed the development of:

- International law on HIV/AIDS;
- National responses in many countries throughout the world; and
- South African law and policy.

Principles are important as they guide responses to new and changing situations. In other words principles give us a framework or a baseline of rights and responsibilities which can be used when trying to resolve disputes or new challenges that may face a workplace and which are not covered by existing laws or policies.

1. Compliance with the Minimum Standards on HIV/AIDS

Core principles, although not specifically stated as such, can be gleaned from the **Minimum Standards on HIV/AIDS**, and include issues such as:

- Non-discrimination;
- Safety in the workplace;
- A prohibition on HIV testing;
- The encouragement of voluntary counselling and testing;
- Confidentiality; and
- Openness, acceptance, care and support for employees living with HIV/AIDS.

A department's principles may be broader than those listed above, but should at least comply with the **Minimum Standards on HIV/AIDS**.



Example of a Leading Practice

The **Code of Good Practice on Key Aspects of HIV/AIDS and Employment** is based on five key principles. One of these relates to creating a working environment in which employees are able to work productively for as long as possible. Section 3.2 states a principle that workplaces should strive for:

- The creation of a supportive environment so that HIV infected employees are able to continue working under normal conditions in their current employment for as long as they are medically fit to do so.

This principle can be used to help develop guidelines on:

- Managing employees living with HIV/AIDS;
- Developing a supportive environment; and
- Ensuring that employees are encouraged to continue working.

This principle also ensures that guidelines cannot in future be developed which make the workplace a hostile environment for employees with HIV/AIDS.

SOURCE: Department of Labour, *Code of Good Practice on Key Aspects of HIV/AIDS and Employment*

2. Developing workplace HIV/AIDS principles

Internationally, core principles have emerged from the struggle to establish a human rights-based response to the HIV/AIDS epidemic. Developing principles for a workplace policy and programme needs to be a consultative process in which one considers:

- What are the key issues and concerns of the various stakeholders within the working environment?
- What are the core values within the workplace?
- What are the most important standards upon which the response to HIV/AIDS should be based?
- What are the legal obligations on the workplace?
- Who participates and how? and
- What space is there for women's voices within the working environment?

The principles contained within the Dakar Declaration and the Code of Good Practice on HIV/AIDS, are included as Leading Practices, as these suggest the principles that should inform all HIV/AIDS responses.



Example of a Leading Practice – the Dakar Declaration

In 1994 a meeting on HIV/AIDS and human rights in Dakar, Senegal produced the following key principles to guide an ethical response to HIV/AIDS:

The Principle of Responsibility

Every person, government, institution, private enterprise and medium must be aware of his or her responsibility and must exercise it in an active and sustainable manner.

The Principle of Engagement

Every person is affected, directly or indirectly, and therefore should respond with commitment, concern, courage and hope for the future.

The Principle of Partnership and Consensus-Building

All persons, couples, families, communities and nations must work together with compassion to build and share a common vision. These partnerships must reflect and actively promote solidarity, inclusion, integration, dialogue, participation and harmony.

The Principle of Empowerment

The empowerment of every person, but particularly the poor, the uneducated and children, is essential and must guide all action. Empowerment requires recognition of the right to knowledge, information and technology, freedom of choice and economic opportunity.

The Principle of Non-discrimination

Every person directly affected by the epidemic should remain an integral part of his or her community, with the right of equal access to work, housing, education and social services, with the right to marry, with freedom of movement, belief and association, with the right to counselling, care and treatment, justice and equity.

The Principle of Confidentiality and Privacy

Every person directly affected by the epidemic has the right to confidentiality and privacy. It can only be breached in exceptional circumstances.

The Principle of Adaptation

Every person and community should change and adapt social and cultural conditions to the new challenges of the epidemic in order to respond effectively.

The Principle of Sensitivity in Language

Language should uphold human dignity, reflect inclusion, be gender-sensitive, accurate and understandable.

The Principle of Ethics in Research

The interests of research subjects or communities should be paramount. Research should be based on free and informed consent, be non-obtrusive and non-coercive, and the results should be made available to the community for timely and appropriate action.

The Principle of Prohibition of Mandatory HIV Testing

HIV testing without informed consent should be prohibited. HIV testing should also not be a prerequisite for access to work, travel or other services.

SOURCE: UNDP, *African network on ethics, HIV and the law*, 1994



Example of a Leading Practice - Principles contained in the Code of Good Practice on Key Aspects of HIV/AIDS and Employment

- The promotion of equality and non-discrimination between individuals with HIV infection and those without and between HIV/AIDS and other comparable health/medical conditions.
- The creation of a supportive environment so that HIV infected employees are able to continue working under normal conditions in their current employment for as long as they are medically fit to do so.
- The protection of human rights and dignity of people living with HIV or AIDS is essential to the prevention and control of HIV/AIDS.
- HIV/AIDS impacts disproportionately on women and this should be taken into account in the development of workplace policies and programmes.
- Consultation, inclusivity and encouraging full participation of all stakeholders are key principles which should underpin every HIV/AIDS policy and programme.

SOURCE: Department of Labour, *Code of Good Practice on Key Aspects of HIV/AIDS and Employment*.

See **Additional resources** for details of how to obtain the Code of Good Practice on Key Aspects of HIV/AIDS and Employment.

3. Implementing core principles

HIV/AIDS principles should be integrated into all aspects of departmental HIV/AIDS policies and programmes. They need to be more than simply written principles, becoming guidelines and considerations for all actions taken by departments on HIV/AIDS.

It is therefore important to ensure that:

- The principles determine the work of the HIV/AIDS Committee;
- The principles are reflected in the HIV/AIDS policy;
- The principles are integrated into all planning undertaken by staff with roles and responsibilities in respect of the workplace HIV/AIDS response;
- The principles are reflected in the HIV/AIDS related partnerships;
- The principles are communicated to all relevant stakeholders in the department; and
- The application of the principles is monitored.

Below is an example of a checklist that can be used to determine whether a workplace education and training programme complies with the principles inherent in the Minimum Standards.



Checklist based on principles contained in the Code of Good Practice on Key Aspects of HIV/AIDS and Employment

Does your education and training programme:

- Promote non-discrimination and equality on the basis of HIV/AIDS?
- Encourage the creation of a supportive environment in which employees living with HIV/AIDS are able to continue working for as long as they are able to do so?
- Contain information regarding the link between protecting the rights of employees living with HIV/AIDS and the prevention of further HIV infections?
- Address gender issues and recognise the disproportionate impact of HIV upon women?
- Represent the result of consultation and participation? Does the methodology encourage participation of trainees?



4. Additional resources

The *Code of Good Practice on Key Aspects of HIV/AIDS and Employment* can be obtained from the Department of Labour at Tel: 012 309 4313 or on:

<http://www.labour.gov.za>

The *HIV/AIDS & STD Strategic Plan for South Africa, (2000-2005)* can be accessed from the Department of Health at Tel: 012 312 0122, or on:

<http://www.doh.gov.za>

The UNAIDS *HIV/AIDS and Human Rights International Guidelines* can be accessed from:

<http://www.unaids.org>

The ILO *Code of Good Practice on HIV/AIDS and the World of Work* can be obtained from:

<http://www.ilo.org>

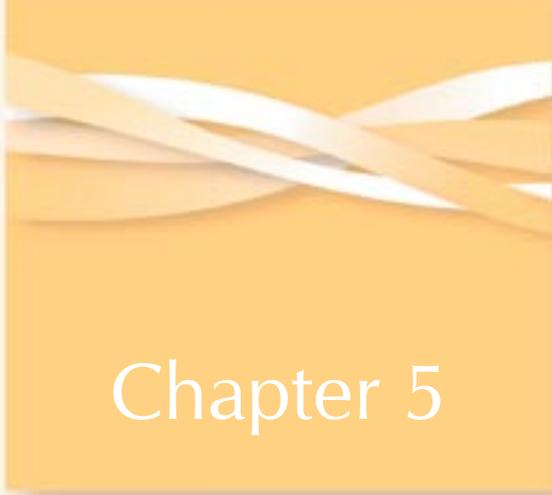
The SADC *Code of Good Practice on HIV/AIDS in the workplace* can be obtained from: <http://www.hri.ca/partners/alp>

See **Appendix One**, at the end of the Guide, for additional references and contacts.

PART B

HIV/AIDS POLICY AND PLANNING

- Chapter 5 Introduction to HIV/AIDS policy and planning
 - Chapter 6 Structures and partnerships, leadership and commitment
 - Chapter 7 Workplace HIV/AIDS policy
 - Chapter 8 Impact assessments
 - Chapter 9 HIV/AIDS and medium-term strategic planning, budgeting and HR planning
- 



Chapter 5

Introduction to HIV/AIDS Policy and Planning

The HIV/AIDS epidemic has the potential to erode socio-economic gains made in past years. As HIV/AIDS takes its toll on the economically active population, the Public Service will incur considerable costs due to increased absenteeism, medical costs, increased labour turnover, decreased productivity and employee benefits payable to employees living with and dying from HIV/AIDS.

In light of this, there is a duty on Public Service management to proactively manage the epidemic by seeking to understand it, put strategies in place to contain it, monitor it and mitigate its impact.

1. Summary of management responsibilities

The Guide identifies key responsibilities that fall on management in responding to the epidemic. They are:

- To establish multi-level structures and partnerships responsible for all aspects of the workplace HIV/AIDS response;
- To show leadership and commitment to managing HIV/AIDS;
- To develop a workplace HIV/AIDS policy;
- To conduct risk assessments;
- To conduct planning for HIV/AIDS programmes, integrating this into departmental strategic planning;
- To review human resource policies and processes;
- To conduct HR planning and management, linked to maintaining and enhancing service delivery;
- To manage employee benefits;
- To budget for the cost of HIV/AIDS programmes; and
- To oversee and monitor departmental HIV/AIDS programmes.

These management responsibilities are covered in the next four chapters.

2. Key issues

Employers, employees and the PSCBC will have varying priorities in relation to a workplace HIV/AIDS response. For example:

Employer issues may include:

- Ensuring that strategies are developed to minimise the impact of HIV/AIDS on the working environment, in order to maintain quality service delivery;
- Complying with legal provisions relating to HIV/AIDS and the workplace;
- Ensuring that HR policies and procedures support employees;
- Recruiting and retaining skilled and experienced employees;
- Providing training and promotional opportunities for all employees;
- Monitoring absenteeism and declining productivity;
- Managing performance;
- Providing equitable, cost-effective and sustainable employee benefits;
- Promoting a safe working environment; and
- Containing costs.

Employee issues may include:

- Concerns regarding the impact of HIV/AIDS on their employment;
- Whether there is budgetary provision for Employee Assistance Programmes, HIV/AIDS interventions and staff development;
- Avoiding HIV infection;
- Being protected from discrimination on the basis of HIV status;
- Wanting to work in a supportive environment;
- Requiring that confidentiality is maintained;
- Having access to counselling, condoms and support services;
- Having a safe working environment;
- Receiving good employee benefits;
- Having job security;
- Being given opportunities for training and promotions; and
- Ensuring that appropriate prevention, treatment, care and support is provided to employees living with HIV/AIDS.

Unions and the PSCBC may primarily be concerned with:

- Ensuring a non-discriminatory and supportive environment for all public servants infected with and affected by HIV/AIDS;
- Ensuring that adequate training and capacity building is provided in the working environment to deal with HIV/AIDS;
- Ensuring HIV/AIDS workplace policies and programmes meet the needs of all employees;
- Being involved in and consulted on the development of policies and ensuring that policies reflect principles such as non-discrimination;
- Ensuring that resources are available to meet the demands posed by the epidemic;
- Ensuring compliance with legal obligations towards members; and
- Ensuring fair grievance and disciplinary procedures for HIV/AIDS.

Chapter 6

Structures and Partnerships, Leadership and Commitment

This chapter provides guidance on establishing the human resources, structures and partnerships necessary to ensure an effective workplace HIV/AIDS response.

1. Structures

1.1 Compliance with the Minimum Standards on HIV/AIDS

According to the **Minimum Standards on HIV/AIDS**, HODs must designate a member of the Senior Management Service (SMS) with adequate skills, seniority and support to implement a workplace HIV/AIDS policy and programme. This person will be responsible for ensuring that the department's HIV/AIDS response is developed, implemented and monitored in a manner that is consistent with the **Minimum Standards**.

However, the **Minimum Standards** recognise that one designated person alone cannot achieve a comprehensive HIV/AIDS workplace response. The **Minimum Standards** therefore further require:

- The establishment of an HIV/AIDS Committee with adequate representation and support from all relevant stakeholders;
- The integration of HIV/AIDS policies and programmes with broader wellness programmes within the department; and
- The forging of partnerships with departments, organisations and individuals who are able to assist with this programme.

See **Appendix Two** for a copy of the *Minimum Standards on HIV/AIDS*.

1.2 Key challenges

Key challenges which need to be addressed in developing HIV/AIDS structures and partnerships include:

- Appointing an experienced and skilled member dedicated to lead the department's HIV/AIDS workplace response;
- Locating the HIV/AIDS Co-ordinator and Committee within the unit where they will be most effective;
- Obtaining clear commitment and support from management for participation by nominated officials on the HIV/AIDS Committee;
- Ensuring that representatives of labour unions are involved in your HIV/AIDS Committee; and
- Establishing lines of communication between the HIV/AIDS Committee and the department, particularly with broader wellness management programmes.

1.3 Appointing an HIV/AIDS Co-ordinator and establishing an HIV/AIDS Committee

In selecting a member of the SMS to act as the HIV/AIDS Co-ordinator of a department's workplace HIV/AIDS response, and in selecting personnel to serve on an HIV/AIDS Committee, it is important to ensure that:

- The HIV/AIDS Co-ordinator has the necessary skills and a well-defined mandate to carry out the responsibilities attached to this position;
- The composition of the HIV/AIDS Committee takes account of the different levels of employees, different interests, as well as the diversity within the department and the key stakeholders within the department;
- The location of the HIV/AIDS Committee takes account of its functions, its seniority, its required lines of communication and its best placement in relation to the particular working environment; and
- Key lines of communication are set up between the HIV/AIDS Committee and other important role players within and outside the department.

Useful questions to answer when embarking on the appointment of an HIV/AIDS Co-ordinator and the establishment of an HIV/AIDS Committee are reflected in the following checklist:



Checklist of questions relating to a department's HIV/AIDS Co-ordinator and Committee

- What kinds of skills and experience does the designated HIV/AIDS Co-ordinator need to have?
- Should the person be appointed solely to deal with HIV/AIDS?
- Where will this person best be placed in the departmental structure?
- What kinds of skills and experience are needed on the HIV/AIDS Committee?
- Who will be involved in managing HIV/AIDS in the working environment?
- Who are the key stakeholders in the department's workplace HIV/AIDS response? What are their needs?
- Which unions are involved in the working environment?
- How does the department ensure that women have a voice?
- What are the functions of the HIV/AIDS Committee (the Minimum Standards define the minimum functions)?
- Where will it best be placed to fulfill its functions?
- To whom does it report?
- What links does it have to other HIV/AIDS structures, eg in other departments?
- What partnerships should it form to fulfill its functions?

The following list of skills can be used in identifying an appropriate HIV/AIDS Co-ordinator:



Checklist of core competencies for an HIV/AIDS Co-ordinator

- Experience and/or interest in HIV/AIDS issues
- Skills and/or experience in advocacy, networking and co-ordination
- HR experience
- Project management and organisational experience
- Financial management experience
- Strategic planning skills
- Strong communication skills
- Report writing, monitoring and evaluation skills

The checklist below proposes the composition of a model HIV/AIDS Committee:



Checklist for the composition of an HIV/AIDS Committee

- Include personnel who will be involved with the development, implementation, or monitoring and evaluation of HIV/AIDS workplace policies and programmes (such as HR, personnel from EAP etc);
- Include personnel involved with broader wellness management programmes within the department;
- Include key people who represent the various interests of the department;
- Include women to articulate their perspectives, interests and concerns into the planning and the programme;
- Include employees who are living with HIV/AIDS, as they, better than anyone else, can inform the Committee of the capacities and concerns of employees with HIV/AIDS;
- Include union representatives to ensure participation and to maximise the potential for good communication with the workforce;
- Include people with relevant skills; and
- Include people who are respected and who are able to build support for the HIV/AIDS workplace programme.

See **Part A Chapter 3** for more information on existing HIV/AIDS structures.

1.4 Implementing and maintaining appropriate HIV/AIDS structures

• Placement of the HIV/AIDS Committee

A key challenge to ensure an effective HIV/AIDS workplace response is to locate the HIV/AIDS Committee within a unit so as to ensure it is best able to fulfill its functions. The location of the HIV/AIDS Committee may vary from department to department, depending on the key challenges and specific working conditions that apply.



Examples of Leading Practices on the location of an HIV/AIDS programme

The **Gauteng Department of Health**, for example, recommend that the workplace HIV/AIDS programme be located in the HR Directorate, for various reasons including:

- The impact of HIV/AIDS upon human resource issues such as employee incapacity and ill-health, employee benefits, absenteeism etc
- The key role the HR Directorate must play in managing many elements of the workplace HIV/AIDS response;
- The need to link HIV/AIDS issues with EAP; and
- The weakness of an HIV/AIDS workplace response without the active involvement of HR.

The **Independent Complaints Directorate**, on the other hand, have found that by locating the HIV/AIDS Committee at the highest level, in their case within the Director General's office, the HIV/AIDS Committee receives clear leadership, commitment and support.

1.5 Roles and responsibilities

The roles and responsibilities of an HIV/AIDS Committee and its members should be clearly defined, taking into account the needs of key stakeholders in the working environment.

Roles and responsibilities should include:

- The terms of reference for the HIV/AIDS Committee as a whole; and
- The roles and responsibilities of the various members of the HIV/AIDS Committee.

2. Partnerships

Partnerships are vital to the success of an HIV/AIDS Committee. Partnerships assist in sharing information, experience, skills and resources, and, in this way, assist an HIV/AIDS Co-ordinator and Committee to fulfill their functions.

2.1 Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards on HIV/AIDS** recommend that partnerships be formed with:

- Other government departments – who may have experience in developing and implementing a workplace HIV/AIDS response, and resources to share with a department;
- Organisations – for example, non-governmental and AIDS service organisations that may have considerable skills, experience and resources to share; and
- Individuals – perhaps those with specialised skills and expertise in HIV/AIDS workplace issues.

See **Appendix Two** for a copy of the *Minimum Standards on HIV/AIDS*.

2.2 Developing partnerships

Possible partnerships could include:

- Collaboration between departments, for example the Departments of Health and Labour worked together on developing the **Code of Good Practice on Key Aspects of HIV/AIDS and Employment**;
- Links to private sector companies; and

- Working with NGOs, CBOs and other community structures. Partnerships with outside organisations may be an important first step in broadening and extending a department's HIV/AIDS response, from an **internally** focused HIV/AIDS workplace response, to a broader **external** response that takes into account the needs of the communities utilising the services of the department. It can also be a vehicle for referrals and skills exchanges.



Examples of Leading Practices on partnerships

SAPS have fostered key partnerships at various levels to support their HIV/AIDS workplace response, including:

- Partnerships with the national and provincial SA Civil Military Alliance (SACMA);
- Partnerships with the national and provincial Interdepartmental HIV/AIDS Committees;
- Partnerships with individual departments such as the Department of Health and Social Development; and
- Partnerships with the Christian Police Association.

Daimler Chrysler is a good example of a public private partnership which has assisted in broadening their HIV/AIDS response from an internal workplace response to an external response. Their partnerships are also interesting in that they represent two-way partnerships that are mutually beneficial to all partners. Their partners include:

- GTZ, a German donor, who assists with funding for the HIV/AIDS response;
- Buffalo City, where they are partners in the local government HIV/AIDS initiative;
- Various AIDS service organisations, who they support with funding and other resources;
- Organisations involved in initiatives such as *Trucking Against AIDS*; and
- The National Association of People living with HIV/AIDS (NAPWA).

2.3 Measuring and monitoring workplace HIV/AIDS structures and partnerships

The following checklist may be used to measure and/or monitor workplace HIV/AIDS positions, structures and partnerships:



Checklist to assess workplace positions, structures and partnerships:

- Has an HIV/AIDS Co-ordinator been identified?
- Does the HIV/AIDS Co-ordinator have sufficient skills, seniority and support to implement the workplace HIV/AIDS response?
- Has an HIV/AIDS Committee been formed?
- Have adequate human and financial resources been allocated for the functioning of the HIV/AIDS Committee?
- Is the HIV/AIDS Committee representative of all relevant stakeholders, including trade unions?
- Has the HIV/AIDS Committee formed partnerships with other departments, organisations and individuals who are able to assist with the implementation of the Minimum Standards?

3. Leadership and commitment

Active leadership and management commitment to HIV/AIDS have been identified as an essential component of an effective HIV/AIDS programme. Leadership requires not only leading the technical response of the department but also acting as an example or role model, so as to inspire others. This requires managers within the Public Service to:

- Make a commitment to HIV/AIDS workplace issues;
- Make a personal commitment to act as an 'AIDS ambassador';
- Develop commitment to HIV/AIDS issues in others;
- Act on this commitment through ensuring that strategies are developed;
- Implement, monitor and evaluate strategies.

3.1 Compliance with the Minimum Standards on HIV/AIDS

The Minimum Standards clearly set out the leadership role of the Public Service by stating the Government's commitment to managing the impact and preventing the spread of HIV/AIDS. Within the Public Service, political heads of departments, employers, trade unions and employees all have leadership roles to play in combating HIV/AIDS.



Example of a Leading Practice demonstrating commitment to HIV/AIDS

In the USA, 9 large employers showed their commitment to addressing HIV/AIDS in the workplace by forming the New England Corporate Consortium for AIDS Education. Their mission was to provide leadership and advocacy within the business community. One of the key areas in which they lead the rest of the business world is through their adoption of 10 key principles to guide a workplace response. These principles have subsequently been adopted and implemented in thousands of workplaces across America.

SOURCE: N'Daba et al *HIV/AIDS and Employment* (1998).

See **Appendix Two** for a copy of the *Minimum Standards on HIV/AIDS*.

3.2 Key challenges

There are a number of challenges that have been identified relating to a lack of leadership on HIV/AIDS. These include that:

- Political commitment and leadership regarding HIV/AIDS is high. However this commitment has not been translated into active involvement or support of workplace interventions;
- There is uneven managerial commitment to addressing HIV/AIDS;
- Many managers are complacent;
- Programmes have more support from high level rather than middle level management;
- Commitment tends to be 'event based' i.e. managers will attend events but not support on-going interventions;
- HIV/AIDS is not regarded as a priority issue by management;
- Managers do not have the skills and time to provide guidance on HIV/AIDS issues, nor do they have an adequate understanding of what being a personal role model to staff means;

- Employees need information and skills on how to hold relevant decision makers accountable should they not appropriately lead the department's response to the HIV/AIDS epidemic;
- The lack of support by managers for workplace programmes results in a lack of interest in these programmes by other staff; and
- Only limited integration or mainstreaming of HIV/AIDS issues into 'core' human resource and line management functions has taken place, and this affects the extent of leadership commitment that is demonstrated.

