



REPUBLIC OF KENYA

MINISTRY OF WATER AND SANITATION



WORKPLACE POLICY

ON

HIV AND AIDS

Final Draft December, 2019

Table of Content

GLOSSARY OF TERMS AND CONCEPTS	5
ACRONYMS AND ABBREVIATIONS	8
1.0 INTRODUCTION.....	12
1.1 Ministry of Water and Sanitation.....	12
1.2 Background.....	12
1.3 Rationale	13
1.4 Policy goal	13
1.5 Policy Objectives	13
1.6 Scope of Application.....	14
2.0 LEGAL AND REGULATORY FRAMEWORK.....	15
2.1 The Constitution of Kenya 2010.....	15
2.2 Public Service Commission Act 2017	16
2.3 HIV and AIDS Prevention and Control Act (2006).....	16
2.4 Counsellors and psychologists Act (2014).....	17
2.5 Persons with Disability Act; CAP 133 revised edition 2012(2003).....	17
2.6 National Labour Laws and Regulations.....	17
2.7 Human Resource Policies and Procedures Manual for the Public Service (2016)	18
3.0 GUIDING PRINCIPLES	20
3.1 Recognition of HIV and AIDS as a workplace issue.....	20
3.2 Non-Discrimination	20
3.3 Gender Responsiveness.....	20
3.4 Safe and Healthy Work Environment	20
3.5 Social Dialogue.....	21
3.6 HIV Testing or Screening for purpose of Employment	21
3.7 Fair Labour Practices	21
3.8 Confidentiality	21
3.9 Prevention of New HIV Infections	21
3.10 Treatment, Care and Support for Employees Living with HIV	22
3.11 Strategic Partnerships.....	22
4.1 Recruitment and Promotion	23

4.2 Sick Leave.....	23
4.3 Working Hours.....	23
4.4 Guidance and Counselling Services.....	23
4.5 Termination of Employment.....	24
4.6 Medical Benefits	24
4.7 Deployment and Transfers.....	24
4.8 Relief Services	24
4.9 Housing and Accommodation.....	24
4.10 Training and Development.....	24
4.11 Sexual Harassment, Abuse and Exploitation	25
4.12 Gender Responsiveness	25
4.14 Retirement on Medical Grounds.....	25
4.15 Terminal Benefits.....	25
4.17 Stigma, Discrimination and Rights	26
4.18 Grievances, Concerns, and Recourse.....	26
5.0 INTERVENTIONS FOR PREVENTION OF HIV AND AIDS.....	27
6.0 FUNCTIONS, ROLES AND RESPONSIBILITIES	29
6.1 The Role of Cabinet Secretary(CS)	29
6.2 The Role of Principal Secretary(PS).....	29
6.3 The Role of Directorate of Public Service Management (DPSM).....	29
6.4 National AIDS Control Council(NACC).....	30
6.5 Directors/Managers.....	30
6.6 The Role of ACU.....	30
6.7 Responsibility of Ministry’s staff	31
6.8 The Responsibility of stakeholders.....	32
7.0 MINIMUM INTERNAL REQUIREMENTS.....	33
8.0 POLICY IMPLEMENTATION AND INSTITUTIONALFRAMEWORK.....	35
9.0 POLICY PLANNING, RESOURCE MOBILIZATION AND FINANCING	36
10.0 MONITORING, EVALUATION, RESEARCH AND REPORTING	37
11.0 POLICY REVIEW AND DEVELOPMENT.....	38

GLOSSARY OF TERMS AND CONCEPTS

Affected	A person who is feeling the impact of HIV and AIDS through sickness or loss of relatives, friends or colleagues.
AIDS	Acquired Immune Deficiency Syndrome.
Care	Promotion of a person's well-being through medical, physical, psychosocial, spiritual and other means.
Comprehensive Care	A range of services offered to HIV positive persons including treatment and clinical, physical, nutritional and psychosocial support.
Counselling	A session where a person with difficulties is assisted to think through the problem and find a possible solution.
Confidentiality	The right of every person, employee or job applicant to have his/her medical or other information, including HIV status kept secret.
Employee	Any person under employment by the Ministry of Water and Sanitation
Employer	Ministry of Water and Sanitation
Evaluation	The assessment of the impact of a programme at a particular point in time.
Discrimination	Treating others differently or denying them their rights based on their HIV status.
Head of ACU	A person who is charged with coordinating ACU activities.