3.3 Developing leadership and commitment

The following are areas in which management can demonstrate commitment to HIV/AIDS:

- By visibly participating in HIV/AIDS events;
- By promoting cross-sector HIV/AIDS partnerships;
- By acting as a catalyst to bring different organisations together to work on joint HIV/AIDS projects;
- By prioritising the resourcing and delivery of HIV/AIDS programmes;
- By wearing red ribbons, as a symbol of awareness and solidarity;
- By facilitating the transfer of innovative solutions on HIV/AIDS problems to other departments and stakeholders;
- By demonstrating support for infected or affected employees and their families;
- By using public platforms to educate service users on HIV/AIDS;
- By taking a principled stance on human rights and gender issues;
- By serving as a role model to employees and to peers in other departments and organisations; and
- By ensuring that the implementation of workplace HIV/AIDS plans and programmes falls within a human rights and gender sensitive framework.

3.4 Implementing leadership and commitment strategies

Leadership and management commitment to HIV/AIDS needs to have three components to it:

- An internal aspect – where leadership is demonstrated within the department, section or unit;
- An external aspect – where the department leads other stakeholders in responding to HIV/AIDS; and
- A personal aspect – where managers act as personal role models, by, for example, not discriminating against PLWAs.



Example of a Leading Practice on the role of leadership in developing a community based project

In August 1996, **Anglo-American** facilitated a meeting of three large companies in the Kriel district of Mpumalanga, where they all had business concerns. Following this meeting, all three companies agreed to help support a community based peer education programme to help address the high prevalence of HIV in the area.

SOURCE: Loewenson et al *Best Practices: Company Actions in Southern Africa*



Example of a Leading Practice in role model leadership

In 2001, Ms Ruth Bhengu, an ANC MP and the Chairperson of the Sport and Recreation Portfolio Committee in Parliament, disclosed publicly that her daughter is HIV positive.

- **Initiating leadership**

In order to galvanize managers to assume a leadership role, the HIV/AIDS Committee could arrange a presentation on the HIV/AIDS epidemic and its impact on the Public Service. These figures and scenarios often serve to motivate and commit managers to HIV/AIDS.

Information for such advocacy purposes needs to be collected on:

- The status of the epidemic internationally, in South Africa and in the area where the department is based;
- The impact the epidemic will have on the particular workplace, its employees and sector; and
- Strategies that can be used to respond to and manage HIV/AIDS in the workplace.

Note: Training for leadership is planned as part of the dissemination of the Guide.



Example of a Leading Practice on galvanising leadership commitment

In 1996/97 the **Department of Health** facilitated a number of presentations on HIV/AIDS and its impact on the workplace to DGs and other top managers within departments such as Water Affairs and Forestry, Sport and Recreation, Land Affairs and Public Enterprises. This programme was very successful in getting management commitment to HIV/AIDS within the Public Service.

- **Formalising leadership roles**

Leadership on HIV/AIDS issues needs to be displayed at all levels. It is important to detail what these leadership roles are and who will lead the HIV/AIDS policy and programme within the department.



Example of a Leading Practice on leadership roles

SAPS has formally placed leadership of their HIV/AIDS policy and procedures in the hands of the following managers:

- Divisional and provincial commissioners take overall responsibility for the implementation of the policy and programme;
- Managers and supervisors take responsibility for day to day implementation; and
- Employees are responsible for complying with the policy and programme. -

SOURCE: SAPS National Instruction (2000): HIV Policy and Procedures

SAPS also promote leadership through regular reporting on HIV/AIDS issues:

- Provinces report to national
- Quarterly reports are made to the National Commissioner
- Quarterly reports are made to the Interdepartmental Committee on HIV/AIDS
- Six monthly reports are made to the Minister (national and provincial)

- **Sustaining effective leadership**

Leadership on HIV/AIDS is a difficult task. Below is a checklist of strategies that can be used to sustain leadership around HIV/AIDS issues.



Checklist for sustaining effective leadership on HIV/AIDS

- Raise HIV/AIDS issues at trade union meetings and ensure that trade unions place leadership regarding HIV/AIDS on the bargaining agenda;
- Request management to clearly establish HIV/AIDS structures and responsibilities and then hold those tasked with these duties responsible;
- Request a permanent HIV/AIDS slot on the staff meeting agenda to enable progress reports to be made available to all staff;
- Ensure that the HIV/AIDS Committee has the opportunity to report on progress and to table their plans at the annual planning meetings so that non-performance may be raised with relevant managers; and
- Report on the activities of other departments and stakeholders at staff meetings and other internal forums to raise awareness on what can be done in an HIV/AIDS workplace programme.

3.5 Measuring and monitoring commitment

There are a number of different ways of measuring and monitoring management commitment to HIV/AIDS. Below are a checklist and a questionnaire, which could be used.



Checklist to measure management commitment to HIV/AIDS

- Leadership is being displayed at all levels of management;
- Managers are committed to HIV/AIDS issues and show this by integrating these issues into all aspects of the department's work;
- Objectives relating to HIV/AIDS prevention and impact management are included within departmental planning, work plans and budgets;
- Management participates in HIV/AIDS structures;
- Managers participate in the workplace programme;
- Managers act as role-models;
- Managers promote values such as gender equality;

SOURCE: Adapted from a tool developed by the European Foundation for Business Excellence.

Tool to measure HIV/AIDS leadership

1.1 Does everyone know their role within and their overall contribution to the HIV/AIDS policy and programme?

No To some extent To greater extent Always

1.2 Are good practices, which have been identified, shared internally and externally?

Never Occasionally Usually Always

1.3 Are efforts towards continuous improvement acknowledged and recognised?

Never Occasionally Usually Always

1.4 Do we listen to each other's views and make collective decisions on the HIV/AIDS policy and programme?

Never Occasionally Usually Always

1.5 Are relationships with partners and persons we serve cultivated?

Never Occasionally Usually Always

What evidence do you have to support the above marking?

What are the strengths?

What do you think needs improving?



4. Additional resources

Guidelines for developing a workplace policy and programme, available from the Department of Health: HIV/AIDS and STD Directorate, Tel: 012 312 0122.

Chapter 7

Workplace HIV/AIDS Policy

A workplace HIV/AIDS policy reflects a department's position on HIV/AIDS. It is not a mandatory requirement for a department to have a workplace HIV/AIDS policy, however many departments have developed and adopted workplace HIV/AIDS policies, recognising that a policy creates a well-defined framework within which all responses can be situated.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** do not specifically require the development of an HIV/AIDS policy. However, they do contain important principles that should be included in any HIV/AIDS policy that is developed. Using the following checklist can ensure compliance with the **Minimum Standards**.



Checklist of questions to ensure compliance with the Minimum Standards

- Does the policy prohibit unfair discrimination, and provide for steps to promote non-discrimination, on the basis of HIV/AIDS?
- Does the policy prohibit HIV testing without Labour Court authorisation?
- Does the policy promote VCT?
- Does the policy provide for confidentiality of an employee's HIV status?
- Does the policy provide for HIV/AIDS education, awareness and prevention programmes?
- Does the policy encourage openness and acceptance of PLWAs?
- Does the policy provide for steps to assess and prevent the risk of occupational exposure to HIV?
- Does the policy provide for steps to facilitate access to voluntary counselling and testing, and post-exposure prophylaxis, for employees exposed to HIV as a result of an occupational accident?
- Does the policy provide for steps to facilitate compensation for employees infected as a result of an occupational accident?
- Does the policy allocate responsibilities for HIV/AIDS?
- Does the policy provide for a communication strategy on aspects of HIV/AIDS?
- Does the policy make provision for monitoring and evaluation of the policy?
- Does the policy look at the gender implications for all of the above and make provision for gender issues in the working environment?

2. Key challenges

Some departments seem to focus all their energies on the development of an HIV/AIDS policy, but implementation of the policy does not occur, because:

- They often develop long and unwieldy policies that are not easily understood or communicated to employees;
- Many policies do not provide for clear responsibilities for implementation; and
- The development of a policy has, at times, been seen to hold up the development of action programmes, which should, in fact, be seen as the priority.

Despite these constraints, HIV/AIDS policies do provide an important framework upon which to base workplace HIV/AIDS programmes.

3. Developing a workplace HIV/AIDS policy

3.1 Gathering information

An important first step is to identify all the necessary information and expertise to guide the process of policy development. This includes:

- Legal and policy guidelines, such as the **Minimum Standards** on HIV/AIDS and other Codes and policy guidelines on HIV/AIDS;
- Leading practices and examples of other policies developed, to use as a basis for the policy;
- Existing policies, such as employee benefit policies, as well as existing policy development processes within the department; and
- Technical expertise for legal advice, advice regarding HIV/AIDS workplace programmes, advice on employee benefits etc.

3.2 Consultation and reaching consensus on key issues

Consultation is important to identify and reach consensus on key concerns of various stakeholders, and thus to guide the policy development process. The Committee tasked to develop the policy should include representation from all sectors within the department as well as co-opting relevant technical expertise onto the Committee.

Important issues on which to consult and reach consensus include:

- What type of HIV/AIDS policy should be developed (for example, should it be a stand-alone policy, or should it be integrated within existing policies such as disability policies or health promotion policies)
- What are the goals of the HIV/AIDS policy, and what objectives would meet these goals?
- What are the principles guiding the HIV/AIDS policy?
- What are the key elements of the HIV/AIDS policy?
- What are the structures, co-ordination, roles and responsibilities needed to ensure the effective implementation of the HIV/AIDS policy?

3.3 A policy development process

Once these decisions have been made, the policy development process can begin, ideally utilising the established policy development processes in the department. The following example demonstrates how this was done within a private sector organisation:



Example of a Leading Practice on using an existing policy development process to develop a workplace HIV/AIDS policy

In developing their HIV/AIDS policy, **Daimler Chrysler** ensured that they utilised the company's existing policy development process, which included:

- A two-day consultative workshop with all key stakeholders including unions and suppliers;
- Setting up a Task Force to develop a policy outline/framework;
- Approval of the policy framework by the Board;
- Publication and distribution for comment of the policy framework;
- Presentation of consolidated comments to the Board, by HR, with recommendations;
- Review of the final draft by the legal department; and
- The finalisation of the policy.

The following generic policy development process can be used when developing a workplace HIV/AIDS policy:



Example of a Leading Practice on a step-by-step process for developing a policy

STEP ONE: Establish a Task Team to develop the policy. This could be the HIV/AIDS Committee, or a specific Policy Task Team, drawing on representation from important sectors.

STEP TWO: Gather all the necessary information.

STEP THREE: Reach consensus on:

- The type of policy (eg stand-alone vs integrated)
- Goals
- Guiding principles
- Elements of the policy.

STEP FOUR: Draft the policy.

STEP FIVE: Ensure broad consultation on the policy, and then revise based on the inputs received.

STEP SIX: Develop a strategy for implementing and popularising the policy.

3.4 Formulating a draft policy

The following is an example of a workplace HIV/AIDS policy that could be used as a basis for drafting a departmental HIV/AIDS policy:



Example of a Leading Practice – a draft workplace HIV/AIDS policy

1. Preamble and objectives:

Recognising the serious nature of HIV/AIDS and its impact on the Department of [INSERT], we commit ourselves to managing HIV/AIDS in our working environment in order to:

- Ensure the efficient and effective delivery of services in spite of the prevalence of HIV/AIDS within our department; and
- Minimise the impact of HIV/AIDS on our department at all levels of employment by contributing to national efforts to minimise the spread of HIV and limiting the impact of existing infections on individuals, communities and society; and encouraging a commitment towards dealing with HIV/AIDS issues in our department.

2. Principles:

The policy is based on the following key principles:

- Non-discrimination;
- Safety in the workplace;
- A prohibition on HIV testing;
- The encouragement of voluntary counselling and testing;
- Confidentiality; and
- Openness, acceptance, care and support for employees living with HIV/AIDS.
- [ADD OTHERS IF DESIRED]

3. Non-discrimination:

The department shall ensure that no employee or prospective employee living with HIV/AIDS is unfairly discriminated against on the basis of HIV status in any employment policy or practice. The department shall take steps, such as [DETAIL MEASURES IF DESIRED] to actively promote non-discrimination on the basis of HIV/AIDS.

4. HIV testing:

No employee or prospective employee shall be required to test for HIV. The department shall encourage voluntary counselling and testing for HIV. [INSERT DETAILS IF DESIRED]

5. Confidentiality:

The department shall ensure that an employee's HIV status is kept confidential, and that no employee or prospective employee shall be obliged to disclose his or her HIV status. [DETAIL PROGRAMMES TO ENCOURAGE VOLUNTARY DISCLOSURE, IF DESIRED]

6. Workplace health and safety:

The department shall assess and manage the risk, if any, of occupational exposure to HIV through the following means: [PROVIDE DETAILS INCLUDING ACCESS TO HIV/AIDS COUNSELLING AND TESTING, POST-EXPOSURE PROPHYLAXIS ETC] Any employee who becomes infected with HIV as a result of an occupational injury or accident shall be assisted to apply for compensation, in terms of the procedures governing compensation for occupational injuries and diseases.

7. HIV/AIDS workplace programmes:

The department shall provide the following workplace HIV/AIDS programmes as part of its broader wellness programmes for all employees:

- Education and awareness programmes;
- Prevention programmes [DETAIL COMPONENTS OFFERED]; and
- Programmes to promote openness, acceptance and care for affected employees.
- [ADD ANY OTHERS OFFERED]

8. Roles and responsibilities

[ALLOCATE ROLES AND RESPONSIBILITIES FOR IMPLEMENTATION OF POLICY COMPONENTS]

9. Monitoring and evaluation

The department shall ensure that a monitoring and evaluation strategy is developed to assess the impact and efficacy of the workplace HIV/AIDS policies and programmes.

SOURCE: Adapted from the Department of Health's *Guidelines for developing a workplace policy and programme on HIV/AIDS and STDs*.

4. Implementing a workplace HIV/AIDS policy

The HIV/AIDS Committee may accept responsibility for developing a strategy or workplan to implement, popularise and monitor the HIV/AIDS workplace policy. However, the actual implementation will require a co-ordinated effort from various stakeholders, and the HIV/AIDS Committee will need to analyse the elements of the policy to identify important role-players, and how the efforts of these role-players will be co-ordinated. This may require:

- Setting up structures to implement elements of the HIV/AIDS workplace policy;
- Identifying existing structures (such as Employee Assistance Programmes and HR units) that are able to implement elements of the HIV/AIDS workplace policy;
- Ensuring that lines of communication and accountability between the various structures and the HIV/AIDS Co-ordinator are clearly understood;
- Determining any training and capacity building needs; and
- Ensuring that necessary budgets are available for the implementation of the HIV/AIDS policy.

See **Part B**, the section on **Strategic planning**, for information on planning a workplace HIV/AIDS response.

5. Reviewing existing policies, procedures and programmes

Developing and implementing a workplace HIV/AIDS policy will require a review of existing departmental policies, procedures and programmes to ensure that these are in line with the department's HIV/AIDS policy and principles.

The policies, procedures and programmes that may need to be reviewed are listed in the following checklist:

**Checklist of polices and procedures**

- Policies and procedures on non-discrimination
- Disability policies
- Recruitment policies and medical questionnaires
- HR policies and procedures
- Occupational health and safety policies
- Employee benefit procedures
- Disciplinary codes and procedures

Checklist of programmes

- EAP programmes
- Health promotion programmes
- Education and training programmes

See **Part C** for more information on Workplace HIV/AIDS Programmes.

The questions posed below can assist a department in the process of reviewing HR policies, procedures and programmes:



Checklist for reviewing HR policies, procedures and programmes

- Do HR policies, including policies on employee benefits and their application, reflect the principles contained in the Minimum Standards on HIV/AIDS and other relevant guidelines – such as:
 - Do all employment policies and practices ensure that an employee living with HIV/AIDS will not be unfairly discriminated against?
 - Do employment policies and practices prohibit unlawful HIV testing of an employee, unless Labour Court authorisation has approved such HIV testing?
 - Do employee policies and practices protect the confidentiality of employees?
 - Are HIV/AIDS integrated into all core HR management policies and programmes?
 - Are departmental policies and procedures consistent with the **Guide on Disciplinary and Incapacity Matters** issued by DPSA, which treats HIV/AIDS like all other serious illnesses, and which ensures that criteria are not HIV specific?
 - Are HR policies and procedures for defining work incapacity due to ill-health and ill-health retirement responsive to HIV/AIDS? Are systems in place to link and interpret HR functions such as monitoring absenteeism and sick leave, to facilitate the identification of employees in need?
 - Do HR policies provide for alternate options (besides sick leave) for employees with reduced work capacity, such as in the case of employees living with HIV/AIDS?
 - Are processes in place to ensure that employees living with HIV/AIDS who are on a medical scheme are aware of the treatment options available to them?
 - Do performance management systems take HIV/AIDS into account?

6. Implementing employee benefits in the context of HIV/AIDS

Departments should focus on issues relating to the implementation of employee benefits as opposed to any consideration of reviewing benefits. Departments have a responsibility to keep track of developments at the PSCBC level and to communicate information regarding concluded agreements appropriately. Key to this will be the HIV/AIDS Committee, HR personnel, EAP personnel and DPSA.

The GEPF has a well-established strategy for effectively communicating with its members. Departments should assist the GEPF by maintaining up-to-date databases and by encouraging employees to notify the HR unit of any changes in their personal particulars or contact details promptly.

7. Interpreting existing policies in the context of HIV/AIDS

Existing policies and procedures provide guidance for decisions relating to HIV/AIDS. An example relating to incapacity is reflected below:



Example of a Leading Practice - determining incapacity

The DPSA **Guide on Disciplinary and Incapacity Matters** provides clear guidelines on how to deal with employees who are unable to consistently perform their job functions, either as a result of poor performance, or as a result of ill-health or injury.

Employees living with HIV/AIDS who are unable to consistently perform at the expected level should be treated similarly to any other employees who are unable to consistently perform at the expected level. Where incapacity is due to poor performance, the procedures outlined in the Guide should be followed and likewise where the incapacity is due to ill-health or injury.

However, in the case of employees living with HIV/AIDS, it may be necessary to ensure that the reason for incapacity is carefully determined (is the poor performance due to ill-health?) in order to ensure that the correct procedures are applied in a non-discriminatory fashion.

Incapacity due to **poor performance** occurs when an employee is unable to consistently perform at the expected level. In the case of employees who deliberately fail to perform, this is a case of misconduct rather than incapacity and should be dealt with as such.

Incapacity due to **ill-health** occurs when an employee is unable to consistently perform their job functions, as a direct result of ill-health or injury. Again, in the case of employees deliberately abusing sick leave, this should be dealt with as a case of misconduct rather than incapacity.

The Guide contains detailed procedures including a process to investigate the extent of an employee's ill-health or injury. Employees living with HIV/AIDS should be dealt with similarly to all employees. However, key issues to note are that:

- Procedures allow for an investigation to determine an employee's poor health. The focus of the investigation should be based on functional grounds (on the employee's capacity to do the job), as opposed to purely medical grounds (eg HIV status).
- Where an employee's HIV status is not known, HIV testing of an employee for purposes of incapacity proceedings is prohibited unless Labour Court authorisation has been obtained.
- Where an employee's HIV status is known, procedures must ensure that this information is kept confidential and does not go beyond the incapacity proceedings.
- Defining work incapacity due to HIV/AIDS may be difficult due to the fluctuating course of the illness and the lack of specific HIV/AIDS expertise of many medical practitioners. Incapacity and ill-health assessors should be provided with guidelines on HIV/AIDS so that where AIDS related symptoms are present, a full incapacity assessment is conducted.
- An interesting Leading Practice in this regard is the case of the **Department of Correctional Services**. To remedy this situation, the department is setting up a medical board in each province, with a network of preferred providers with known HIV/AIDS expertise to help employers and employees to determine incapacity.

8. Roles and responsibilities in respect of workplace policies with HIV/AIDS implications

Roles and responsibilities should be clearly defined to ensure that a workplace HIV/AIDS policy is widely distributed, understood by all, and is in fact implemented. For example:

- Management can ensure that the various stakeholders are committed to integrating HIV/AIDS policy principles into their everyday work, and can ensure that the necessary resources (including financial, capacity building needs and human resources) are dedicated to the HIV/AIDS policy;
- The HIV/AIDS Committee, in addition to developing, implementing and monitoring the workplace HIV/AIDS policy, will have responsibility to monitor and guide any policy reviews and fulfill a similar function in respect of the implementation of benefits;
- HR personnel will have to be advised of policy elements relating to human resource policies and practices, will assist in the identification of any problematic policies or procedures and will ensure that benefits are equitably implemented;
- EAP personnel will have to take responsibility for educating employees on their benefits, and for integrating HIV/AIDS into existing EAP programmes;
- Employees and trade unions can assist by identifying the needs of employees living with HIV/AIDS; and
- Partners (in government, the private sector and from NGOs) can share resources and expertise in relation to various elements of an HIV/AIDS policy.

For there to be a co-ordinated workplace HIV/AIDS response, it will be important to link these diverse roles. And, to ensure that an HIV/AIDS policy is in fact implemented within the working environment, roles and responsibilities should not only be clearly defined, but lines of communication, reporting and accountability should be determined.

See **Part C**, the section on **Communication strategies**, for more details on communicating and distributing a workplace HIV/AIDS policy, and on communicating information on employee benefits.

See **Part D**, the section on **Reporting, Monitoring and Evaluation**, for more details on creating reporting mechanisms to monitor implementation of an HIV/AIDS workplace response.



9. Additional resources

Guidelines for developing a workplace policy and programme on HIV/AIDS and STDs, available from the Department of Health, Tel: 012 312 0122.

Guide on Disciplinary and Incapacity Matters, available from DPSA, Tel: 012 314 7911 or on:

<http://www.dpsa.gov.za/LabourRelations/GuideOnDisciplinary&IncapacityMatters.htm>.

AIDS and Human Resources in *Everybody's Business: The Enlightening Truth About AIDS* edited by Elizabeth Clarke and Kathryn Strachan, obtainable from the Metropolitan Group at PO Box 2212 Bellville 7535.

Chapter 8

Impact Assessments

To understand the HIV/AIDS epidemic in any society and to track it over time, the impact on various population, demographic and employment parameters is measured periodically. The interpretation of data collected may aim to describe:

- The impact of HIV/AIDS on mortality, as HIV/AIDS kills mainly young adults in the economically active age group.
- The impact of HIV/AIDS on infant and child mortality, primarily as a result of transmission from infected mothers to their children.
- The impact of HIV/AIDS on fertility, with declines attributed to infected women dying before they reach the end of their childbearing age as well as to physiological factors associated with HIV disease.
- The impact of HIV/AIDS on life expectancy, which is affected by the deaths of children and young adults.
- The impact of HIV/AIDS on population size and growth, which is linked to changes in dependency ratios – the ratio of the non-working age population to the working population. The skewed dependency ratios relate particularly to increasing numbers of elderly people who will require care and support.
- The impact on the number of orphans.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** require HODs to identify employees and units at high risk and to use this information to take reasonable steps to reduce this risk in order to sustain service delivery.

This could be interpreted as a recommendation to conduct regular impact assessments to inform planning within departments. However, this should not be attempted without careful planning and without consulting national departments.

2. Key challenges

- Conducting an impact assessment requires specific expertise, which may not be located within all departments;
- Utilising the results of an impact assessment requires careful planning, and the process for validating and accepting the results should be formalised;
- Impact assessments must be discussed and jointly approved in consultation with employee representatives, particularly if they include surveillance.

3. Preparing to conduct a workplace impact assessment

In order to understand and plan for the impact of HIV/AIDS on a workplace, such as a department, it is necessary to know how many people are and will become infected; when they will fall ill; what care they will need; when they will die; and how many children they will leave behind. It is also important to know who they are in terms of income, education and skills, employment and location.

Departments collect extensive data regarding employees and this can serve as a useful starting point for an impact assessment.



Checklist of employee data that can be collected and analysed for an impact assessment:

- Number of employees, by grade, age, and gender;
- Salary and grading structures;
- Sick leave;
- Early retirements for health reasons;
- Deaths in service; and
- Staff turnover.

4. Implementing an impact assessment

• Analysing data

In many instances, a department may not have **all** the necessary data, yet it is often possible to use the data that **is** available to estimate the current position (i.e. the prevalence of HIV in a department), and to model the data to create a picture of the epidemic in the department in the future.

These projections can provide useful information for the Public Service on:

- The HIV prevalence by department and province currently and in 5 and 10 years;
- The number of new HIV infections by department and province currently and in 5 and 10 years;
- The AIDS cases by department and province currently and in 5 and 10 years;
- The number of AIDS deaths by department and province currently and in 5 and 10 years
- HIV infection levels by age groups up to 2012;
- HIV infections by skill level up to 2012;
- HIV infection levels by selected occupational categories compared to overall Public Service levels up to 2012.

• Surveillance

Another way to gather information to inform a workplace HIV/AIDS response is to conduct **anonymous, unlinked surveillance** provided that such testing complies with ethical and legal principles.

HIV sero-surveillance data are used to estimate HIV prevalence rates and geographic distribution of infection, monitor trends over time in specific population groups, and identify sub-populations at increased risk of infection. This information is then used to assist an organisation's efforts to set HIV policy and priorities, plan and evaluate prevention programmes, and evaluate the effectiveness of an organisation's response to the epidemic.

As **biological surveillance** is the primary method for determining HIV prevalence rates, accurate HIV testing is critical for HIV surveillance. With advances in diagnostic immunology, HIV testing technologies have improved greatly. Currently available enzyme immunoassays (EIAs) are more accurate than earlier generations of EIAs, and the latest generation of HIV rapid tests can provide results similar to EIAs in less than 45 minutes with minimal experience and no equipment. These rapid tests enable testing for HIV surveillance activities in areas where testing could not previously occur.

Surveillance that is appropriate for a workplace impact assessment is likely to be unlinked. The following checklist draws the distinction between different forms of surveillance:



Checklist on the requirements for linked and unlinked testing

Unlinked anonymous testing (without informed consent)

- Testing of unlinked specimens collected for other purposes;
- No personal identifiers or names obtained, no informed consent, no counselling required;
- Coded specimen.

Unlinked anonymous testing (with informed consent)

- Testing of unlinked specimens collected solely for surveillance purposes;
- Informed consent required;
- No personal identifiers or names obtained, no counselling required;
- Coded specimen.

Linked confidential testing (with informed consent)

- Informed consent and pre-test and post-test counselling required;
- Personal identifiers or names obtained;
- Coded specimen; code linked to personal identifying information.

Linked anonymous testing (with informed consent)

- Informed consent and pre-test and post-test counselling required;
- No personal identifiers or names obtained;
- Coded specimen; code given to patient so that only patient can link himself or herself to results.

Many types of specimens can be used with HIV testing technologies for HIV biological surveillance: whole blood, plasma, serum, oral fluids, and urine. The choice of specimen collected depends on logistics, populations and sites selected, and the HIV testing strategy. Specimens must be collected, tested, and stored in an appropriate manner in order to obtain accurate and reliable results.

Legal advice should be obtained before embarking on an HIV surveillance programme. Recent decisions in the Labour Court indicate that court authorisation must be obtained before initiating HIV prevalence studies.

See **Additional References** in **Appendix One** for details of how to access the *UNAIDS Guidelines on Surveillance Testing*.

5. Roles and responsibilities

Whilst the HIV/AIDS Committee may serve as a reference group, impact assessments usually require expertise that may not be present within a department. Should a department decide to conduct an impact assessment, it is likely that this would be commissioned from an organisation with appropriate experience.

Decisions regarding what is done with the results, however, could well fall within the scope of the HIV/AIDS Committee, in line with a carefully considered strategy regarding how to disseminate and utilise the results.



6. Additional resources

Whiteside, A & Sunter, C; *AIDS. The challenge for South Africa*, 2000.

UNAIDS; *Guidelines on Surveillance Testing*.

Chapter 9

HIV/AIDS and Medium-term Strategic Planning, Budgeting and HR Planning

Strategic planning is an important function for departments as it sets out an explicit map that guides the department towards achieving its goals and objectives by focusing on its *purpose, objectives, structure, expenditure programmes, available resources, deliverable outputs and output performance measures or service delivery indicators and targets*. Strategic planning should not be confused with operational planning which is directed at specific short-term objectives and which contributes to the implementation of the strategic plan year by year.

This chapter covers medium-term strategic planning, budgeting and human resource planning.

1. Medium-term strategic planning

1.1 Key challenges

Key challenges related to integrating HIV/AIDS planning into the routine planning processes of departments are as follows:

- The lack of a budget for HIV/AIDS plans has frequently been identified as a barrier to implementation. This needs to be proactively addressed, but it should be borne in mind that:
 - Many activities may be low-cost or no-cost;
 - There are many potentially creative ways of accessing resources for workplace programmes, eg from partners, that do not require funding.
- Translating a plan from paper into practice represents a significant challenge, and one of the best ways of ensuring that this can happen is to be flexible, in terms of targets and time frames.
- Getting management approval of the plans will make all subsequent steps much easier, and this should therefore be a formal part of the planning process.

1.2 Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** do not contain an explicit requirement to undertake HIV/AIDS planning, however they do require HODs to:

- Identify units or employees at high risk of contracting HIV/AIDS;
- Integrate education and prevention programmes into training programmes, and evaluate such programmes; and
- Allocate adequate human resources and funding to the HIV/AIDS programme.

All these standards imply that a planning process must be carried out.

1.3 Preparing to plan departmental HIV/AIDS programmes

A department's HIV/AIDS response should be integrated into its strategic planning at each step, as well as into each year's operational plans. The planning process is clearly defined in guidelines from National Treasury, available on <http://www.treasury.gov.za>.

In these guidelines, Treasury has defined the Public Service process for integrating strategic planning and budgeting. This process addresses the allocation of public resources in support of government's social and economic goals and priorities, and, as such, has implications for organisational structure, financial and performance management systems and institutional management.

- **Pre-planning step**

Before engaging in extensive strategic planning exercises, departments should undertake a careful examination of government's overarching socio-economic policy priorities and medium-term spending plans. This helps to frame and contextualise the plans within the broader strategic policy prioritisation process.

South Africa's primary HIV/AIDS goals (in the **HIV/AIDS & STD Strategic Plan for South Africa 2000-2005**) are to:

- Reduce the number of new HIV infections (especially among youth)
- Reduce the impact of HIV/AIDS on individuals, families and communities.

1.4 Planning departmental HIV/AIDS programmes

STEP 1: Preparing strategic plans and prioritising planned objectives

Key questions need to be answered as a first step to preparing a department's strategic plans, such as:

- What are the HIV/AIDS goals/objectives of the department?
- Is there a high degree of alignment between government HIV/AIDS priorities and departmental goals/objectives?
- Are departmental strategic HIV/AIDS objectives and planned outputs aligned with the core functions and mandates of the department?
- What is the current and future impact of HIV/AIDS on the department?
- How is the impact of HIV/AIDS going to affect the overall goals/objectives of the department?
- What programmes can be put in place to mitigate the impact of HIV/AIDS on the department?
- Are the planned HIV/AIDS outputs and deliverables relevant?
- Have commitments and targets been met?
- What resources (human and financial) are needed to operationalise the department's HIV/AIDS programme?

Once these questions have been successfully answered, the strategic plan can be formulated or revised.

STEP 2: Assessing costs and resource implications in preparing Medium-Term Expenditure Framework (MTEF) budget submissions

The second step calls for the department to assess the costs and resource implications of the revised strategic plan, into which HIV/AIDS has been integrated, against the medium-term budget allocation. This, in turn, informs the preparation of the departmental budget submission that is submitted to the relevant Treasury at the end of June each year.

This step should include the costing of any new policies, such as a department's workplace HIV/AIDS policy.

STEP 3: Finalising MTEF allocations and preparing budget documentation

In July and August, Treasury sends teams and budget examiners to engage, with departments, in rigorous review and evaluation of departmental MTEF budget submissions. This includes negotiation of allocations, reprioritisation and funding levels of programmes, and critical assessment of policy options against departmental strategic priorities and service delivery achievements. At this point it is important to ensure that HIV/AIDS policies and programmes remain prioritised within the department's plans.

In November, Cabinet's consideration of changes to the MTEF allocation of national votes and provincial and local government takes account of government's overarching medium-term policy priorities, departmental strategic priorities and plans, and progress in meeting service delivery objectives and targets. These should include government and departmental HIV/AIDS policies, strategic priorities and plans.

The final stage of the budget process involves the preparation of the budget documentation that the Minister of Finance tables before Parliament on Budget Day. Departments play a significant role in these preparations, in collaboration with the relevant Treasuries. The new budget format the **Estimates of National Expenditure** outlines departmental strategic priorities, policy developments, legislation and other factors affecting expenditure. These, in turn, inform the measurable objectives, indicators and targets that are required in terms of the Public Finance Management Act (PFMA). Departments should ensure that HIV/AIDS priorities, policy developments and legislation with HIV/AIDS implications are part of their budget documentation.

*The final three steps in the strategic planning process relate to monitoring and evaluation and are included in **Part D, Chapter 16**.*



Example of a Leading Practice on collecting information for a planning process

The planning processes described could be used by a department to gather information to inform the planning of their HIV/AIDS programme.

Situation analysis

- Identify factors related to the department that contribute to risk and vulnerability to HIV/AIDS, describing:
 - Who is infected or vulnerable; and
 - Why?
- Then analyse what interventions will make a difference to this situation

Response analysis

- Describe the current response to HIV/AIDS by the department, for example:
 - What services are available; and
 - To whom?
- Then analyse:
 - What is working and needs to be continued or expanded;
 - What is not working and needs a new approach, or to be dropped; and
 - What has not been addressed at all.

1.5 Roles and responsibilities

The HIV/AIDS Committee should undertake a two-phase consultation process in developing plans:

- An analysis of potential partners to participate in the planning process, by:
 - Identifying who is involved in policy, co-ordination, implementation and in providing technical input; and then
 - Identifying who else could be involved in each of these areas.
- A process of consultation, that is acceptable and appropriate for the department. This should ideally be similar to existing, institutionalised processes that reach all sectors within the department.

There should be a team, which could be a working group of the HIV/AIDS Committee, tasked with the responsibility and the mandate to develop the HIV/AIDS plan.

It should be an inter-disciplinary team with, as a minimum, representation from:

- Management;
- The Human Resources section;
- The Special Programmes section;
- The Finance section;
- The Industrial Relations section;
- The EAP section; and
- The training section.



Checklist of planning terms

- **Goals** are broad statements of intent. They should be phrased as statements in the present tense;
- **Objectives** are statements of WHAT NEEDS TO BE DONE TO ACHIEVE A GOAL
- **Strategies** are the means that you employ to reach the objective (advocacy, education, care etc)
- **Actions** are discrete, specific activities or sets of activities that answer the question HOW WILL YOU REACH THE OBJECTIVE

2. Budgeting for HIV/AIDS programmes

The HIV/AIDS epidemic will result in an increase in both direct and indirect costs to the workplace. One of the responsibilities of management is to ensure that these costs are properly forecasted, budgeted for and managed.

The costs to an organisation of the epidemic are generally described as direct, indirect and systemic costs.

Direct costs related to HIV/AIDS include for example:

- The costs of running HIV/AIDS programmes, eg awareness activities;
- Increased costs of employee benefits (macro planning for this is done by DPSA); and
- The additional costs incurred through increased recruitment and training following the deaths in service of staff members.

Indirect costs related to HIV/AIDS include for example:

- Costs incurred from reduced productivity due to the increased time employees have to take off to attend funerals;
- Costs of increased absenteeism as employees take time off to care for sick children and partners;
- Costs of higher mortality as staff die in service thus drawing on the employee benefit funds at an early age; and
- Costs linked to a loss of workplace morale and cohesion as staff struggle to cope with the loss of co-workers and the increased work burden this places on them.

Systemic costs related to HIV/AIDS include for example the loss of skills, employee experience and of institutional memory.

Costs will vary from department to department and will depend on factors which can be identified during planning processes.

*This section must be read in conjunction with **Chapter 8** on **Impact Assessments**.*

2.1 Key challenges

There are a number of problems relating to the way in which managers currently approach the issue of budgeting for HIV/AIDS. Some of these are:

- Inadequate budgeting for the direct costs of HIV/AIDS, including failing to:
 - Make any provision for HIV/AIDS programmes;
 - Create posts for wellness management co-ordinators;
 - Budget for internal HIV/AIDS programmes (for staff), whilst budgeting for external HIV/AIDS programmes for clients and beneficiaries; and
 - Sustain or increase funds given to HIV/AIDS activities.
- Not taking into account the impact of indirect costs of HIV/AIDS on the budget;
- Lacking the management capacity to budget for the direct and indirect costs of HIV/AIDS; and
- Seeing the costs of HIV/AIDS programmes as being the responsibility of other departments such as the Department of Health.

Specific challenges to the Public Service related to the costs of HIV/AIDS include:

- Overly generous sick leave granted in some departments;
- Costly and time consuming recruitment and appointment procedures in some departments; and
- The need for flexible ways to cover intermittent and extended periods of absenteeism in a variety of work settings.

2.2 Developing a workplace HIV/AIDS programme budget

In order to budget accurately for the direct and indirect costs of HIV/AIDS within the workplace, information needs to be collected for a cost analysis on:

- The nature of the direct and indirect costs for the particular workplace;
- The direct costs of for example;
 - The proposed HIV/AIDS in the workplace programme, eg the cost of hiring outside theatre groups for awareness days;
 - Recruiting and training new staff; and
 - Employing temporary staff to replace key personnel whilst on sick leave.

- The indirect costs of for example:
 - A higher staff turnover; and
 - Increased absenteeism.
- The cost factors underlying each activity as this will help to ensure that a comprehensive budget is developed. For example the cost factors in running a TB programme would include the patient load, drug costs, costs of sputum testing and hospitalisation.

It is important not to forecast the costs of the programme in isolation, but to examine the context of each activity. For example, when costing a VCT programme, look at what percentage of staff used this service in previous years and how many more people are likely to use the service in the future, and if this will change in response to the introduction of a marketing strategy.



Example of a Leading Practice

During 1999 the **Health Financing and Economics Directorate within the Department of Health** undertook a budget planning programme for the North West Province. This research project forecast the projected costs for the TB, HIV and STD programmes within the province.

In their costing of the TB programme they identified two critical factors which were driving the cost of TB treatment:

- The total number of new cases; and
- The number of multi-drug resistant cases.

These factors were critical in budgeting as 75% of the drug costs were spent on those clients with multi-drug resistant TB even though this form of TB was found in a minority of patients.

2.3 Guidelines for budgeting for HIV/AIDS

Budgeting appropriately for the direct and indirect costs of HIV/AIDS should flow from a comprehensive and informed impact assessment and planning process. All steps must be conducted in line with the guidelines set down by Treasury for integrated strategic planning and budgeting – available on <http://www.treasury.gov.za>.

The following are guidelines for further enhancing the capacity of departments to budget for the direct, indirect and systemic costs of HIV/AIDS:

STEP ONE:

Arrange for the management team to be briefed on the costs relating to HIV/AIDS. This could be through:

- A presentation;
- Circulating relevant materials; or
- Arranging training for key managers on HIV/AIDS planning.

Ensure that this initial step is taken well in advance of the department's annual planning cycle.

STEP TWO:

Develop a protocol outlining the information that will be needed to inform the departmental budgeting process and contract or delegate such research. For example tasking the HR section to analyse sick leave patterns.



Example of a Leading Practice on budgeting for HIV/AIDS

Management within the **Department of Health** are acutely aware of the impact HIV/AIDS will have on the workplace and in light of this have issued a directive that all units must include the direct and indirect costs relating to HIV/AIDS and employees in their operational budgets.

STEP THREE:

Prepare guidelines for those involved in departmental planning, setting out key considerations, including the risks and benefits of funding or not funding certain activities.

STEP FOUR:

Develop proposals on how costs may be met, shared with other departments, recouped, absorbed or separately fundraised for.

STEP FIVE:

Review expenditure against set indicators in accordance with Treasury guidelines.



Checklist of strategies for establishing a department's HIV/AIDS budget

A common complaint is that departments have made very little or no provision for the costs relating to HIV/AIDS. Some strategies for dealing with this include:

- Arrange a high level presentation to management to raise their awareness on the costs of HIV/AIDS;
- Examine budgets creatively to see where funds can be drawn from other sources eg funds from the EAP budget that could be utilised;
- Liaise with other departments to establish how they have budgeted for the costs relating to HIV/AIDS;
- Develop partnerships with the private sector and donors to help cover the costs of the HIV/AIDS programme;
- Develop a draft budget and motivation and submit it to management during the planning process; and
- Undertake a comparative study of what other departments are spending on HIV/AIDS and use this as a tool to advocate to management.

The following are some suggestions of what needs to be budgeted for within each department's budget:

- An HIV/AIDS Co-ordinator, which may be a dedicated HIV/AIDS position.
- Costs linked to creating or supporting this position such as administrative support etc;
- Increased recruitment costs eg additional job adverts, time allocated to screening applicants and costs of induction and training;
- Costs of more employees taking early ill-health retirement;
- The cost of temporary staff or relief workers to cover for employees who are absent;
- Allocation of additional funds for overtime, to cover existing staff who take on additional duties;

- Costs of adapting, accommodating and finding alternatives for disabled staff;
- HIV/AIDS education and awareness activities such as the purchase of red ribbons, development of HIV/AIDS media specific to the needs of the particular department and hiring of theatre groups for special event days;
- Condom procurement and promotion programme costs;
- Wellness programme costs;
- Training of peer educators and counsellors; and
- Costs relating to the introduction of a VCT programme.



Example of a Leading Practice

The **Department of Land Affairs** has had a position for an HIV/AIDS Co-ordinator since 1999. This is a position based at its head office to co-ordinate its HIV/AIDS initiatives nationally and provincially.

2.4 Partnerships

Individual departments will not be able to bear the costs of HIV/AIDS on their own, therefore a number of strategic partnerships will need to be formed, such as:

- Public-private partnerships that will benefit an HIV/AIDS response in one way or another eg sharing resources for an awareness programme;
- Bi-lateral partnerships with donor agencies and development agencies, these could particularly be around developing the capacity of the Public Service to manage the costs of HIV/AIDS; and
- Partnerships with employees and trade unions regarding the volunteering of time towards developing and sustaining the workplace programme.



Example of a Leading Practice on partnerships with cost benefits

The **Department of Correctional Services** in KwaZulu-Natal have formed a strategic partnership with the British Council and the Prisons Service in Uganda. This partnership aims at developing the capacity in South Africa and Uganda to respond to the impact of HIV/AIDS on correctional services. It has focused on an intensive training programme for members on:

- Home based care
- Management of opportunistic infections
- Counselling
- Management of HIV in the workplace

3. Human resource planning and management

The implications of HIV/AIDS should be integrated into all the planning that is conducted by departments as well as into all management functions. This includes human resource planning and management.

3.1 Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** include a requirement on the HOD to ensure that units or employees within his or her department at high risk of contracting HIV/AIDS are identified and to take reasonable steps to reduce this risk in order to sustain service delivery.

This implies the necessity to ensure that the impact of HIV/AIDS is taken into account as part of the integrated HR planning that they are responsible for.

3.2 Key challenges

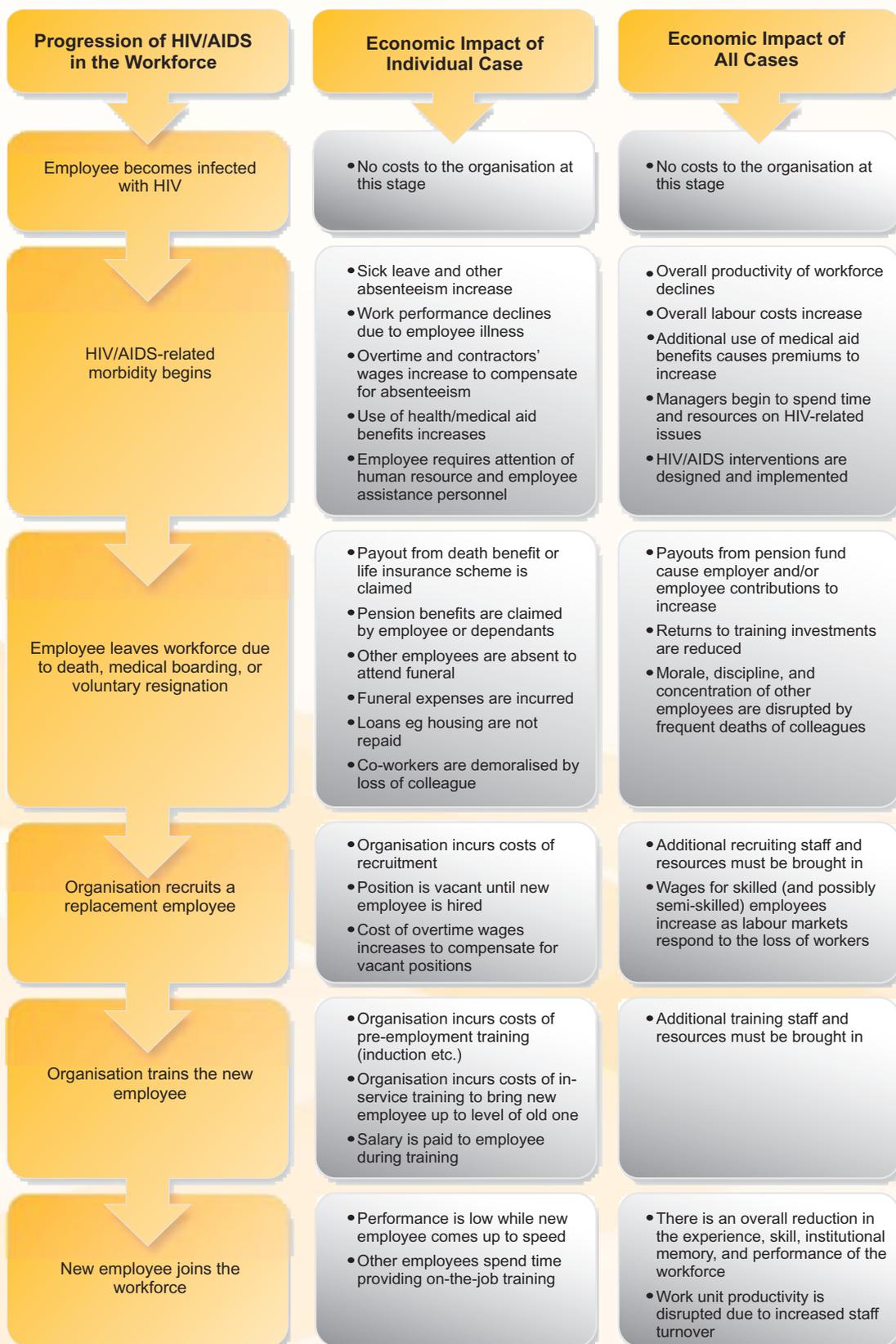
Human resource planning (and management) are core functions of all departments. Key challenges that relate to HR planning in the context of HIV/AIDS are the following:

- Identifying critical work processes and situations that are vulnerable to absenteeism or to skills shortages – to inform HR planning.
- New HR approaches such as multi-skilling, re-organisation of work processes, career pathing and succession planning, even “over-staffing” or the use of reserve pools of staff.
- Dialogue with unions, professional organisations and regulatory bodies to explore ways to increase flexibility and respond to absenteeism and skills shortages.
- Critically analysing any situations that may place public servants at risk of HIV/AIDS, such as sending staff to remote locations for extended periods. Once identified, long-term strategies to reduce situations of risk must be considered.
- And finally, planning will have to recognise and address issues related to increased workloads of public servants (due to the morbidity and mortality of colleagues).

3.3 Developing HIV/AIDS and human resource plans

Considering a model of how HIV/AIDS can affect human resources is useful in identifying the critical points where HR planning is required.

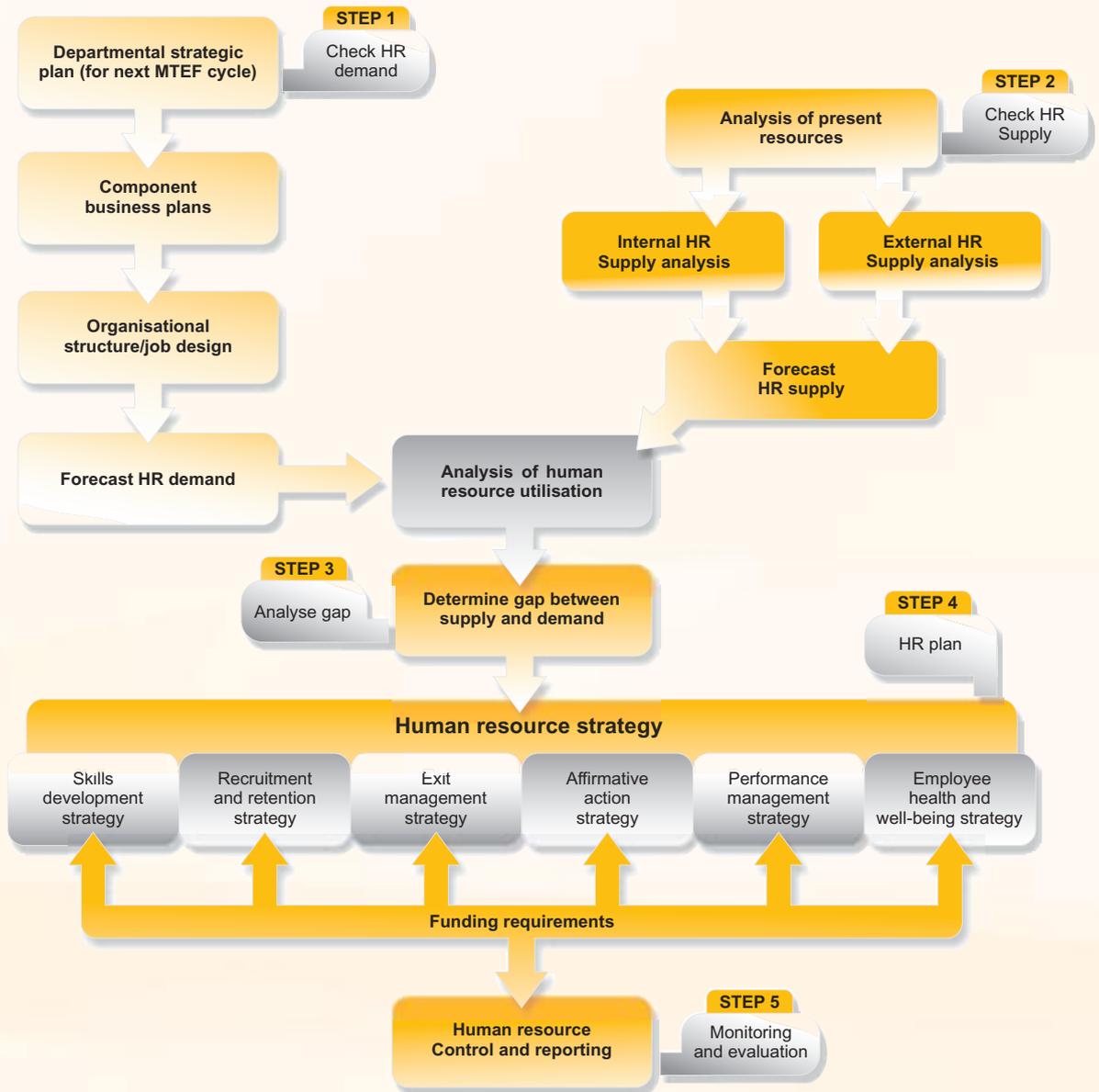
Adapted from *The Response of African Businesses to HIV/AIDS*



3.4 Implementing workplace skills plans

Workplace skills plans should take into account the impact of HIV/AIDS. The DPSA has developed **Guidelines on integrated human resource planning in the Public Service** to ensure that a department has the right number of people, with the **right** composition and with the **right** competencies, in the **right** places to enable it to deliver on its mandates and achieve its strategic goals and objectives.

The steps in the HR planning process are depicted in the following diagram. The potential or actual impact of HIV/AIDS should be considered at each step.



See **Additional References in Appendix One** for details of how to obtain a copy of the **DPSA Guidelines on Integrated Human Resource Planning in the Public Service**.

3.5 Roles and responsibilities

Responsibility for HR planning, must clearly be led by the HR unit of any department. However, because of the multifaceted nature of the impact of HIV/AIDS on departments, employing a more consultative process will produce a more comprehensive and appropriate HR plan.



Example of a Leading Practice – defining roles and responsibilities

The **SAPS** policy details the functions of key role players, many of which are HR-related roles:

- The Divisional Commissioner: Career Management is responsible for co-ordinating and establishing post profiles and human job requirements for ill employees;
- Human Resource Management at provincial/area level is responsible for assisting and advising the Commissioner on the implementation, monitoring, evaluation and maintenance of the instruction.



4. Additional resources

Department of Social Development; *Planning in the new millennium: a primary HIV/AIDS capacity development course for government planners*; available from the Department of Social Development

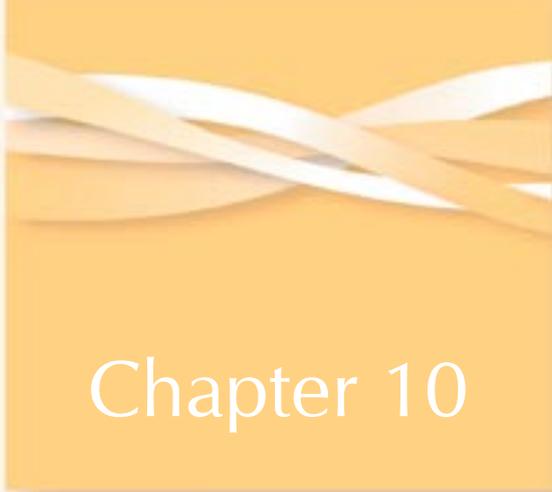
Information on the HIV/AIDS budgeting work done by the Directorate: Health Financing and Economics can be obtained from <http://www.doh.gov.za>. Go to this page and then click on 'Department' and then on 'Directorate: Health Financing and Economics' for further information on all of their documents and costing models

DPSA; *Guidelines on Integrated Human Resource Planning in the Public Service*; available on <http://www.dpsa.gov.za>

PART C

WORKPLACE HIV/AIDS PROGRAMMES

- Chapter 10 Introduction to workplace HIV/AIDS programmes
 - Chapter 11 HIV/AIDS and STI prevention programmes
 - Chapter 12 Treatment, care and support programmes
 - Chapter 13 Capacity building
 - Chapter 14 Communication strategies
- 



Chapter 10

Introduction to Workplace HIV/AIDS Programmes

A workplace HIV/AIDS programme should have two core branches:

- Programmes that aim to prevent or reduce new HIV infections; and
- Programmes that provide treatment, care and support to employees and their families who are infected or affected by HIV/AIDS.

The next two chapters deal with workplace HIV/AIDS and STI **prevention** programmes and **treatment, care and support** programmes. The final two chapters in Part C focus on two critical requirements for successful workplace HIV/AIDS programmes, namely capacity building and communication.

1. Summary of prevention elements

Typically a workplace HIV/AIDS and STI prevention programme will consist of the following core components:

- Awareness
- Education and training
- Creating a non-discriminatory environment
- STI prevention and treatment
- Infection control
- Voluntary counselling and testing
- Condom promotion and distribution

It should aim at:

- Preventing new HIV infections;
- Changing high risk behaviour; and
- Providing services to support the above.

2. Summary of treatment, care and support elements

Typically a workplace treatment, care and support programme will consist of the following core components:

- Wellness programmes (treatment and care);
- Social support structures (support);
- Assistance for employees to plan for the future (support).

It should aim at:

- Reducing HIV-related mortality and morbidity;
- Improving the quality of life for employees living with HIV/AIDS;
- Improving the survival of employees living with HIV/AIDS;
- Helping employees affected by the epidemic to cope with the additional emotional, financial and other demands placed on them by the epidemic; and
- Helping employees to plan for their and their dependents' futures.

3. Key issues

The key issues for the various stakeholders are as follows:

- **Employers** want to ensure that prevention programmes positively impact on the workplace by reducing the rate or incidence of new infections. Furthermore they have an interest in such programmes being cost effective. And finally they will look for options to deliver programmes that do not take employees away from their core functions to the extent that such functions are compromised.
- **Employers** have concerns relating to the wellness of the workforce and ensuring that staff can work optimally for as long as possible;
- Relating to capacity building, **management** may require capacity building around the impact of HIV/AIDS on the working environment; the integration of HIV/AIDS issues into all levels of departmental planning; monitoring and evaluating HIV/AIDS workplace policies and programmes, etc.
- **Employees** have an interest in accessing information and skills through an HIV/AIDS and STI prevention programme.
- **Employees** are concerned about retaining their employment for as long as possible and about being able to access support to deal with issues such as stress following being diagnosed HIV positive.
- **Employees** may need skills building to enable them to implement their roles and responsibilities in terms of HIV/AIDS. For example, trainers tasked with integrating HIV/AIDS into their training programmes may need specialised HIV/AIDS train the trainer programmes.
- **Trade unions and the PSCBC** will support prevention programmes as part of workers' rights to information.
- **Trade unions and the PSCBC** are interested in ensuring that infected and affected employees have access to non-discriminatory treatment, care and support.
- **Trade union and PSCBC** capacity building needs may include training peer educators and counsellors to respond to HIV/AIDS workplace issues and training on HIV/AIDS and the law, in order to enable officials to respond to HIV/AIDS grievances.

Note: Due to *gender differences*, in which men and women have different levels of vulnerability and may experience the impact differently, men and women may have different needs and priorities with regard to workplace HIV/AIDS prevention and treatment, care and support programmes.

Chapter 11

HIV/AIDS and STI Prevention Programmes

Prevention activities, like awareness campaigns, behaviour change interventions, HIV/AIDS, STI and TB education and training, and condom distribution have always been the main thrust of workplace HIV/AIDS programmes, and departmental HIV/AIDS programmes are no exception.

This emphasis recognises that even when infection rates are high, the majority of any workforce is still uninfected and that efforts and investments must be made to prevent new HIV infections from occurring. The *premise* underlying HIV prevention programmes is that interventions need to aim at *changing high risk norms and behaviour*.

This has been recognised by the Public Service and by broader employment policies, which clearly state a commitment to HIV/AIDS prevention.

- The PSCBC commits itself to mobilise its social partners to actively engage in prevention programmes. (Resolution No.8 of 2001)
- The **Code of Good Practice on Key Aspects of HIV/AIDS and Employment** states that every workplace programme should attempt to provide the following in co-operation with sectoral, local, provincial and national initiatives:
 - Hold regular HIV/AIDS awareness programmes;
 - Conduct education and training on HIV/AIDS; and
 - Promote condom distribution and use.



Example of a Leading Practice on the provision for workplace HIV/AIDS programmes in policies

The policy for employees of the **South African Police Services** living with HIV/AIDS states that all employees have the right to continuous education and information about the modes of transmission of HIV/AIDS, the means of preventing such transmission, the need for counselling and care, and the social impact of infection on those affected by HIV/AIDS.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** specify the duties of HODs in respect of HIV/AIDS prevention; namely that he/she shall:

Introduce appropriate education, awareness and prevention programmes on HIV/AIDS and other sexually transmitted infections for the employees in the department and, where possible, their families, and, as far as possible integrate those programmes with programmes that promote the health and well being of employees.

2. Key challenges

Research has identified the following shortcomings and areas where improvement is needed within Public Service prevention initiatives:

- Materials are sourced from the Department of Health and are not specifically targeted at public servants. For example, much of the material is targeted at the youth and this is not seen to be particularly appropriate.
- Although departments have active condom distribution campaigns, there has not been much debate regarding methods of distribution, nor are there records of actual uptake, although all departments reported high turnover from outlets such as toilets and entrances.
- Events organised included 'AIDS weeks', AIDS activities on Women's Day, PLWAs speaking, theatre groups and so on. Reactions to these events varied, with most being well attended, but often poorly attended by senior management and professionals.
- The extent to which HIV/AIDS prevention activities were integrated into other departmental functions varies, with some evidence of integration into programmes like induction programmes.
- No department has formally evaluated their prevention programmes. Knowledge surveys have been done, but personal risk profiles and attitudes about HIV/AIDS have not been measured.

3. Preparing to introduce an HIV/AIDS and STI prevention programme

In order to embark on a successful HIV/AIDS and STI prevention programme information must be collected on:

- Any existing initiatives within the department and in other departments;
- The success or failure of such programmes;
- The availability of resources both within the department and within the community that are available to support such a programme, eg finances, access to free condoms, materials such as posters and pamphlets, training courses etc; and
- Staff views on the nature of the prevention programme, eg what form it should take.

Research and planning must precede the implementation of a workplace HIV/AIDS programme. During this phase the following should be undertaken:

- Research into the needs of the workplace;
- KAP studies of the understanding of employees regarding HIV/AIDS;
- Development of the objectives of the programme;
- Assessment of what activities need to take place to achieve the objectives of the programme; and
- Development of these activities, with time frames, deliverables and responsibilities.

4. Implementing a workplace HIV/AIDS prevention programme



Checklist of key components of successful prevention programmes

To result in behaviour change, an HIV/AIDS prevention programme must address all of the following strategies:

- Provide correct basic knowledge;
- Ensure that employees understand how the disease will affect their lives and the lives of their families;
- Motivate staff to act;
- Develop skills for decision making, negotiation, condom use etc;
- Encourage the development of supportive social values such as gender equality;
- Enable staff to access appropriate services, eg STI services, counselling and treatment;
- Develop an environment of acceptance and non-discrimination;
- Promote positive living messages;
- Provide incentives for HIV testing in conjunction with the availability of treatment programmes;
- Deal with factors that increase the vulnerability of employees to HIV/AIDS such as economic dependence etc; and
- Work towards gender equality.



Example of a Leading Practice on how programme elements can be linked to the programme objectives

OBJECTIVE: TO CHANGE HIGH RISK BEHAVIOUR	SUPPORTING ACTIVITIES
Provide correct information on HIV/AIDS	<ul style="list-style-type: none"> – Distribute pamphlets – Put up posters – Arrange for industrial theatre shows in lunch hours
OBJECTIVE: TO CREATE AN ENABLING, NON-DISCRIMINATORY WORKING ENVIRONMENT	SUPPORTING ACTIVITIES
Challenge stigma and discrimination	<ul style="list-style-type: none"> – Involve PLWHAs in education programmes – Take disciplinary steps against staff who unfairly discriminate against HIV positive staff

4.1 HIV/AIDS awareness

The objective of awareness activities is to ensure that all staff are aware of HIV/AIDS, how it is, and is not, transmitted, and prevention and protection options.

Research has shown that high levels of awareness around HIV/AIDS are only the first step towards changing behaviour. Recognising personal vulnerability, developing efficacy (ability and skills to change behaviour) and adopting supportive social norms are also necessary for effective and sustained behaviour change.

Examples of awareness activities include:

- The distribution of AIDS ribbons for staff to wear, this serves as a constant reminder of the reality of HIV/AIDS and the need to care for and support PLWAs;
- Distribution of pamphlets on HIV/AIDS;
- Arranging talks by PLWAs;
- Celebrating World AIDS Day in the workplace; and
- Holding a video session on an HIV/AIDS related topic.



Example of a Leading Practice on a department's awareness activities

The **Department of Land Affairs** uses a number of different strategies to raise awareness around HIV/AIDS. These include:

- Disseminating information on HIV/AIDS by internal e-mail;
- Putting prevention messages into pay-slip envelopes; and
- Placing regular HIV/AIDS updates in lifts – 'LIFT NEWS'.

4.2 HIV/AIDS education and training

The objective of an HIV/AIDS education programme is to build on employees' awareness by developing their knowledge and skills to personally respond to the epidemic.

Successful education programmes are structured around two key strategies:

- Informal education through peer educators; and
- Formal education through peer educators and trainers.

Whilst there are some generic components of any HIV/AIDS education and training programme, experience has shown that programmes that are flexible and can be targeted to meet the specific needs and issues of different groups are more successful than those that are rigid, and non-responsive to specific needs and issues.

One way of informing an HIV/AIDS education and training programme is to base it on a **knowledge, attitudes and practices** (KAP) study. A KAP study, which is generally administered as a questionnaire, explores the knowledge, attitudes and practices of individuals in a group. This information can be used to highlight areas for special attention in subsequent education and training programmes. KAP studies repeated at intervals can also be used to track changes in knowledge, attitudes and practices over time.



Checklist of areas to be covered in a KAP questionnaire

- Basic facts about HIV/AIDS (transmission, prevention, disease progression etc)
- Basic facts about STIs and TB
- Testing, counselling, treatment
- Questions exploring common myths and misconceptions
- Attitudes to PLWAs
- Sexual practices (including abstinence, monogamy and condom use)

Information on and examples of KAP study questionnaires are available from national research organisations like the Human Sciences Research Council (HSRC) and Medical Research Council (MRC) or international organisations like UNAIDS and Horizons.



Example of a Leading Practice on HIV/AIDS training

The **Department of Defence** developed an HIV training programme in 1999. Master Trainers were trained in all Regions. They, in turn, trained the regional HIV Educational Officers who are responsible for the HIV/AIDS workplace programmes. The HIV Educational Officers trained peer educators - 1 per 100 members or employees. The programme was developed in conjunction with a comprehensive monitoring and evaluation programme and it is anticipated that by the end of 2002, the programme will have achieved all its targets.

4.3 Creating a non-discriminatory working environment

The objective of creating a non-discriminatory work environment is to enable employees to come forward for counselling, HIV testing and education without fear of stigmatisation. A secondary objective is to foster an environment in which employees can be open about their HIV status.



Checklist for understanding the underlying causes of stigma

Richter in *Preliminary Assumptions on the Nature and Extent of Discrimination against PLWAs in South Africa* (AIDS Law Project, 2001) argues that the causes of stigma and discrimination are:

- Moral attitudes and systems of belief, as sex and morality are closely linked in our society, thus HIV/AIDS is seen as a punishment for immoral behaviour that one should dissociate oneself from;
- Ignorance and a lack of knowledge that has led to fear and irrational behaviour;
- Self interest, this includes a desire to create a divide between healthy and 'unhealthy' people so as to reduce the possibility of personal vulnerability to HIV/AIDS; and
- Media images of defenselessness, and a difference between those who are 'innocent' (for example, children infected through vertical transmission from mother to child) and those 'guilty' (for example, those infected through sexual intercourse).

The rationale for including non-discrimination strategies into HIV/AIDS prevention programmes is that there is no incentive for employees to learn their HIV status and to change their behaviour if they believe that they will lose their jobs if they are HIV positive, or that they will be rejected by family, friends and colleagues. In other words it is only when employees are confident that there are benefits and not dangers to participating in the programme that they will take steps to find out their HIV status.

The foundations of a programme to promote non-discrimination include:

- Recognition of the legal rights of PLWAs including rights to confidentiality, lawful testing practices etc;
- The prohibition of all forms of unfair discrimination in the workplace; and
- The enforcement of the right to non-discrimination, eg disciplining staff who refuse to work with HIV positive colleagues.

In this context, a workplace HIV/AIDS programme should provide employees, managers, supervisors, trade union representatives and personnel officers with the information and skills to respond to:

- The content of the HIV/AIDS workplace policy;
- The legal requirements (such as those relating to testing and confidentiality);
- The rights of infected and affected employees;
- Behaviour, conduct or practices that discriminate against infected and affected employees; and
- Needs for health services and social benefits.

The **Code of Good Practice on Key Aspects of HIV/AIDS and Employment** sets out the following examples of activities that promote a non-discriminatory environment:

- Developing HIV/AIDS policies and programmes for the workplace, such as HIV/AIDS policies based on the principles of non-discrimination and equality;
- Awareness, education and training on the rights of all persons with regard to HIV/AIDS;
- Mechanisms to promote acceptance and openness around HIV/AIDS;
- Providing support for all employees infected or affected by HIV/AIDS; and
- Developing grievance procedures and disciplinary measures to deal with HIV-related complaints in the workplace.



Example of a Leading Practice on non-discrimination workplace programmes

The **Department of Health**, in conjunction with the **UNAIDS**, have extended the GIPA Programme into the Public Service. GIPA is the Greater Involvement of People living with HIV/AIDS and is a workplace programme where HIV positive employees are employed to assist that workplace to respond to HIV/AIDS.

Currently, the Department of Health has seconded 6 staff openly living with HIV/AIDS to other government departments where they provide a range of services from co-ordinating the HIV/AIDS programme to making public appearances and providing counselling.

Refer to **Part B, Chapters 2 & 3** for more information on the importance of a human rights response to HIV/AIDS.

4.4 Prevention and treatment of STIs

The objective of preventing and treating STIs is to ensure that employees with STIs or those at risk of STI infection minimise their risk of HIV infection.

The presence of untreated STIs can multiply the risk of HIV infection up to ten-fold. STIs damage the skin or lining of the genital tract making it easier for HIV to be transmitted from an infected to an uninfected person during unprotected sexual intercourse.

Research has shown that the effective treatment of STIs can considerably reduce the risk of HIV transmission.

Successful STI programmes have the following characteristics:

- They provide a holistic service for clients and their partners including condom promotion, contact tracing, counselling and patient education and follow-up to ensure completion of treatment;
- They use a syndromic management approach – in other words the treatment offered aims at treating the grouping of symptoms which have been identified instead of a single disease;
- They offer services that are user-friendly i.e. they are confidential and non-judgmental.

Examples of activities that can be linked to STI prevention and treatment are:

- Provide information on STIs in prevention programmes;
- Encourage staff and their partners to visit a primary health care clinic for STI treatment;
- Raise STI issues in confidential counselling sessions;
- Develop and put up posters advising employees of the closest user friendly STI services; and
- Promote condom use.

4.5 Infection control

The objective of infection control programmes is to prevent occupational exposure to potentially infectious blood and blood products and to manage occupational exposures that do occur. Both are important elements of any workplace safety programme.

Research shows that HIV and other blood borne infections (like hepatitis B) can be transmitted in an accident situation where there is contact with blood. The risk of a person becoming infected with HIV in such situations is dependent on factors such as the extent of the contact or the sort of injury that allows the blood to enter the person's body. The average risk of transmission is however low, approximately 0.3% following a needlestick-type injury.

The following guidelines must be followed to appropriately manage the risk of HIV transmission following an accident:

- Assume that everyone is HIV positive and always take precautions;
- Ensure that personal protective first aid equipment (such as gloves) are available and that staff have been trained to use the equipment;
- If there is accidental contact with blood, follow standard first aid procedures;
- Ensure contaminated materials are disposed of safely;

- Comply with health and safety regulations in terms of recording and reporting incidences; and
- Provide appropriate information and access to services for employees who have been occupationally exposed, including advice on post exposure prophylaxis.



Example of a Leading Practice on the management of occupational exposure to HIV

The **Department of Health** has issued guidelines and recommendations for post-exposure prophylaxis (PEP).

The following are exposures that should be considered for PEP:

- A blood contaminated needle-stick injury;
- An injury with a blood contaminated sharp instrument;
- Exposure of mucous membranes (eye, mouth) to blood and other body fluids (excluding urine and faeces);
- Blood contamination of compromised or diseased skin (eg weeping eczema); and
- Prolonged exposure to a large volume of blood on normal, intact skin.

4.6 Voluntary counselling and testing

The objective of a voluntary testing and counselling programme is to facilitate access for staff to HIV testing services so that they can establish their HIV status and receive support in dealing with the outcome of the test.

Research shows that HIV testing and counselling are an important part of any HIV/AIDS prevention programme because:

- Individuals need to take responsibility for their own sexual health and this requires knowledge of HIV status;
- Knowledge of HIV status enables a person to take life-changing decisions such as starting a treatment programme, beginning to live a healthier lifestyle, protecting their sexual partners and planning for the future;
- Counselling helps people to come to terms with their HIV status whether positive or negative; and
- Disclosure is encouraged and stigma and discrimination are reduced.

Key considerations for departments include:

- How to create effective referral mechanisms to community based services;
- Developing a confidential and trusted role for peer counsellors;
- Strategies to promote voluntary HIV counselling and testing services; and
- Ensuring that referrals are to appropriate and lawful services.

4.7 Condom promotion and distribution

The objective of condom promotion is to promote and popularise the correct and consistent use of condoms.

Research has shown that condoms are an efficient barrier method that can prevent the transmission of HIV.

Successful condom distribution programmes are characterised by:

- Well known and diverse distribution points;
- Linking condom distribution to education on condom use and joint decision making between partners on sexual health issues;
- Promotion of both male and female condoms; and
- Regular monitoring of uptake of condoms.



Example of a Leading Practice on condom distribution

The **Department of Health** places condoms in a number of different accessible places including foyers, toilets and at entrances to lifts.

5. Roles and responsibilities

The HIV/AIDS Committee should accept responsibility for developing a strategy to implement and monitor the HIV/AIDS workplace prevention programme. However, the actual implementation will require a co-ordinated effort from various stakeholders, and the HIV/AIDS Committee will need to analyse the various elements of the programme to identify other role-players.

Roles and responsibilities should be clearly defined to ensure that a workplace HIV/AIDS prevention programme is widely understood and supported.

6. Monitoring and evaluation

The purpose of a monitoring and evaluation component of a workplace HIV/AIDS prevention programme is to plot the progress of the programme and to ensure that it is meeting its set objectives.

One of the key problems facing workplace HIV/AIDS prevention programmes is developing and sustaining interest in the activities offered. This issue must be placed on the agenda of the HIV/AIDS Committee and the staff uptake of elements of the programme should be continually monitored.



Checklist of strategies for sustaining interest in a workplace HIV/AIDS prevention programme

- Use the information from KAP studies to develop programmes which meet the needs of the employees;
- Ensure that the programme is as diverse as possible so as to ensure that staff are offered a range of different activities;
- Develop media and messages directly targeting professionals and managers; and
- Analyse feedback from staff and use this to inform future activities.

The rationale for undertaking monitoring and evaluation is to assess whether a programme is:

- Appropriate;
- Cost effective;
- Effective; and
- Meeting the set objectives.



Examples of a Leading Practice on monitoring workplace HIV/AIDS programmes

The **Interdepartmental Committee on HIV/AIDS (IDC)** has an agreement with all departments that they will undertake a certain number of 'commitments' each year. For example each department has agreed to '4 commitments' for 2002. In order to monitor the progress of departments, the IDC requires each department to submit quarterly progress reports to its secretariat.

Refer to **Part D**, for more information on monitoring and evaluation.



7. Additional resources

Department of Health; *Guidelines for the Development of an HIV/AIDS and STD Policy and Programme*, 1998.

Chapter 12

Treatment, Care and Support Programmes

Not only is the workplace an optimum setting for HIV/AIDS prevention programmes, it is also an ideal setting for providing treatment, care and support to infected and affected employees.

Public Service and broader employment policies clearly state a commitment to HIV/AIDS treatment, care and support programmes.

- The PSCBC acknowledges that it is cost effective to establish HIV health management programmes in a work environment. HIV/AIDS care and treatment should be a priority (Resolution No. 8 of 2001).
- The **Code of Good Practice on Key Aspects of HIV/AIDS and Employment** states that HIV/AIDS programmes should incorporate the management of employees with HIV/AIDS so that they are able to work productively for as long as possible.



Example of a Leading Practice on the provision for wellness programmes within HIV/AIDS policies

The policy for employees of the **South African Police Service** living with HIV/AIDS states that commanders and managers shall support employees living with HIV/AIDS in having access to appropriate health care.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** specify the duties of HODs in respect of HIV/AIDS treatment, care and support, namely that he/she shall:

Create mechanisms within the workplace to encourage openness, acceptance, care and support for HIV positive employees. Such mechanisms should preferably form part of a comprehensive employee assistance programme or health promotion programme.

2. Key challenges

Research has shown that there are a number of common problems relating to the implementation of a treatment, care and support programme in the Public Service. These include that:

- Policies should be developed to avoid exposing HIV infected employees (particularly health care workers) to infection with opportunistic diseases like TB in their workplaces.
- Employees should be made aware of the potential dangers to HIV infected persons of travel to areas with a high risk of severe opportunistic infections, particularly where health care resources are limited.
- Management capacity should be developed to deal with infected employees.
- Employee Assistance Programmes can provide counselling, advice and support to HIV infected and affected employees. They can provide a safe, confidential route for employees to begin to manage their illness and plan around their own and their dependants' future.

However, EAPs are in place only in some departments, whilst others have incipient programmes or posts that were in the process of being filled. It is apparent however that EAP services for public servants are currently poor overall.

- There is a lack of understanding and agreement on the form a treatment, care and support programme within the Public Service could take; and
- The high levels of discrimination and stigma deter employees from participating in treatment, care and support programmes.

3. Preparing to implement a treatment, care and support programme

In order to embark on a successful HIV/AIDS treatment, care and support programme information must be collected on:

- Any existing initiatives within the department and in other departments;
- The success or failure of such programmes and particularly the cost-effectiveness of such initiatives;
- The resources, both within the department and within the community, that are available to support such a programme; and
- Staff views on the nature of the care, treatment and support they require.

4. Implementing a treatment, care and support programme

It is critical to link workplace HIV/AIDS prevention and care programmes. This is most effectively done through the promotion of voluntary HIV counselling and testing. As employees access testing and counselling services, and become aware of their HIV status, those who are positive can then choose to make use of workplace treatment, care and support programmes.

The rationale for a workplace treatment, care and support programme is that it benefits:

- The department, by keeping employees well and productive;
- HIV infected employees, by offering them a range of treatment and support options;
- HIV affected employees, by providing support services; and
- All employees by encouraging testing and creating an open, enabling and caring working environment.

4.1 Wellness programmes

The objective of a wellness programme is to ensure that HIV positive staff remain healthy and fit to work for as long as possible.

Such programmes should consist of:

- The medical management of infected employees – either on-site, or through referrals to appropriate services outside the workplace;
- Access to on-going counselling and support groups – once again, either on-site, or through referrals;
- Support to develop positive living skills (sometimes referred to as survival skills);
- Health promotion, eg healthy eating habits;
- The establishment of a continuum of care, through the forming of partnerships with and the development of referral procedures to health care providers and specialised agencies; and
- Family assistance programmes.



Example of a Leading Practice wellness programme

An employee wellness programme should consist of access to:

- HIV voluntary counselling and testing;
- Psychosocial support (for PLWAs and their families);
- Palliative care, including pain management;
- Guideline-led clinical management of common opportunistic infections;
- Preventive therapy for TB in individuals with latent TB infection, or in high-risk settings (including household contacts, psychiatric institutions, chronic care facilities and in prisons);
- Nutritional care, including micronutrient and vitamin supplementation;
- STI screening, treatment and education (including presumptive treatment of sexual partner/s);
- Family planning, including referral for voluntary termination of pregnancy;
- Cotrimoxazole prophylaxis for all HIV infected employees with evidence of clinically significant immune deficiency;
- Prevention of mother to child transmission of HIV (PMTCT); and
- Post exposure antiviral prophylaxis of occupational exposure.

Some elements, like VCT, STI management and PMTCT may be considered as both prevention and treatment.

SOURCE: From SANAC draft guidelines 2001

Tuberculosis, or TB, is the most common opportunistic infection and the most frequent cause of death in PLWAs in developing countries. An HIV infected person has a greater risk of developing TB than someone who is not HIV infected. In addition, TB is known to accelerate HIV disease.

Diagnosing people with TB is therefore important, both to get them started on treatment as soon as possible, as well as to remove a potential source of TB infection for those around them who may be HIV infected.

The workplace is an ideal site, both for the early identification of new cases of TB as well as for the delivery of treatment for TB, called DOTS (Directly Observed Treatment, Short-course).

The risk of developing TB in PLWAs can be decreased by taking TB preventive therapy, using a drug called isoniazid.

4.2 Psycho-social support

The objective of psycho-social support is to provide employees with the mechanisms to cope with the psychological and emotional aspects of HIV infection or of being affected by the infection of another.

Research shows that workplaces which offer such support have:

- More productive employees;
- A greater sense of security amongst staff; and
- An environment in which PLWAs are able to be open as there is acceptance and support from management and peers.



Checklist of reasons for stress related to HIV infection

- Receiving a positive test result;
- Involuntary disclosure of a positive test result;
- Break-up of a family or relationship;
- Death of a spouse or child;
- Financial difficulties;
- Loss of employment;
- Inability to talk about one's problems;
- Isolation due to expected or actual stigma;
- Belief that death is imminent; and
- Fear of dying.

SOURCE: *Counselling guidelines on survival skills for people living with HIV*, SAT Programme, 2001

The key elements of a psycho-social support programme are:

- Support groups for infected employees;
- The provision of, or access to, on-going counselling, including bereavement counselling;
- The development of family support programmes;
- Information on community-based social support; and
- Education on the importance of accessing support in times of need or crisis.

All support services must be confidential and holistic to cater for employees from diverse backgrounds, cultures and religions.



Example of a Leading Practice on developing and sustaining a support group

Support groups are an important way of providing emotional support for HIV positive employees and their families. They provide affected persons with an opportunity of meeting people in similar circumstances, to share experiences and support one another.

Some key challenges in forming a support group within the workplace include:

- Ensuring that the group provides its members with privacy so as to ensure that its members will feel confident to disclose intensely personal matters within meetings;
- Facilitating the group and its discussions without being directive;
- Finding an appropriate time for the group to meet that fits in with busy schedules;
- Establishing membership criteria; and
- Sustaining the support group over time.



Checklist of supportive counselling activities

- Setting up tasks or goals;
- Providing a sounding board for clients to express their concerns or talk about particular issues;
- Working with the family, eg to improve the client's social support, or to help create more openness within the family;
- Helping the client to improve their communication skills, especially if they are preparing to disclose their HIV status.

Examples of psycho-social support activities that can be undertaken by departments are:

- Identifying secure facilities for these activities (where confidentiality is assured);
- Setting up support groups for PLWAs;
- Providing counselling for affected employees;
- Distributing information and materials that promote the value of counselling;
- Developing the skills of human resource practitioners to deal with the social implications of HIV/AIDS;
- Providing employees with advice on how to plan for their future;
- Advising staff on employee benefit options should they leave due to ill health;
- Preparing information on social grants that can be accessed;
- Institutionalising the counselling and support roles of staff who undertake these functions; and
- Establishing a mentoring and support system for the counsellors.



Example of a Leading Practice on supporting the counsellor

Counsellors spend their time listening to others and giving support. To do their job well, they too need support, such as:

- Motivation, such as acknowledgement for hard and reliable work;
- Psychological and emotional support, such as debriefing and counselling sessions;
- Retreat (time away) to replenish their energy;
- Adequate logistical support, such as a private counselling rooms, communications facilities and transport;
- Networking, exchange visits and counsellor support groups to keep in touch with other counsellors;
- Professional development and training to keep up to date on HIV/AIDS issues; and
- Back-up support and personal protection when facing angry clients or potentially violent spouses and relatives.

SOURCE: *Counselling guidelines on survival skills for people living with HIV*, SAT Programme, 2001

4.3 Family support

The objective of a family support programme is to render holistic support to affected families. In the context of the Public Service and in light of the focus of the Guide, i.e. on internal workplace responses, the emphasis is limited to **future planning** for infected or affected employees.

The objective of a future planning programme is to assist all employees, not just those who are living with HIV, to plan for any unforeseen events in the future such as death or disability.

The rationale for such a programme is that there are a number of legal and social implications for an employee and their family should they die unexpectedly or following a long illness. Many of these consequences can be minimised through proper planning.



Checklist of decisions that need to be made by infected employees

- How your property or money will be managed if you become disabled;
- Do you have any decisions to make about employee benefits? Should you be considering alternative or more flexible benefits? Do you have sufficient disability cover?
- Who should inherit your money and property;
- Whether to draft a power of attorney to give another trusted person the power to deal with your finances and property;
- What sort of will to draft to provide for those dependent on you after your death;
- Who will care for your children in the future? Who will be the children's legal guardian, and who will have custody of the children?;
- How to plan for your future medical care; and
- Deciding about a living will.

A simple will can be drafted without the assistance of a lawyer.

Refer to **Appendix One, Additional Resources: AIDS and the Law (2nd ed)** for more details on the legal formalities that must be complied with in making a valid will.

Financial planning is another area in which support to infected employees from appropriately qualified staff can be of considerable assistance. Financial planning for PLWAs is difficult as they may not qualify for life assurance.



Example of a Leading Practice in financial planning

- Start by analysing your current financial position and compare it to where you would like to be in the future;
- Discuss your health with your doctor, including what you are likely to experience in the future; and
- Plan for your retirement, by anticipating when you will retire, how long you are likely to live after retirement, what your monthly income and expenditure will be, how much medical needs and costs will increase etc.

For more information on financial planning, contact Southern Life Tel; (021) 658-0911, for a copy of *Future Positive: Financial planning with HIV/AIDS*.

4.4 Home-based care

Home-based care is defined as *any form of care given to a person in their home by a caregiver*. Departments probably will not be providing home-based care for infected employees, however they may well enter into partnerships with community-based organisations that do provide such care.

5. Roles and responsibilities

At the outset, and at regular intervals, consultation must take place on the nature and form of a treatment, care and support programme. Key issues to consult on would include:

- How to maintain confidentiality, eg when using peer counsellors;
- The acceptability by employees of a workplace treatment, care and support programme;
- How to ensure the mainstreaming of HIV/AIDS issues into existing support programmes, such as Employee Assistance Programmes; and
- How to manage the referral of employees to services within the community.

A treatment, care and support programme is ideally managed through the EAP services, the medical services, if they exist on site, or the HR department.

Within a department, officials will have differing responsibilities for a treatment, care and support programme:

- Public Service **managers** have the responsibility to:
 - Manage and co-ordinate the programme;
 - Allocate resources to the programme;
 - Act as role-models, eg regarding non-discrimination; and
 - Support all of its initiatives.

- **Employees** and their **trade unions** have the responsibility to:
 - Participate in the programmes in a responsible manner;
 - Volunteer their own time and skills to the programme; and
 - Support its initiatives.



Checklist of responsibilities related to treatment, care and support programmes

- Develop policies to avoid exposing HIV infected employees to infection with opportunistic disease such as TB;
- Create awareness of the potential dangers to HIV infected employees of travel to areas with high risk of severe opportunistic infections, particularly where health care resources are limited;
- Develop management capacity to deal with HIV infected employees;
- Strengthen Employee Assistance Programmes to provide counselling, advice and support to HIV infected and affected employees;
- Ensure that all services provided are a safe, confidential route for employees to begin to manage their illness and plan around their own and their dependents' futures.

6. Monitoring and evaluation

The purpose of a monitoring and evaluation component of a workplace HIV/AIDS treatment, care and support programme is to plot the progress of the programme and to ensure that it is meeting its set objectives.

The rationale for undertaking monitoring and evaluation is to assess whether a programme is:

- Appropriate;
- Cost effective;
- Effective; and
- Meeting the set objectives.



7. Additional resources

See **Appendix One** for information on obtaining a copy of *Guidelines for the Development of an HIV/AIDS and STD Policy and Programme*, Department of Health, 1998.

Department of Health; HIV/AIDS policy guidelines, 2000 on (i) *The prevention and treatment of opportunistic and HIV related diseases in adults* and (ii) *Tuberculosis and HIV/AIDS*, available from the Department of Health at Tel: 012 312 0122 or <http://www.doh.gov.za>

These guidelines provide recommendations for the medical management of people living with HIV and AIDS, including the treatment and prevention of TB.

For information on legal rights and future planning see Barrett Grant, Fine, Heywood and Strode *AIDS and the Law* (2nd ed) AIDS Law Project and AIDS Legal Network, 2001.

Chapter 13

Capacity Building

HIV/AIDS presents new challenges to the working environment and, with that, the need for training and capacity building to enable a department to develop, implement, monitor and evaluate an HIV/AIDS workplace response.

This chapter looks at how to determine the capacity building needs of a department, and then to implement appropriate programmes.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards on HIV/AIDS** do not specifically require departments to undertake capacity building of employees. However, they do require that departments implement HIV/AIDS policies and programmes as per the principles outlined in the Minimum Standards, and this, of necessity, requires that capacity building must take place.

The following checklist may be a useful guideline to ensure that employees have the capacity to implement the Minimum Standards:



Checklist for assessing capacity building needs:

- Have relevant employees, management and union officials been trained on HIV/AIDS and the law (eg, non-discrimination, confidentiality etc)?
- Do EAP personnel have the capacity to encourage openness, acceptance and support for employees who voluntarily disclose their HIV status?
- Have HR personnel received capacity building on HR policies (eg recruitment policies regarding the prohibition on HIV testing)?
- Do EAP personnel have the capacity to implement policies and processes relating to the occupational exposure to HIV, and compensation requirements in the event of occupational infection?
- Do trainers have the capacity to undertake HIV/AIDS and STI education and prevention programmes?
- Does the HIV/AIDS Co-ordinator have the relevant skills required to oversee and manage the HIV/AIDS workplace response (eg planning skills, mainstreaming HIV/AIDS, etc)

2. Key challenges

Commonly, in the past, organisations responded to HIV/AIDS by introducing education and training sessions for their workforce on basic HIV/AIDS facts and preventive measures. However, there are a broad range of training and capacity building needs around HIV/AIDS.

Key challenges in developing and implementing training and capacity building include:

- Identifying the range of capacity building needs amongst employees to enable them to integrate workplace HIV/AIDS policies and programmes into their daily work;
- Identifying the need for specialised capacity building programmes tailored to the specific needs of various employees, based on their needs, roles and responsibilities;
- Including top management in training and capacity building around HIV/AIDS; and
- Sustaining interest and support in HIV/AIDS capacity building.

3. Developing training and capacity building programmes

A needs assessment can assist in determining the capacity building needs of a department. A needs assessment should be:

- Aimed at determining employees' capacity building needs around HIV/AIDS issues;
- Targeted at various levels of employees;
- Based on the key elements of the HIV/AIDS workplace policy and programme, and the roles and responsibilities defined for key stakeholders; and
- Based on the understanding that all levels of employees may also be infected and affected by HIV/AIDS.



Example of a Leading Practice on key assessment areas for HR managers

Assess the knowledge, skills, and needs for further capacity building of HR managers, on the following issues, and taking into account their roles and responsibilities in terms of managing HIV/AIDS:

- The basic HIV/AIDS facts
- Attitudes around HIV/AIDS;
- The impact of HIV/AIDS on human resources;
- HIV/AIDS and the law;
- New HR policies and processes and how they should be implemented;
- Integrating HIV/AIDS issues into HR planning;
- Workplace related prevention, treatment, care and support options for referral of infected and affected employees; and
- Monitoring and evaluating the impact of HIV/AIDS on HR issues.

The needs assessment also needs to consider the fact that HR Managers are possibly infected or affected by HIV/AIDS, and their needs may include basic needs around HIV/AIDS information, prevention measures and treatment, care and support.



Example of a Leading Practice on key assessment areas for EAP personnel

To take on HIV/AIDS roles and responsibilities, EAP personnel will need a solid understanding of:

- Basic HIV/AIDS facts;
- Attitudes towards HIV/AIDS and PLWAs;
- HIV/AIDS and medical laws;
- Workplace prevention, treatment, care and support options for employees infected and affected by HIV/AIDS;
- How to encourage and support openness around HIV/AIDS;
- HIV/AIDS counselling skills;
- Establishing HIV/AIDS support groups;
- Occupational exposure policies and processes; and
- Monitoring and evaluating workplace HIV/AIDS programmes.

See **Chapter 11**, for more information on education and training around HIV/AIDS.



Example of a Leading Practice from the Department of Defence

In 1999, the Surgeon General of the **SA Military Health Service** made a decision that every member of the Defence should receive training with regard to HIV/AIDS prevention and management. Due to the unavailability of existing, broad HIV/AIDS training programmes, the HIV/AIDS Unit developed a training structure and multi-course modular HIV training programme that built the capacity of staff to provide a broad range of skills.

The training programme reached a range of staff:

- HIV/AIDS Specialist Advisors to support the Regions;
- Educational Officers to provide train the trainer programmes;
- Psychosocial Officers to provide on-going supportive counselling;
- Health Care Workers to provide pre- and post-test counselling;
- Peer Educators; and
- HIV/AIDS Workplace Programme Managers.

Through the training and capacity building programme, the Department of Defence is empowering all members to be active in the response to HIV/AIDS, by providing specialised skills to effectively manage all HIV/AIDS challenges in the working environment.

4. Implementing training and capacity building programmes

Based on the findings of the needs assessment, an HIV/AIDS capacity building plan should be developed to ensure that the necessary training takes place.



Example of a Leading Practice on HIV/AIDS training and capacity building objectives

- Peer Educators to be trained on HIV/AIDS;
- HIV/AIDS Counsellors to be trained;
- SMS to receive capacity building around managing the impact of HIV/AIDS and integration of HIV/AIDS into departmental planning;
- EAP personnel to be trained on HIV/AIDS prevention, treatment, care and support, and VCT;
- HR personnel to be trained on implementing HIV/AIDS policies and processes;
- Union officials to be trained on HIV/AIDS and the law; and
- SMS to receive training on monitoring and evaluation of HIV/AIDS workplace policies and programmes.

One option would be to set up a specific HIV/AIDS training structure, made up of trainers from various units in the department, and solely responsible for overseeing HIV/AIDS training and capacity building in the department. In any event, lines of communication and co-ordination need to be developed between the HIV/AIDS capacity building programme and other training and capacity building programmes within the department.

5. Roles and responsibilities

Roles and responsibilities for developing, implementing and monitoring and evaluating the HIV/AIDS training and capacity building programme should be clearly defined. For example:

- Responsibilities need to be assigned for carrying out the training programmes. This could mean bringing in outside training skills, building the capacity of existing trainers to integrate HIV/AIDS training into their training programmes, or developing specialist HIV/AIDS trainers.
- Responsibilities need to be assigned for monitoring and evaluating the training programmes. This responsibility could be assigned to an HIV/AIDS training work group or to the HIV/AIDS Committee. Alternatively, the key objectives and outputs of the training plan could be incorporated into the Performance Agreement of management and trainers.

See **Part D**, for more information on monitoring and evaluation.

Partnerships are an important way of assisting in implementing an HIV/AIDS training or capacity building plan. There are various partners who may be able to assist with specialised training around different aspects of HIV/AIDS. For example:

- Government departments such as the Department of Health, who may be able to assist with training on HIV/AIDS skills such as counselling, VCT, treatment and care;
- Non-governmental organisations such as the AIDS Law Project and the AIDS Legal Network, who may be able to assist with training on HIV/AIDS and the law; and
- Non-governmental organisations such as NAPWA, who may be able to assist with training around building support groups for employees infected with and affected by HIV/AIDS.



6. Additional Resources

The contact details of possible training resources are as follows:

The AIDS Consortium	Tel: 011 403 0265 http://www.aidsconsortium.org.za
The AIDS Law Project	Tel: 011 717 8600 http://www.hri.ca/partners/alp
The AIDS Legal Network	Tel: 021 423 9254 http://www.aidslegal.co.za
The Department of Health	Tel: 012 312 0122 http://www.doh.gov.za

Chapter 14

Communication Strategies

In order for a HIV/AIDS programme to be successful there must be a communication strategy, which ensures that all members of the workplace are aware of the policy and programme. Mechanisms need to be created to facilitate dialogue between role-players and to ensure that the programme is 'owned' by those involved in it and affected by it.

Communication involves:

- Circulating information and providing access to media; and
- Facilitating dialogue on an issue.

In the context of a workplace HIV/AIDS policy and programme this means:

- Ensuring that employees and employers are aware of the HIV/AIDS policy and programme and understand what it can offer them;
- Allowing all staff an opportunity to input into and contribute to the development, maintenance and review of the HIV/AIDS policy and programme; and
- Providing everyone with workplace access to media and other forms of communication such as drama to put across key messages.

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** require departments to ensure that their health promotion programme includes an effective communication strategy.

2. Key challenges

Communication of a policy and programme is often a forgotten component and as a result a number of common problems arise:

- Not all employees are made aware of or understand the policy and programme resulting in a low uptake of the services provided by the programme;
- Low levels of commitment to the policy and programme exist, as employees and managers feel left out of the process;
- Women and men employees are unable to communicate their views on the interventions into appropriate channels;
- Media is not developed to meet the specific needs of the workplace; and
- Distrust builds up and undermines the policy and programme.

3. Developing an effective communication strategy

There are a number of different ways of communicating within the workplace. In order to develop a communication strategy around HIV/AIDS the following should be researched:

- Successful means of communicating in other workplace programmes;
- The literacy levels within the workplace;
- Languages spoken;
- Resources available for communication strategies;
- Availability of media resources from other departments or NGOs etc; and
- The possibility of using existing communication structures, eg staff meetings.

4. Implementing a communication strategy

In order to communicate effectively the following guidelines should be followed:

- Understand the audience – eg are they literate, what languages do they speak, what type of media do they respond to? Do they need specialised media, for example members of the SANDF may need to be targeted through specialised media developed for their specific needs;
- Use a number of different means of communication – eg use pamphlets, posters, staff memoranda, slips in pay sheets etc;
- Messages must be appropriate to men and women – one message does not always fit all;
- Ensure that communication is in both directions and not just from management to staff; and
- Have a communications strategy which sets out:
 - What information will be communicated to all staff;
 - How this will be done; and
 - How staff can participate in the process.



Example of Leading Practices on communication

The **KwaZulu-Natal Treasury** keep all staff informed of latest developments through a regular HIV/AIDS column in their quarterly staff newsletter.

SAPS keep all staff informed of the latest developments in the HIV/AIDS policy and programme through the intranet, their peer educators and official circulars.

Communication strategies especially those involving media can be very expensive and therefore departments need to act collectively and pool their resources when developing media.

5. Monitoring and evaluation

All media developed for distribution within the workplace should be evaluated. Some ways of doing this include:

- Expert review of the material – for example the Department of Health could review the HIV/AIDS information in pamphlets distributed by departments; adult education specialists could be asked to review the language used and a gender specialist could analyse whether the content addresses gender issues;
- Pre-testing of the product – this is when the media is tested with a sample group of its target audience before being finalised; and
- Evaluation against objectives, this is a formal evaluation when the objectives of the media are set out and then focus groups or questionnaires are distributed to see if the target audience found the media met the set objectives.

PART D

REPORTING, MONITORING AND EVALUATION

Chapter 15

Introduction to HIV/AIDS reporting, monitoring and evaluation

Chapter 16

Monitoring and reporting on workplace policies and programmes

Chapter 15

Introduction to HIV/AIDS Reporting, Monitoring and Evaluation

Reporting, monitoring and evaluation is an important, and often neglected, component of a workplace HIV/AIDS response. Monitoring and evaluation have a significant role to play in any HIV/AIDS workplace intervention as they assist in assessing whether a programme is:

- Appropriate;
- Cost effective;
- Effective; and
- Meeting the set objectives.

In an environment where departments struggle with maintaining commitment to HIV/AIDS, reporting, monitoring and evaluation often fulfill a more basic function of determining whether HIV/AIDS policies and programmes are being implemented at all.

Resources are scarce and ineffective HIV/AIDS programmes undermine efforts to secure the commitment of all stakeholders to an HIV/AIDS workplace programme. For example, if following an openness and acceptance campaign, levels of discrimination between staff were still high, it is unlikely that management will allocate further funds to the programme unless some explanation can be given for the programme's failure. Such an explanation can only be reliably obtained from an effective monitoring and evaluation strategy.



Checklist of useful definitions

MONITORING is the systematic and continuous assessment of a programme over a period of time. For example, if a department was monitoring its training programme, monthly records of the number of people being trained on HIV/AIDS could be submitted to the HIV/AIDS Committee. The HIV/AIDS Committee would then be able to assess the progress of the training programme on a regular basis.

Examples of monitoring tools are:

- Checklists;
- Time frames;
- Financial management systems;
- Targets and goals.

EVALUATION is the assessment of the impact of a programme at a particular point in time. For example, every year focus groups and in-depth interviews could be undertaken with employees to assess HIV/AIDS knowledge acquired through training programmes.

Examples of evaluation tools are:

- In-depth interviews
- Process research
- Focus groups

1. Key issues

- **Employer** issues may be focused on monitoring and evaluating the incidence and prevalence of HIV infection in the workforce; levels of absenteeism and sick leave utilisation; the direct and indirect costs of HIV/AIDS to the working environment; the effectiveness and cost-effectiveness of various services offered; and the extent to which HIV/AIDS workplace policies and programmes are being implemented.
- **Employees, union and PSCBC** issues may include monitoring and evaluation of attitudes and beliefs with regard to HIV/AIDS, the usefulness of peer group educators, the levels of awareness of HIV/AIDS prevention and care amongst members, the availability of benefits for affected employees, and the usefulness of grievance procedures in dealing with HIV-related workplace disputes.

The next chapter provides guidance on reporting and monitoring workplace HIV/AIDS programmes, both in terms of formal legislative requirements, as well as more informally.

Chapter 16

Monitoring and Reporting on Workplace Policies and Programmes

1. Compliance with the Minimum Standards on HIV/AIDS

The **Minimum Standards** identify the important role of monitoring and evaluation (M&E) and state that:

A head of department shall introduce appropriate measures for monitoring and evaluating the impact of the health promotion programme among the employees of the department.

Whilst this is a fairly narrow area that has been identified for M&E, other requirements, such as those set out by Treasury, require that there be comprehensive reporting, monitoring and evaluation of all departmental functions that have budgetary implications.

2. Key challenges

One of the key challenges identified by departments relates to monitoring the extent to which stakeholders are in fact implementing their responsibilities for components of a department's workplace HIV/AIDS response, since commitment to HIV/AIDS may be low where employees are overburdened with existing non-HIV/AIDS functions. Monitoring commitment to, and implementation of, workplace HIV/AIDS issues can be done by:

- Creating regular reporting mechanisms for the implementation of the HIV/AIDS workplace response at various levels;
- Including HIV/AIDS as a standing agenda item on meetings of the SMS; and
- Incorporating workplace HIV/AIDS response performance indicators in SMS Performance Agreements.

3. Developing a monitoring and evaluation plan and programme

3.1 Creating a baseline

A monitoring and evaluation plan and programme should start with a baseline of information. The purpose of a baseline is to establish the position before any intervention is introduced, and to consolidate information that can later be used as the benchmark against which any change is measured. Baselines also have a secondary purpose of helping to identify needs and this, in turn, can then inform the design of effective prevention and care programmes.

The kind of information collected should be linked to any impact assessments being conducted, and to any proposed HIV/AIDS workplace policies and programmes.



Example of a Leading Practice on a baseline to measure awareness

If your workplace HIV/AIDS programme includes the objective of training employees on HIV/AIDS awareness and prevention, then a baseline study could measure HIV/AIDS awareness amongst employees prior to the implementation of training programmes. This information could be used to measure the effectiveness of training programmes a year later, when an evaluation is conducted, and thus assist in redesigning programmes, if necessary.

3.2 Developing indicators

Secondly, a monitoring and evaluation plan and programme requires the development of key indicators, linked to the HIV/AIDS workplace policy and programme, that will be used to measure change. Indicators should be:

- Useable;
- Realistic; and
- Dependant on the type of change the programme seeks to achieve.

Include both quantitative or process targets/measures and indicators (that measure numbers) and qualitative targets and indicators (that measure quality of output or impact).



Checklist of possible monitoring measures

Workplace HIV/AIDS programme measures

- Numbers of condoms distributed;
- Number of peer educators trained;
- Number of employees trained;
- Level of HIV/AIDS awareness amongst employees;
- Number of STIs treated; and
- Number of employees undertaking voluntary HIV counselling and testing.

Productivity measures

- Absenteeism rate;
- Use of disability leave provisions; and
- Increases in the cost of recruitment and training.

Employee benefits measures

- Cost increases in employee benefits
- Number of employees utilising disease management programmes;
- Number of ill-health retirements; and
- Deaths in service.

4. Implementing an HIV/AIDS monitoring and evaluation plan

Monitoring and measuring performance and service delivery progress should not be viewed only as an exercise prescribed by legislation. The process provides valuable information to managers, contributing to better planning and budgeting within departments and enhancing service delivery to communities. For this reason, it is important that the functions of managers prescribed within the Minimum Standards should be integrated into the overall monitoring processes for which they are held accountable.

4.1 Treasury guidelines

Part 3, Chapter 5 of the Treasury Regulations, 2001, issued in terms of the PFMA, require that strategic plans should cover a period of three years and be consistent with the base-line allocation of the institution. The Regulations also require that plans should include *measurable objectives and outcomes for the institution's programmes*. These can form the basis for a monitoring and evaluation plan.

The steps described below are part of the process defined by Treasury for integrating strategic planning and budgeting. The **planning** steps are covered in Chapter 9, the following steps relate to **monitoring and evaluating** the process.

STEP 4: Monitoring and reprioritising spending when plans change

The PFMA emphasizes the importance of regular monitoring and reporting of departmental spending and delivery performance against expenditure plans and service delivery targets. The primary purpose of the specified monthly reports is to assist managers to discharge their responsibilities. Answering three questions can guide managers in conducting effective in-year monitoring of their plans in general as well of all HIV/AIDS activities and programmes. The questions are:

- What has happened so far to the departmental HIV/AIDS activities and programmes?
- In light of what has happened, what is likely to happen to the planned HIV/AIDS activities and programmes for the rest of the year?
- What actions, if any, need to be taken to achieve the agreed planned HIV/AIDS activities and programmes?

Refer to the Treasury guide on in-year management, monitoring and requirements and ensure that HIV/AIDS is integrated into the monitoring and reporting procedures of departments.

STEP 5: Measuring performance and service delivery

Whilst the PMFA focuses on financial reporting, accounting officers are expected to include non-financial information to the executive authority on a quarterly basis – to alert managers to areas where corrective action is required.

Developing performance measures for use in planning, monitoring and reporting is a complex task. For measuring any performance and service delivery aspects related to HIV/AIDS, managers must:

- Agree on the results that the department intends to achieve;
- Decide on the outputs that are to be measured;
- Set realistic output performance targets against which to measure achievement of HIV/AIDS performance targets;
- Determine the process and format of performance reporting on HIV/AIDS; and
- Establish processes and mechanisms to facilitate corrective action related to HIV/AIDS activities and programmes when required.



Example of a Leading Practice from the Treasury guidelines on integrating strategic planning and budgeting

Performance measures selected should be:

- Simple, clearly expressed and specific;
- Relevant and reliable – strongly related to the output to be measured;
- Economic and easily measurable;
- Adequate and manageable – a few good measures that provide sufficient information; and
- Monitorable – amenable to independent scrutiny.

STEP 6: Finalising annual financial statements and reports

This step completes the accountability cycle. The annual report should fairly present the department's state of affairs, financial results and position at the end of the year. All annual reports of department's should report on their HIV/AIDS activities and programmes.

For more information on annual report requirements refer to the Treasury guidelines on preparing annual reports.

5. Roles and responsibilities

An effective monitoring and evaluation programme requires the co-operation of a broad range of key personnel, and partnerships with outside organisations. For instance:

- HR personnel;
- Employee Assistance Programme staff;
- Trainers;
- Unions; and
- Representatives from the management team.

Developing and implementing a monitoring and evaluation plan requires a co-ordinated effort from a wide variety of stakeholders in the working environment.

Firstly, in the development of a monitoring and evaluation plan, an HIV/AIDS Committee will need to co-opt key personnel within the department already involved in monitoring and evaluation. It may be useful to set up a working group made up of key personnel with technical expertise and experience in this area, to be responsible for the task. The range of responsibilities could include that:

- Management can ensure that monitoring and evaluation is a priority, and that the necessary systems and resources are in place to allow monitoring and evaluation to take place;
- HR personnel can assist in monitoring of productivity indicators, such as absenteeism, sick leave and disability leave utilisation, ill-health retirement and in the monitoring and evaluation of performance evaluation systems. In this regard HR personnel need to also liaise with the Chief Directorate: Pensions Administration in the National Treasury and with the DPSA;
- Employee Assistance Programme staff can assist in monitoring of programme elements such as voluntary counselling and testing services, condom distribution etc.
- Peer educators and other trainers can assist in monitoring of HIV/AIDS training programme attendance and levels of awareness of HIV/AIDS;

- Unions can assist in monitoring HIV-related grievances, awareness of HIV/AIDS workplace rights and HIV/AIDS workplace policies; and
- Partnerships with outside organisations can also ensure that objective external evaluations are conducted on behalf of the department to assist in monitoring and evaluating the effectiveness of HIV/AIDS policies and programmes, and the continued impact of HIV/AIDS on the working environment.

The monitoring and evaluation plan needs to be integrated into the department's communication strategy, to ensure that all relevant stakeholders are aware of, and understand their responsibilities.

The following checklist of questions can assist a department to introduce appropriate measures for reporting, monitoring and evaluating the impact of their workplace response.



Checklist for establishing the adequacy of a department's M&E plan

- Has a monitoring and evaluation plan been developed?
- Has the plan been allocated the necessary resources?
- Does the plan make provision for ongoing monitoring, as well as evaluation at regular intervals?
- Have useful and reliable targets and indicators been identified?
- Have responsibilities been allocated?
- Has the plan been communicated to relevant stakeholders?
- Is there a commitment to using the results of the monitoring and evaluation to review and adjust the department's HIV/AIDS workplace response?



Example of Leading Practice: on Interdepartmental reporting on HIV/AIDS in terms of the 'commitment campaign'

Each year, various departments commit themselves to achieving defined objectives in terms of their departmental HIV/AIDS programme. The National Interdepartmental Committee on HIV/AIDS monitors progress on a four monthly and annual basis, and compiles a summary report on the status and progress of departmental HIV/AIDS programmes. The report measures a number of outcomes, including the following:

- The existence of an HIV/AIDS strategic plan;
- The inclusion of HIV/AIDS in the departmental strategic plan;
- The inclusion of HIV/AIDS in the departmental MTEF;
- The inclusion of an HIV/AIDS workplace programme in the departmental operational plan;
- The inclusion of HIV/AIDS line function/sectoral programmes in the departmental operational plan;
- The names of personnel dealing with the HIV/AIDS workplace programme;
- The existence of an HIV/AIDS Committee;
- The budget for the HIV/AIDS workplace programme;
- The budget for HIV/AIDS line function/sectoral programmes;
- The number of condoms distributed per month;

- The number of employees openly living with HIV/AIDS;
- The activities, results and comments around specific objectives and activities committed to by departments;
- The obstacles and challenges encountered, and assistance and support required, to achieve the objectives.

Monitoring and evaluation has revealed the need for comprehensive planning for departments, as opposed to departments committing themselves to isolated activities.



Example of a Leading Practice from the private sector on how M&E can provide valuable feedback to strengthen workplace HIV/AIDS programmes

Woolworths developed a peer education programme, however the programme faced a number of difficulties and an evaluation revealed that:

- Store managers did not buy into the process and instead of applying the selection criteria for peer educators they dispatched 'convenient persons';
- The material was not suitable for all the educators and in particular second language staff members struggled to understand the training materials; and
- Many of those trained did not have the confidence to reproduce the training sessions.

As a result of this evaluation, Woolworths revised its strategy and:

- Re-worked the training materials to make them more user-friendly;
- Placed greater emphasis on the selecting of peer educators; and
- Facilitators from local NGOs were used to help develop the confidence of peer educators in training sessions.

SOURCE: Loewenson, Whitehead and Hunter; *Best Practices: Company Actions on HIV/AIDS in Southern Africa*



6. Additional resources

Guidelines for Developing a Workplace Policy and Programme on HIV/AIDS and STDs Department of Health 1998. Copies may be obtained from the Department of Health: HIV/AIDS and STD Directorate, Tel: 012 312 0122.

Appendix One

References, Contacts and Websites

REFERENCES

The HIV/AIDS epidemic

- UNAIDS; *AIDS Epidemic Update – December 2001*, available on http://www.unaids.org/worldaidsday/2001/Epiupdate2001/Epiupdate2001_en.pdf. This report, which is released annually, gives a global overview and update of the epidemic.
- Department of Health; *Annual Antenatal Survey Report 2000*, available on <http://www.health.gov.za> and <http://www.thebody.com>. This report describes the epidemic amongst pregnant women attending public health clinics, the variations in different age groups and provinces and makes estimates for the South African population as a whole.
- Department of Social Development; *The State of South Africa's Population Report 2000*, available from the Department of Social Development.
- loveLife; *Impending Catastrophe Revisited – an update on the HIV/AIDS epidemic in South Africa 2001*, available on <http://www.lovelife.org.za>. This report presents the most reliable data about the epidemic and makes projections regarding its future course and impact.

The Public Service

- DPSA *Public Service Review Report 1999/2000*.
- DPSA *Guidelines on Integrated Human Resource Planning 2001*. The guidelines were developed to assist departments to plan for the employees needed to enable departments to deliver on their mandates and achieve their strategic goals and objectives.
- PSCBC *Resolution 8 of 2001*, attached as **Appendix Three**.
- DPSA *Minimum Standards on HIV/AIDS* are contained in the Public Service Regulations 2001, and are attached hereto as **Appendix Two**.

HIV/AIDS, human rights, legislation and policy guidelines

- Barrett Grant, Fine, Heywood, Strode; *AIDS and the Law A Resource Manual* 2nd Ed AIDS Law Project and AIDS Legal Network 2001, available from the ALP at
Tel: 011 717 8600
- UNAIDS; *HIV/AIDS and Human Rights International Guidelines*,
<http://www.unaids.org>
- ILO; *Code of Good Practice on HIV/AIDS and the World of Work*,
<http://www.ilo.org>
- SADC; *Code of Good Practice on HIV/AIDS*,
<http://www.hri.ca/partners/alp/resource/thesadc/shtml>
- For copies of labour legislation go to
<http://www.labour.gov.za>
- For copies of the Department of Health guidelines go to
<http://www.doh.gov.za>

HIV/AIDS strategic responses

- Department of Health; *HIV/AIDS & STD Strategic Plan for South Africa 2000-2005*, available from the Department of Health. This document describes the standing structures that address HIV/AIDS, the guiding principles for and a framework within which a response to HIV/AIDS should be developed.
- Whiteside, A and Sunter, C; *AIDS – The challenge for South Africa*, 2000, available from bookshops. This book discusses in detail the epidemic in South Africa, the impact, at all levels, and proposes key challenges to deal with the epidemic.

Surveillance testing

- UNAIDS; *Guidelines for Using HIV Testing Technologies in Surveillance*, 2001 available from:
<http://www.unaids.org>



CONTACTS

The following organisations provide specialised information and assistance on HIV/AIDS and the workplace:

The AIDS Consortium	Tel: 011 403 0265 http://www.aidsconsortium.org.za
The AIDS Law Project	Tel: 011 717 8600 http://www.hri.ca/partners/alp
The AIDS Legal Network	Tel: 021 423 9254 http://www.aidslegal.co.za
The Department of Health	Tel: 012 312 0122 http://www.doh.gov.za
The Department of Labour	Tel: 012 309 4313 http://www.labour.gov.za
The Department of Public Service and Administration	Tel: 012 314 7911 http://www.dpsa.gov.za
The International Labour Organisation	Tel: 012 431 2170 http://www.ilo.org

WEBSITES

- Department of Health; <http://www.doh.gov.za> for the *HIV/AIDS Policy Guidelines*
- Department of Labour; <http://www.labour.gov.za> for the *Code of Good Practice on Key Aspects of HIV/AIDS and Employment* and other labour legislation
- DPSA; <http://www.dpsa.gov.za> for *Public Service Regulations and Guidelines*
- ILO; <http://www.ilo.org> for the *Code of Good Practice on HIV/AIDS and the World of Work*
- loveLife; <http://www.lovelife.org.za> for information on the impact of the HIV/AIDS epidemic in South Africa
- SADC; <http://www.hri.ca/partners/alp/> for the *Code of Good Practice on HIV/AIDS*
- The Body; <http://www.thebody.com> for general information on HIV/AIDS
- UNAIDS; <http://www.unaids.org> for general information on HIV/AIDS and global statistics





Appendix Two

Part VI of chapter 1 of the Public Service Regulations, 2001

PART VI. WORKING ENVIRONMENT

A. PRINCIPLES

The working environment [Departmental working hours and conditions] should support effective and efficient service delivery while, as far as reasonably possible, taking employees' personal circumstances, including disability, HIV (*Human Immunodeficiency Virus*, hereinafter referred to as HIV) and AIDS (*Acquired Immune Deficiency Syndrome*, hereinafter referred to as AIDS) and other health conditions into account.

B. WORKING HOURS

A head of department shall determine-

- (a) The work week and daily hours of work for employment; and
- (b) The opening and closing times of places of work under her or his control, taking into account-
 - (i) The needs of the public in the context of the department's service delivery improvement programme; and
 - (ii) The needs and circumstances of employees, including family obligations and transport arrangements.

C. EMERGENCY WORK

A head of department may require an employee to perform work outside normal working hours if the work must be performed without delay owing to circumstances which are beyond the control of the head of department and for which she or he could not reasonably have been expected to make provision.

D. HEALTH AND SAFETY

A head of department shall establish and maintain a safe and healthy work environment for employees of the department.

E. HIV/AIDS AND RELATED DISEASES

E.1 Occupational exposure

A head of department shall-

- (a) Identify units or employees within the department that, due to the nature of their work, are at high risk of contracting HIV and other related diseases, and take reasonable steps to reduce the risk of occupational exposure to HIV and such diseases;
- (b) Take all reasonable steps to facilitate timely access to voluntary counselling and testing and post-exposure *prophylaxis* in line with prevailing guidelines and protocols for employees who have been exposed to HIV as a result of an occupational incident; and



- (c) If the testing referred to in paragraph (b) indicates that an employee has become HIV-positive as a result of the occupational incident, ensure that the employee is assisted to apply for compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993).

E.2 Non-discrimination

A head of department shall-

- (a) Ensure that no employee or prospective employee is unfairly discriminated against on the basis of her or his HIV status, or perceived HIV status, in any employment policy or practice; and
- (b) Take appropriate measures to actively promote non-discrimination and to protect HIV-positive employees and employees perceived to be HIV-positive from discrimination.

E.3 HIV testing

A head of department shall-

- (a) Encourage voluntary counselling and testing for HIV and other related health conditions and, wherever possible, facilitate access to such services for employees in the department; and
- (b) Ensure that no employee or prospective employee of the department is required to take a HIV test unless the Labour Court has declared such testing as justifiable in terms of the Employment Equity Act, 1998 (Act No. 55 of 1998).

E.4 Confidentiality and disclosure

All employees shall treat information on an employee's HIV status as confidential and shall not disclose that information to any other person without the employee's written consent.

E.5 Health promotion programme

A head of department shall-

- (a) Introduce appropriate education, awareness and prevention programmes on HIV/AIDS and other sexually transmitted infections for the employees in the department and, where possible, their families, and as far as possible, integrate those programmes with programmes that promote the health and well-being of employees;
- (b) Create mechanisms within the workplace to encourage openness, acceptance, care and support for HIV-positive employees. Such mechanisms should preferably form part of a comprehensive employee assistance programme or health promotion programme;
- (c) Designate a member of the SMS with adequate skills, seniority and support to implement the provisions contained in regulation VI E within the department, and ensure that the member so designated is held accountable by means of her or his performance agreement for the implementation of the provisions;
- (d) Allocate adequate human and financial resources to implement the provisions of regulation VI E, and, where appropriate, form partnerships with other departments, organisations and individuals who are able to assist with health promotion programmes;
- (e) Establish a HIV/AIDS committee for the department with adequate representation and support from all relevant stakeholders, including trade union representatives, to facilitate the effectiveness of the provisions of regulation VI E; and
- (f) Ensure that the health promotion programme includes an effective internal communication strategy.

F. MONITORING AND EVALUATION

A head of department shall introduce appropriate measures for monitoring and evaluating the impact of the health promotion programme among the employees of the department.



Appendix Three

RESOLUTION NO 8 OF 2001

POLICY ON HIV/AIDS AND HIV/AIDS TRAINING FRAMEWORK

IN TERMS OF RESOLUTION 7/2000

1. The parties agree to adopt the Policy on HIV/Aids (attached as Annexure A) and the HIV/Aids Training Framework (attached as Annexure B), which was developed in terms of Resolution 7/2000, as policy documents for the Public Service.
2. This agreement binds:
 - (a) the employer;
 - (b) the employees of the employer who are members of the trade union parties to this agreement; and
 - (c) the employees of the employer who are not members of any trade union parties to this agreement, but who fall within the registered scope of Council.
3. This agreement shall come into effect from the date of signing.
4. If there is a dispute about the interpretation or application of this agreement any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.
5. The Council will monitor the implementation of this agreement.



THIS DONE AND SIGNED AT CENTURION OF THIS 27 DAY
OF JULY 2001.

ON BEHALF OF THE EMPLOYER PARTY

	Name	Signature
State as Employer	Manoko Nchwe	<i>Manoko Nchwe</i>

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
DENOSA		
HOSPERSA		
NAPTOSA		
NUPSAW		
NPSWU		
NEHAWU	<i>Phisoaloleli.</i>	<i>Kheunbu Magudu le Co.</i>
PAWUSA	NEVILLE PETERSON	<i>Neville Peterson</i>
POPCRU		
PSA	HRY DE CLERCO	<i>Hry de Clerco</i>
SADTU	T.W. NXESI	<i>T.W. Nxesi</i>
SAPU	M.R. MONTALENGE	<i>M.R. Montalenge</i>
SAOU		



ANNEXURE A

Policy on HIV/ Aids for the Public Service Co-ordinating Bargaining Council

Table of contents.

1. Preamble
2. Mission and Vision
3. Definitions
 - 3.1 What is HIV and AIDS
 - 3.2 Stages of the disease
 - 3.3 Modes of transmission
4. Scope of Application
5. Wellness Programmes
 - 5.1 HIV/AIDS management
 - 5.2 Care and support
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 - 6.1 Employment Acts
 - 6.2 Confidentiality
 - 6.3 Divulging HIV status and Informed consent
7. Implementation, Monitoring and Evaluation
8. Appendices
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1. PREAMBLE

The Public Service Co-ordinating Bargaining Council (PSCBC) acknowledges the seriousness of the HIV/AIDS epidemic and that there is still no cure. HIV knows no social, gender or racial boundaries but it is accepted that socio-economic circumstances do influence disease patterns and that it thrives in environments of poverty, violence and crimes such as rape. Transmission is exacerbated by disparities in resources, patterns of labour migration and people's mobility. Women are particularly vulnerable to infection due to economic and gender imbalances and certain cultural practices. The spread of HIV/AIDS does not preclude the sexual abuse (sodomy) of men.

The PSCBC seeks to eliminate the social stigma and discrimination based on ignorance and prejudice of members who openly declare their HIV status and practices such as pre-employment HIV testing and dismissal for being HIV positive or AIDS ill.

It seeks to minimise economic and developmental consequences which impact negatively on service delivery, productivity and costs, employee benefits, workplace morale and health.

2. MISSION

The PSCBC commits itself to support the provision of resources and leadership to implement HIV/AIDS and STD's workplace programmes.

VISION

The PSCBC commits itself to mobilise it's social partners to actively engage in:

- Prevention programmes
- Counselling and support to infected and affected members and their families where possible to support the provision of means to speed up delivery on educating our members on HIV/AIDS issues
- Resources and leadership to implement HIV/AIDS and STD workplace programmes.
- The creation of a non-discriminatory environment that will ensure the ability to deal with HIV/AIDS in a sensitive and humane manner within the working environment.
- Protection of confidentiality for members whose HIV status is known and those who voluntary test and disclose.

3. SCOPE OF APPLICATION

This policy will apply to all official signatories within the ambit of the PSCBC and as per Constitution of membership of the PSCBC.

4. DEFINITIONS

4.1 What is HIV?

HIV stands for **HUMAN IMMUNODEFICIENCY VIRUS**. It is a blood borne virus transmitted amongst human beings. HIV attacks the immune system and once it has rendered it incompetent, a person could develop variable illnesses because the body will be too weak to defend itself.

4.2 What is AIDS?

ACQUIRED IMMUNE DEFICIENCY SYNDROME. AIDS is a condition when the body's defense system is deficient and various life-threatening infections occur. These life-threatening infections are called opportunistic infections or diseases.



4.3 *Stages of HIV*

There are six stages in the progression of HIV.

- 4.3.1 The first stage is the initial Infection with HIV.
- 4.3.2 The **WINDOW PERIOD**. This is the stage where a person is already infected with HIV but the antibodies that determine the presence of HIV have not formulated.
- 4.3.3 **SEROCONVERSION**. This is when the status of a person changes from HIV negative to becoming HIV positive. Although the person may not be ill, they can infect others.
- 4.3.4 The **ASYMPTOMATIC** stage is when a person has been diagnosed HIV positive but shows no signs of illness. As in the previous stage, the person can infect others.
- 4.3.5 The fifth stage is **AIDS RELATED COMPLEX (ARC)** sometimes called the **SYMPTOMATIC** stage. It is a stage when a person develops certain symptoms that are persistent but takes longer to cure.
- 4.3.6 The sixth and last stage is **AIDS**. It is when a person's body is full of HIV and the immune system is deficient. A person with AIDS will develop several illnesses that are difficult to control or cure, which may finally be the cause of death. Life expectancy depends on the availability of treatment.

4.4 *Modes of Transmission*

HIV can be transmitted from one person to another through the following means:

- 4.1.1 Unprotected sex
- 4.1.2 During pregnancy or through the birth canal during birth
- 4.1.3 Exposure to contaminated blood or
- 4.1.4 Exposure to other body fluids and breastfeeding.

5. **WELLNESS MANAGEMENT PROGRAMMES**

The PSCBC acknowledges that it is cost effective to establish HIV health management programmes in a work environment. HIV care and treatment should be made a priority. Treatment means better access to HIV testing and counselling, providing medicines for opportunistic infections caused by HIV, encouraging openness and treating HIV/AIDS as a Human rights issue. Wellness management is a useful concept to use in relation to HIV/AIDS and STD, as it clearly highlights the need and importance of keeping a person with HIV healthy. Therefore; PSCBC will encourage the establishment of HIV/AIDS wellness management programmes to provide the following:

5.1 *Care*

- 5.1.1 Ongoing HIV/AIDS training and information sharing by trained professional personnel on sexuality, sexually transmitted diseases, information on treatment and their relation to HIV infection.
- 5.1.2 Prevention awareness on an ongoing process that includes a condom distribution programme.
- 5.1.3 Counselling at three levels; psychological, spiritual and emotional counselling for employers/employees who are infected or affected
- 5.1.4 Group therapy counselling.



- 5.1.5 Provision of resources/information on anti-retroviral medicines, opportunistic infections and prophylaxis for post-occupational exposure or rape.
- 5.1.6 Unlinked voluntary testing and counselling.
- 5.1.7 Encouragement to test and disclose with protected confidentiality

5.2 *Support*

A successful and effective HIV/AIDS programme depends on a collaborative action that involves partnership. The partnership must include non-governmental (NGO's) and community-based organizations (CBO's) support should include:

- 5.2.1 bereavement counselling extended to family where possible.
- 5.2.2 active role-playing in HIV/AIDS education for the infected/affected
- 5.2.3 Support for those who want to live openly with HIV (disclosure)

5.3 *Employee benefits*

Principle of non-discrimination in relation to all employee benefits including:

- 5.3.1 Disability benefits
- 5.3.2 Group life assurance
- 5.3.3 Spouse and children death and funeral benefits
- 5.3.4 Health benefits (chronic and health management group) medical aid
- 5.3.5 Pension and provident funds
- 5.3.6 Occupational and injury compensation

6. LEGAL FRAMEWORK

Relevant labour legislation:

6.1 *Constitution*

The Constitution gives all employees the right to "fair labour practices". Furthermore, the equality clause states that everyone is entitled to equality and freedom from unfair discrimination.

6.2 *Labour Relations Act (LRA) 66 of 1995*

The LRA regulates the relationship between employer and employees. It prohibits unfair discrimination and protects employees against arbitrary dismissals.

Unfair discriminatory practices of the following grounds are outlawed by the LRA:

- if an employer acts unfairly in promoting, demoting, providing training opportunities or supplying benefits to employee, if discipline is arbitrary or if they fail to refuse to reinstate or re-employ in terms of an agreement. This Act protects employees from being dismissed simply because they are HIV positive and from being discriminated against with regard to employee benefits, staff training and other work-related opportunities.



6.3 Basic Conditions of Employment 75 of 1997

This Act sets out the minimum employment standards to which every employee is entitled. It therefore sets out, amongst others, maximum working hours and the minimum number of days of sick leave every employee is entitled to.

6.4 Compensation of Occupational, Injuries and Disease Act 130 of 1993

This Act provides compensation for employees who are injured in the “course and scope” of their employment. Should an employee be exposed to HIV during occupational accidents then:

- 6.4.1 an accident report should be completed and handed to the supervisor.
- 6.4.2 the employee should be tested for HIV to determine his/her baseline status.
- 6.4.3 any other person who has been involved in the accident should be tested with his/her informed consent.
- 6.4.4 if the employee was negative at the time of accident, he/she should be re-tested at three and six months periods after the accident.
- 6.4.5 if he/she sero-converts during this period, an application for compensation may be made.

6.5 Employment Equity Act 55 of 1998

Prohibition of unfair discrimination.

The provisions of chapter 2 of the Act prohibit unfair discrimination either directly or indirectly on a wide range of the following grounds:

- Race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth. Medical testing is not allowed unless it is an inherent requirement of the job, while no psychological testing or other assessments can be done unless such tests are validated and not biased. In addition, HIV testing can only be carried out if authorised by the Labour Court.

6.6 Occupational Health and Safety Act 85 of 1993

This Act requires employers, as far as is reasonably practicable, to create a safe working environment. In an HIV/AIDS context, this can mean that employers must ensure that universal precautions are adhered to at all times, and that every person is treated as a potential HIV carrier.

Universal precautions must also be adhered to when responding to an occupational accident. Furthermore, employers should ensure that proper equipment needed to protect staff against infection and appropriate training in the use of universal precautions is provided.

6.7 Employee’s right to confidentiality

Every employee has a common law right to privacy. This means that an employee does not have a legal duty to inform their employer of their HIV status, nor may a healthcare worker reveal their HIV status to their employer without their consent. Should an employee voluntarily divulge their HIV status to management, it cannot be used against them, or be prejudiced or divulged without the employee’s consent.



6.8 National Policy on testing as Gazetted by Minister of Health. Gazette No 20710

6.9 The Code of Good Practice

The Code of Good Practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. This Act emphasises the primacy of collective agreements. It is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum. The key principle in this code is that the employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

7. IMPLEMENTATION, MONITORING AND EVALUATION

As per Resolution 7 of 2000 and as amended.

8. APPENDIX (A and B)

Code of Good Practice

9. GLOSSARY

HIV	Human Immunodeficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
Acquired	a condition which is not inherited
AIDS Related Complex	a term used to describe some of the signs and symptoms that a person with HIV may experience
Antibody	a protein substance produced by the immune system in response to a pathogen
Antiretroviral	a drug that acts against retroviruses such as HIV
Antiviral	A drug that acts against viruses
Asymptomatic	a condition when a person with HIV shows no signs of illness
AZT	abbreviated chemical name of anti-HIV drug zidovudine (trade name Retrovir)
HIV antibody test	a blood test that looks for the presence of antibodies to HIV. A positive test result means that antibodies have been detected, and that the person has HIV infection. A negative result means that antibodies have not been detected.
Immunocompetent	someone whose immune system is working normally
Immune system	the body's system for fighting infection and eradicating tumor cells. There are two parts: humoral and cell-mediated immunity.



Immune deficiency	breakdown or inability of certain parts of the immune system to function, thus making a person susceptible to certain diseases which they would not ordinarily develop
Immunosuppression	reduced function of the immune system
Immunosuppressive	something that reduces the immune system's responses
Infectious	able to communicate disease by infection
Lymphadenopathy syndrome	a chronic enlargement of lymph nodes (glands) often associated with HIV infection
Latency	a period of time in which an organism is in the body but not producing any ill effects
Lymph glands/nodes	special areas in the body where lymphocytes and other important cells in the immune system are found. They swell up in response to infection
Myopathy	muscle wastage or disease
OI	opportunistic infections. Specific infections which are not harmful to people with healthy immune systems but do cause disease in people with damaged immunity
Primary infection	a time when an individual has just become infected by HIV and the immune system is starting to respond
Prophylaxis	taking a drug to delay or prevent an illness developing
Retrovirus	a class of viruses, which copy genetic material using RNA as a template to make DNA, an essential step in the life-cycle of HIV
Seroconversion	time at which a person's antibody status changes from negative to positive
Symptomatic	having symptoms
Syndrome	a group of symptoms and diseases that together are characteristic of a specific condition
Viral load	the amount of virus in the blood
Virus	a microscopic germ which cannot reproduce itself outside the living cell of the organism that it infects. Viruses can divert cells from their normal functions and thus damage or destroy them
Window Period	the time between HIV entering a person's body and the person making antibodies to HIV. This is usually around two months, but in a significant number of people may take several months longer.





APPENDIX A

DEPARTMENT OF LABOUR

EMPLOYMENT EQUITY ACT

CODE OF GOOD PRACTICE ON KEY ASPECTS OF
HIV/AIDS AND EMPLOYMENT

CONTENTS

1	Introduction
2	Objectives
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DEPARTMENT OF LABOUR

Employment Equity Act

CODE OF GOOD PRACTICE ON KEY ASPECTS OF HIV/AIDS AND EMPLOYMENT

1. INTRODUCTION

1.1 The Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) are serious public health problems, which have socio economic, employment and human rights implications.

1.2 It is recognized that the HIV/AIDS epidemic will affect every workplace, with prolonged staff illness, absenteeism, and death impacting on productivity, employee benefits, occupational health and safety, production costs and workplace morale [1].

1.3 HIV knows no social, gender, age or racial boundaries, but it is accepted that socio-economic circumstances do influence disease patterns. HIV thrives in an environment of poverty, rapid urbanization, violence and destabilization. Transmission is exacerbated by disparities in resources and patterns of migration from rural to urban areas. Women, particularly are more vulnerable to infection in cultures and economic circumstances where they have little control over their lives.

1.4 Furthermore HIV/AIDS is still a disease surrounded by ignorance, prejudice, discrimination and stigma. In the workplace unfair discrimination against people living with HIV and AIDS has been perpetuated through practices such as pre-employment HIV testing, dismissals for being HIV positive and the denial of employee benefits.

1.5 One of the most effective ways of reducing and managing the impact of HIV/AIDS in the workplace is through the implementation of an HIV/AIDS policy and programme. Addressing aspects of HIV/AIDS in the workplace will enable employers, trade unions and government to actively contribute towards local, national and international efforts to prevent and control HIV/AIDS. In light of this, the Code has been developed as a guide to employers, trade unions and employees.

1.6 Furthermore the Code seeks to assist with the attainment of the broader goals of:

- eliminating unfair discrimination in the workplace based on HIV status;
- promoting a non-discriminatory workplace in which people living with HIV or AIDS are able to be open about their HIV status without fear of stigma or rejection;
- promoting appropriate and effective ways of managing HIV in the workplace;
- creating a balance between the rights and responsibilities of all parties; and



- giving effect to the regional obligations of the Republic as a member of the Southern African Development Community.

2. OBJECTIVES

2.1 The Code's primary objective is to set out guidelines for employers and trade unions to implement so as to ensure individuals with HIV infection are not unfairly discriminated against in the workplace. This includes provisions regarding:

- (i) creating a non-discriminatory work environment;
- (ii) dealing with HIV testing, confidentiality and disclosure;
- (iii) providing equitable employee benefits;
- (iv) dealing with dismissals; and
- (v) managing grievance procedures.

2.2 The Code's secondary objective is to provide guidelines for employers, employees and trade unions on how to manage HIV/AIDS within the workplace. Since the HIV/AIDS epidemic impacts upon the workplace and individuals at a number of different levels, it requires a holistic response which takes all of these factors into account. The Code therefore includes principles, which are dealt with in more detail under the statutes listed in item 5.1., on the following:

- (i) creating a safe working environment for all employees and employers;
- (ii) developing procedures to manage occupational incidents and claims for compensation;
- (iii) introducing measures to prevent the spread of HIV;
- (iv) developing strategies to assess and reduce the impact of the epidemic upon the workplace; and
- (v) supporting those individuals who are infected or affected by HIV/AIDS so that they may continue to work productively for as long as possible.

2.3 In addition, the Code promotes the establishment of mechanisms to foster co-operation at the following levels:

- (i) between employers, employees and trade unions in the workplace; and
- (ii) between the workplace and other stakeholders at a sectoral, local, provincial and national level.

3. POLICY PRINCIPLES

3.1 The promotion of equality and non-discrimination between individuals with HIV infection and those without



tween individuals with HIV infection and those without, and between HIV/AIDS and other comparable health/medical conditions.

- 3.2 The creation of a supportive environment so that HIV infected employees are able to continue working under normal conditions in their current employment for as long as they are medically fit to do so.
- 3.3 The protection of human rights and dignity of people living with HIV or AIDS is essential to the prevention and control of HIV/AIDS.
- 3.4 HIV/AIDS impacts disproportionately on women and this should be taken into account in the development of workplace policies and programmes.
- 3.5 Consultation, inclusivity and encouraging full participation of all stakeholders are key principles which should underpin every HIV/AIDS policy and programme.

4. APPLICATION AND SCOPE

- 4.1 All employers and employees, and their respective organisations are encouraged to use this Code to develop, implement and refine their HIV/AIDS policies and programmes to suit the needs of their workplaces.
- 4.2 For the purposes of this code, the term “workplace” should be interpreted more broadly than the definition given in the Labour Relations Act, Act 66 of 1995, Section 213, to include the working environment of, amongst others, persons not necessarily in an employer-employee relationship, those working in the informal sector and the self-employed.
- 4.3 This Code, however, does not impose any legal obligation in addition to those in the Employment Equity Act and Labour Relations Act, or in any other legislation referred to in the Code. Failure to observe it does not, by itself, render an employer liable in any proceedings, except where the Code refers to obligations set out in law.
- 4.4 The Code should be read in conjunction with other codes of good practice that may be issued by the Minister of Labour.

5. LEGAL FRAMEWORK

- 5.1 The Code should be read in conjunction with the Constitution of South Africa Act, No 108 of 1996, and all relevant Legislation which includes the following:
 - (i) Employment Equity Act, No 55 of 1998;
 - (ii) Labour Relations Act, No 66 of 1995;
 - (iii) Occupational Health and Safety Act, No 95 of 1993.



- (iii) Occupational Health and Safety Act, No 85 of 1993;
- (iv) Mine Health and Safety Act, No 29 of 1996;
- (v) Compensation for Occupational Injuries and Diseases Act, No 130 of 1993;
- (vi) Basic Conditions of Employment Act, No 75 of 1997; and
- (vii) Medical Schemes Act, No 131 of 1998.
- (viii) Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000.

5.2 The contents of this code should be taken into account when developing, implementing or reviewing any workplace policies or programmes in terms of the statutes listed above.

5.3 The following are selected, relevant sections contained in certain of the above-mentioned legislation. These should be read in conjunction with other legislative provisions.

5.3.1 The Code is issued in terms of Section 54(1) of the Employment Equity Act, No 55 of 1998 and is based on the principle that no person may be unfairly discriminated against on the basis of their HIV status. In order to assist employers and employees to apply this principle consistently in the workplace, the Code makes reference to other pieces of legislation.

5.3.2 Section 6(1) of the Employment Equity Act provides that no person may unfairly discriminate against an employee, or an applicant for employment, in any employment policy or practice, on the basis of his or her HIV status. In any legal proceedings in which it is alleged that any employer has discriminated unfairly, the employer must prove that any discrimination or differentiation was fair.

5.3.3 No employee, or applicant for employment, may be required by their employer to undergo an HIV test in order to ascertain their HIV status. HIV testing by or on behalf of an employer may only take place where the Labour Court has declared such testing to be justifiable in accordance with Section 7(2) of the Employment Equity Act.

5.3.4 In accordance with Section 187(1)(f) of the Labour Relations Act, No 66 of 1995, an employee with HIV/AIDS may not be dismissed simply because he or she is HIV positive or has AIDS. However, where there are valid reasons related to their capacity to continue working and fair procedures have been followed, their services may be terminated in accordance with Section 188(1)(a)(i).

5.3.5 In terms of Section 8(1) of the Occupational Health and Safety Act, No 85 of 1993, an employer is



a safe workplace. This may include ensuring that the risk of occupational exposure to HIV is minimised.

5.3.6 Section 2(1) and Section 5(1) of the Mine Health and Safety Act, No 29 of 1996 provides that an employer is required to create, as far as is reasonably practicable, a safe workplace. This may include ensuring that the risk of occupational exposure to HIV is minimised.

5.3.7 An employee who is infected with HIV as a result of an occupational exposure to infected blood or bodily fluids, may apply for benefits in terms of Section 22(1) of the Compensation for Occupational Injuries and Diseases Act, No 130 of 1993.

5.3.8 In accordance with the Basic Conditions of Employment Act, No. 75 of 1997, every employer is obliged to ensure that all employees receive certain basic standards of employment, including a minimum number of days sick leave [Section 22(2)].

5.3.9 In accordance with Section 24(2)(e) of the Medical Schemes Act, No 131 of 1998, a registered medical aid scheme may not unfairly discriminate directly or indirectly against its members on the basis of their “state of health”. Further in terms of Section 67(1)(9), regulations may be drafted stipulating that all schemes must offer a minimum level of benefits to their members.

5.3.10 In accordance with both the common law and Section 14 of the Constitution of South Africa Act, No 108 of 1996, all persons with HIV or AIDS have a right to privacy, including privacy concerning their HIV or AIDS status. Accordingly there is no general legal duty on an employee to disclose his or her HIV status to their employer or to other employees.

6. PROMOTING A NON-DISCRIMINATORY WORK ENVIRONMENT

6.1 No person with HIV or AIDS shall be unfairly discriminated against within the employment relationship or

within any employment policies or practices, including with regard to:

- (i) recruitment procedures, advertising and selection criteria;
- (ii) appointments, and the appointment process, including job placement;
- (iii) job classification or grading;
- (iv) remuneration, employment benefits and terms and conditions of employment;



- (v) employee assistance programmes;
- (vi) job assignments;
- (vii) training and development;
- (viii) performance evaluation systems;
- (ix) promotion, transfer and demotion;
- (x) termination of services.

6.2 To promote a non-discrimination work environment based on the principle of equality, employers and trade unions should adopt appropriate measures to ensure that employees with HIV and AIDS are not unfairly discriminated against and are protected from victimisation through positive measures such as:

- (i) preventing unfair discrimination and stigmatisation of people living with HIV or AIDS through the development of HIV/ AIDS policies and programmes for the workplace;
- (ii) awareness, education and training on the rights of all persons with regard to HIV and AIDS;
- (iii) mechanisms to promote acceptance and openness around HIV/AIDS in the workplace;
- (iv) providing support for all employees infected or affected by HIV and AIDS; and
- (v) grievance procedures and disciplinary measures to deal with HIV-related complaints in the workplace.

7. HIV TESTING, CONFIDENTIALITY AND DISCLOSURE

7.1 HIV Testing

7.1.1 No employer may require an employee, or an applicant for employment, to undertake an HIV test in order to ascertain that employee's HIV status. As provided for in the Employment Equity Act, employers may approach the Labour Court to obtain authorization for testing.

7.1.2 Whether section 7(2) of the Employment Equity Act prevents an employer-provided health service supplying a test to an employee who requests a test, depends on whether the Labour Courts would accept that an employee can knowingly agree to waive the protection in the section. This issue has not yet been decided by the courts. [2]

7.1.3 In implementing the section below, it is recommended that parties take note of the position set out in item 7.1.2.



7.1.4 Authorised testing.

Employers must approach the Labour Court for authorisation in, amongst others, the following circumstances:

- (i) during an application for employment;
- (ii) as a condition of employment;
- (iii) during procedures related to termination of employment;
- (iv) as an eligibility requirement for training or staff development programmes; and
- (v) as an access requirement to obtain employee benefits.

7.1.5 Permissible testing

- (a) An employer may provide testing to an employee who has requested as test in the following circumstances:
 - (i) As part of a health care service provided in the workplace;
 - (ii) In the event of an occupational accident carrying a risk of exposure to blood or other body fluids;
 - (iii) For the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids.
- (b) Furthermore, such testing may only take place within the following defined conditions:
 - (i) At the initiative of an employee;
 - (ii) Within a health care worker and employee-patient relationship;
 - (iii) With informed consent and pre- and post-test counselling, as defined by the Department of Health's National Policy on Testing for HIV; and
 - (iv) With strict procedures relating to confidentiality of an employee's HIV status as described in clause 7.2 of this Code.

7.1.6 All testing, including both authorised and permissible testing, should be conducted in accordance with the Department of Health's National Policy on Testing for HIV issued in terms of the National Policy for Health Act, No 116 of 1990.



- 7.1.7 Informed consent means that the individual has been provided with information, understands it and based on this has agreed to undertake the HIV test. It implies that the individual understands what the test is, why it is necessary, the benefits, risks, alternatives and any possible social implications of the outcome.
- 7.1.8 Anonymous, unlinked surveillance or epidemiological HIV testing in the workplace may occur provided it is undertaken in accordance with ethical and legal principles regarding such research. [3] Where such research is done, the information obtained may not be used to unfairly discriminate against individuals or groups of persons. Testing will not be considered anonymous if there is a reason-
- 7.2.1 All persons with HIV or AIDS have the legal right to privacy. An employee is therefore not legally required to disclose his or her HIV status to their employer or to other employees.
- 7.2.2 Where an employee chooses to voluntarily disclose his or her HIV status to the employer or to other employees, this information may not be disclosed to others without the employee's express written consent. Where written consent is not possible, steps must be taken to confirm that the employee wishes to disclose his or her status.
- 7.2.3 Mechanisms should be created to encourage openness, acceptance and support for those employers and employees who voluntarily disclose their HIV status within the workplace, including:
- (i) encouraging persons openly living with HIV or AIDS to conduct or participate in education, prevention and awareness programmes;
 - (ii) encouraging the development of support groups for employees living with HIV or AIDS; and
 - (iii) ensuring that persons who are open about their HIV or AIDS status are not unfairly discriminated against or stigmatized.

8. PROMOTING A SAFE WORKPLACE

- 8.1 An employer is obliged to provide and maintain, as far as is reasonably practicable, a workplace that is safe and without risk to the health of its employees.
- 8.2 The risk of HIV transmission in the workplace is minimal. However, occupational accidents involving bodily fluids may occur, particularly in the health care professions. Every workplace should ensure that it complies with the provisions of the Occupational Health and Safety Act, including the Regulations on Hazardous Biological Agents, and the Mine Health and Safety Act, and that its policy deals with, amongst others:



particular workplace;

- (ii) appropriate training, awareness, education on the use of universal infection control measures so as to identify, deal with and reduce the risk of HIV transmission in the workplace;
- (iii) providing appropriate equipment and materials to protect employees from the risk of exposure to HIV;
- (iv) the steps that must be taken following an occupational accident including the appropriate management of occupational exposure to HIV and other blood borne pathogens, including access to post-exposure prophylaxis;
- (v) the procedures to be followed in applying for compensation for occupational infection;
- (vi) the reporting of all occupational accidents; and
- (vii) adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims are being met.

9. COMPENSATION FOR OCCUPATIONALLY ACQUIRED HIV

9.1 An employee may be compensated if he or she becomes infected with HIV as a result of an occupational accident, in terms of the Compensation of Occupational Injuries and Diseases Act.

Employers should take reasonable steps to assist employees with the application for benefits including:

- (i) providing information to affected employees on the procedures that will need to be followed in order to qualify for a compensation claim; and
- (ii) assisting with the collection of information which will assist with proving that the employees were occupationally exposed to HIV infected blood.

9.2 Occupational exposure should be dealt with in terms of the Compensation for Occupational Injuries and Diseases Act. Employers should ensure that they comply with the provisions of this Act and any procedure or guideline issued in terms thereof.



11.2 Where an employee has become too ill to perform their current work, an employer is obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employee's services, as set out in the Code of Good Practice on Dismissal contained in Schedule 8 of the Labour Relations Act.

11.3 The employer should ensure that as far as possible, the employee's right to confidentiality regarding his or her HIV status is maintained during any incapacity proceedings. An employee cannot be compelled to undergo an HIV test or to disclose his or her HIV status as part of such proceedings unless the Labour Court authorised such a test.

12. GRIEVANCE PROCEDURES

12.1 Employers should ensure that the rights of employees with regard to HIV/AIDS, and the remedies available to them in the event of a breach of such rights become integrated into existing grievance procedures.

12.2 Employers should create awareness and understanding of the grievance procedures and how employees can utilise them.

12.3 Employers should develop special measures to ensure the confidentiality of the complainant during such proceedings, including ensuring that such proceedings are held in private.

13. MANAGEMENT OF HIV IN THE WORKPLACE

13.1 The effective management of HIV/AIDS in the workplace requires an integrated strategy that includes, amongst others, the following elements:

13.1.1 An understanding and assessment of the impact of HIV/AIDS on the workplace; and

13.1.2 Long and short term measures to deal with and reduce this impact, including:

(i) An HIV/AIDS Policy for the workplace

(ii) HIV/AIDS Programmes, which would incorporate:

(a) Ongoing sustained prevention of the spread of HIV among employees and their communities;

(b) Management of employees with HIV so that they are able to work productively for as long as possible; and



as possible; and

- (c) Strategies to deal with the direct and indirect costs of HIV/AIDS in the workplace.

14. ASSESSING THE IMPACT OF HIV/AIDS ON THE WORKPLACE

14.1 Employers and trade unions should develop appropriate strategies to understand, assess and respond to the impact of HIV/AIDS in their particular workplace and sector. This should be done in co-operation with sectoral, local, provincial and national initiatives by government, civil society and non-governmental organisations.

14.2 Broadly, impact assessments should include:

- (i) Risk profiles; and
- (ii) Assessment of the direct and indirect costs of HIV/AIDS.

14.3 Risk profiles may include an assessment of the following:

- (i) The vulnerability of individual employees or categories of employees to HIV infection.
- (ii) The nature and operations of the organisation and how these may increase susceptibility to HIV infection (e.g. migrancy or hostel dwellings).
- (iii) A profile of the communities from which the organisation draws its employees.
- (iv) A profile of the communities surrounding the organisation's place of operation.
- (v) An assessment of the impact of HIV/AIDS upon their target markets and client base.

14.4 The assessments should also consider the impact that the HIV/AIDS epidemic may have on:

- (i) Direct costs such as costs to employee benefits, medical costs and increased costs related to staff turnover such as training and recruitment costs and the costs of implementing an HIV/AIDS programme.
- (ii) Indirect costs such as costs incurred as a result of increased absenteeism, employee morbidity, loss of productivity, a general decline in workplace morale and possible workplace disruption.

14.5 The cost effectiveness of any HIV/AIDS interventions should also be measured as part of an impact assessment.



PLACE

15.1 A Workplace HIV/AIDS Policy

15.1.1 Every workplace should develop an HIV/AIDS policy [4], in order to ensure that employees affected by HIV/AIDS are not unfairly discriminated against in employment policies and practices. This policy should cover:

- (i) The organisation's position on HIV/AIDS.
- (ii) An outline of the HIV/AIDS programme.
- (iii) Details on employment policies (e.g. position regarding HIV testing, employee benefits, performance management and procedures to be followed to determine medical incapacity and dismissal).
- (iv) Express standards of behaviour expected of employers and employees and appropriate measures to deal with deviations from these standards.
- (v) Grievance procedures in line with item 12 of this Code.
- (vi) Set out the means of communication within the organisation on HIV/AIDS issues.
- (vii) Details of employee assistance available to persons affected by HIV/AIDS.
- (viii) Details of implementation and co-ordination responsibilities.
- (ix) Monitoring and evaluation mechanisms.

15.1.2 All policies should be developed in consultation with key stakeholders within the workplace including trade unions, employee representatives, occupational health staff and the human resources department.

15.1.3 The policy should reflect the nature and needs of the particular workplace.

15.1.4 Policy development and implementation is a dynamic process, so the workplace policy should be:

- (i) communicated to all concerned;
- (ii) routinely reviewed in light of epidemiological and scientific information; and
- (iii) monitored for its successful implementation and evaluated for its effectiveness.

15.2 Developing Workplace HIV/AIDS Programmes

15.2.1 It is recommended that every workplace works towards developing and implementing a workplace HIV/AIDS programme aimed at preventing new infections, providing care and support for employees who are infected or affected and managing the impact of the epidemic in the organisation.

15.2.2 The nature and extent of a workplace programme should



be guided by the needs and capacity of each individual workplace. However, it is recommended that every workplace programme should attempt to address the following in co-operation with the sectoral, local, provincial and national initiatives:

- (i) hold regular HIV/AIDS awareness programmes;
- (ii) encourage voluntary testing;
- (iii) conduct education and training on HIV/AIDS;
- (iv) promote condom distribution and use;
- (v) identify employees affected by HIV/AIDS;
- (vi) provide access to counselling and other forms of social support for people affected by HIV/AIDS;
- (vii) maximise the performance of affected employees through reasonable accommodation, such as investigations into alternative sick leave allocation;
- (viii) develop strategies to address direct and indirect costs associated with HIV/AIDS in the workplace, as outlined under item 14.4.
- (ix) regularly monitor, evaluate and review the programme.

15.2.3 Employers should take all reasonable steps to assist employees with referrals to appropriate health, welfare and psycho-social facilities within the community, if such services are not provided at the workplace.

16 INFORMATION AND EDUCATION

- 16.1 The Department of Labour should ensure that copies of this Code are available and accessible.
- 16.2 Employers and employer organisations should include the Code in their orientation, education and training programmes of employees.
- 16.3 Trade unions should include the Code in their education and training programmes of shop stewards and employees.



FOOTNOTES:

- [1] The Code will be accompanied by *Technical Assistance Guidelines on Managing HIV/AIDS in the workplace*. It is envisaged that these will be developed in the second half of 2000 and published during 2001. The guidelines will provide more detail on the implementation of potential policies and programmes to address these impacts, including strategies to accommodate the needs of small businesses and the informal sector.
- [2] The Employment Equity Act does not make it a criminal offence for an employer to conduct a test in violation of section 7(2). However, an employee who alleges that his or her right not to be tested has been violated, may refer a dispute to the CCMA for conciliation, and if this does not resolve the dispute, to the Labour Court for determination.
- [3] See amongst others the Department of Health's National Policy for Testing for HIV and the Biological Hazardous Agents Regulations.
- [4] This policy could either be a specific policy on HIV/AIDS, or could be incorporated in a policy on life threatening illness.

GLOSSARY

Affected Employee	An employee who is affected in any way by HIV/AIDS e.g. if they have a partner or a family member who is HIV positive.
AIDS	Aids is the acronym for "acquired immune deficiency syndrome". AIDS is the clinical definition given to the onset of certain life-threatening infections in persons whose immune systems have ceased to function properly as a result of infection with HIV.
Epidemiological	The study of disease patterns, causes, distribution and mechanisms of control in society.
HIV	HIV is the acronym for "human immuno deficiency virus". HIV is a virus which attacks and may ultimately destroy the body's natural immune system.
HIV testing	Taking a medical test to determine a person's HIV status. This may include written or verbal questions inquiring about previous HIV tests; questions related to the assessment of 'risk behaviour' (for example questions regarding sexual practices, the number of sexual partners or sexual orientation); and any other indirect methods designed to ascertain an employee's or job applicant's HIV status.
HIV positive	Having tested positive for HIV infection.
Infected employee	An employee who has tested positive for HIV or who has been diagnosed as having HIV/AIDS
Informed consent	A process of obtaining consent from a patient which ensures that the person fully understands the nature and implications of the test before giving his or her agreement to it.



Policy	A document setting out an organisation's position on a particular issue.
Pre and post test counselling	A process of counselling which facilitates an understanding of the nature and purpose of the HIV test. It examines what advantages and disadvantages the test holds for the person and the influence the result, positive or negative, will have on them..
Reasonable Accommodation	Means 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.
STDs	Acronym for "sexually transmitted diseases". These are infections passed from one person to another during sexual intercourse, including syphilis, gonorrhoea and HIV.
Surveillance Testing	This is anonymous, unlinked testing which is done in order to determine the incidence and prevalence of disease within a particular community or group to provide information to control, prevent and manage the disease.



APPENDIX B

SOUTH AFRICAN DEVELOPMENT
COMMUNITY (SADC) CODE ON
HIV/AIDS AND EMPLOYMENT

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The Southern African Development Community (SADC) was established by a Treaty signed by 10 Southern African countries in 1992. SADC is an inter-governmental partnership – like the European Union (EU) or the Association of South East Asian Nations (ASEAN). It is attempting to “achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration.” (SADC Treaty, Article 5). In 1998 its members are: Angola; Botswana; Democratic Republic of Congo; Lesotho; Malawi; Mauritius; Mozambique; Namibia; South Africa; Seychelles; Swaziland; Tanzania; Zambia; Zimbabwe.

In 1994 a process was started by a group of NGO’s and trade unions in South Africa and Zimbabwe to try and persuade SADC to develop a regional “Code of Best Practice around AIDS and Employment”. In 1997 the Code that is reprinted in this pamphlet was adopted by the SADC Council. It is now an official policy of the region and it is recommended that SADC’s 14 member states find ways to incorporate the Code’s provisions into legislation.

The SADC region is severely affected by the AIDS epidemic. The purpose of the Code is to guide states on the most effective and humane ways to respond to issues of HIV and AIDS in the workplace.



CODE ON HIV/AIDS AND EMPLOYMENT IN SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

GENERAL STATEMENT

Human Immunodeficiency 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 industrial relations standards on HIV/AIDS, the “Code on AIDS and Employment” (“the code”). It should be noted that the provisions of this code apply 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.

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 members 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 patient 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:

- (a) Cover all employees and prospective employees.
- (b) Cover all workplaces and contracts of employment.



- (c) 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:

- (a) communicated to all concerned.
- (b) routinely reviewed in the light of epidemiological and scientific information.
- (c) monitored for its successful implementation and evaluated for its effectiveness.

POLICY COMPONENTS

1. EDUCATION, AWARENESS AND PREVENTION PROGRAMMES

1.1 Information, education and prevention programmes should be developed jointly by employers and employees and should be accessible to all in the workplace. Education on HIV/AIDS should, where possible, incorporate employees' families.

1.2 Essential components of prevention programmes are information provision, education, prevention and management of STD's, condom promotion and distribution and counselling on high risk behaviour. Workplace AIDS programmes should co-operate 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

3.1 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 the informed consent of the employee in accordance with normal medical ethical rules and with pre- and post-test counseling.



- 3.2 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 his/her HIV/AIDS status. Information regarding the HIV status of an employee should not be disclosed without the employee's written consent.
- 3.3 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 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

- 6.1 No employee should be dismissed merely on the basis of HIV status, nor should HIV status influence retrenchment procedures.
- 6.2 Employees with HIV related illness should have access to medical treatment and should be entitled, without discrimination, to agreed existing sick leave provisions.
- 6.3 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 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

- 7.1 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.



- 7.2 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.
 - 7.3 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.
 - 7.4 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 in intended changes to the structure, benefits and premiums to these funds.
8. RISK MANAGEMENT, FIRST AID AND COMPENSATION
- 8.1 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.
 - 8.2 Employees who contract HIV infection during the course of their employment should follow standard compensation procedures and receive standard compensation benefits.
 - 8.3 Under conditions where people move for work, government and organisations should lift restrictions to enable them to move with their families and dependents.
 - 8.4 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 AGAINST VICTIMISATION
- 9.1 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.
 - 9.2 Where employers and employees agree that there has been adequate information and education and provision 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 effective response to the regional 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.



ANNEXURE B

HIV/ AIDS TRAINING FRAMEWORK

1. Basic info on HIV/ Aids
 - What is HIV/ Aids
 - History and background of HIV/ Aids
 - Transmission
 - Symptoms and diseases

2. Prevention
 - Skills, attitudes and values regarding behaviour change
 - Sexuality and culture patterns
 - Handling blood and blood products including universal precautions
 - Contraception and condom usage

3. Management of HIV/ Infection
 - Diagnosis, methods of testing and kinds of testing
 - Nutrition, stress management, psychosocial intervention, exercise
 - Anti-retroviral drugs and prophylaxis
 - Breastfeeding and HIV



4. Legal and ethical issues

- Testing and confidentiality
- Right to medical treatment
- The right not to be discriminated against
- Right to be educated about HIV/ Aids, Policy and legislation
- Workplace issues, re. HIV/ Aids

5. Care and support for affected / infected

- Basic counselling skills (pre and post test)
- Spiritual emotional and bereavement counselling
- Performance related counselling regarding HIV/ Aids
- Infection management

6. Home-based care

- Basic nursing principles
- Hospice
- Networking in the community