HIV	Human Immunodeficiency Virus: a virus that weakens the body's immune system, ultimately causing AIDS.
HIV Testing and Counselling	A process that enables people to willingly undergo a medical test to know their sero-status to help them plan their lives and make informed decisions.
Infected	A person who is living with the virus that causes AIDS.
Maisha	A slogan used to refer to the prevention and management of HIV and AIDS in Kenya.
Maisha Certification System	A compliance and accountability mechanism for delivery of the Maisha Performance Contract targets for the Ministries, Counties, Departments and Agencies
Manager	A person who is in charge of staff and other resources
Meaningful Evidence	Tailor made HIV and AIDS programmes resulting from HIV surveys and research and accountability mechanism for delivery of the Maisha Performance Contract targets for the Ministries, Counties, Departments and Agencies
Epidemic	An epidemic occurring simultaneously over a wide area and affecting many people.
Policy	A statement setting out a department's or organization's position on a Particular issue.
Positive Living	Self-acceptance of one's HIV + status and adopting positive behaviour Change that enhances quality of life.
Post Exposure Prophylaxis	Immediate treatment given to a person who is presumed to have been exposed to HIV.

Prevalence of HIV	The number of people with HIV at a particular Point in time, often expressed as a percentage of the Total population.
Prevention	A programme designed to combat HIV infection and transmission.
Psychosocial Support	Psychological and social services that are provided to help a person cope with difficult situations and challenges.
Reasonable Accommodation	Necessary adjustments in duties on the account of one's HIV status
Sexual Harassment	The act of persistently making unwelcome sexual advances or requests against the wishes of a person.
Support	Services and assistance that are provided to help a person cope with difficult situations and challenges.
Treatment	A medical term describing the steps taken to manage an illness.
Workplace	Occupational settings, stations and places where workers spend time for gainful employment.
Workplace Programme	An intervention to address a specific issue within the workplace.

ACRONYMS AND ABBREVIATIONS

ACU	Aids Control Unit
ADA	Alcohol and Drugs Abuse
AIDS	Acquired Immune Deficiency Syndrome
BCC	Behaviour Change Communication
CS	Cabinet Secretary
GIPA	Greater Involvement of People Living with HIV/AIDS
HAPC	HIV and AIDS Prevention and Control
HBCT	Home Based Counselling and Testing
HIV	Human Immunodeficiency Virus
HOD	Head of Department
IEC	Information, Education and Communication
ILO	International Labour Organization
KNASP	Kenya National AIDS Strategic Plan
KYEP	Kenya Youth Empowerment Programme
LSO	Local Service Order
LPO	Local Purchase Order
MIR	Minimum Internal Requirements
MTEF	Medium Term Expenditure Framework
NACC	National AIDS Control Council
OVC	Orphans and Vulnerable Children
PEP	Post Exposure Prophylaxis
PCC	Public Complaints Committee
PLWHIV	People Living with HIV
PMTCT	Prevention of Mother to Child Transmission
PS	Principal Secretary
STIs	Sexually Transmitted Infections
TOWA	Total War against Aids
TOR	Terms of Reference
VCT	Voluntary Counselling and Testing
VMMC	Voluntary Medical Male Circumcision

FOREWORD

HIV and AIDS poses great challenges in the world affecting the human resource that nations rely on for sustainable development. It affects people mainly in their prime ages, between 15 and 49 years, who constitute the most productive workforce. The loss of skilled manpower, wasted man hours and declining individual wellness amongst other socio-economic challenges has an enormous impact on the national and organizational productivity.

The Ministry has a great role in the realization of the country's achieving the Presidential pledge "The Big Four", Vision 2030, and combating of the HIV AIDS epidemic under sustainable Development Goals Goal No.3,. It is against this backdrop that the Ministry seeks to address Human Resource issues that arise from HIV and AIDS such as prevention, Stigma, discrimination and Gender Disparities through this Policy. The Policy engenders safe and healthy work environment and fair labour practices.

This policy has been developed in recognition of various legal and regulatory instruments designed to combat the HIV & AIDS epidemic nationally and globally. These include the Constitution of Kenya 2010, the Sexual Offences Act 2006, the HIV & AIDS Prevention and Control Act 2006, Employment Act 2007, Public Service Commission Act Cap.185, Human Resource Management Policy and Procedures Manual 2016 and the Occupational Safety and Health Act of 2007 as well as the International Labour Organization (ILO) Code of Practice on HIV and AIDS.

The purpose of this policy is to provide a framework for mainstreaming HIV and AIDS in the ministry. It strives to address problems that arise within the workplace and also outlines employee's rights, responsibilities and expected behaviour. HIV and AIDS is one of the components in the ministry's performance contracting. Consequently, targets relating to aspects of HIV and AIDS have been incorporated in the performance objectives of the ministry. The strategies outlined in this policy aim to minimize and mitigate the effects of the epidemic in the Ministry so as to provide greater efficiency in service delivery.

Hon. Simon K. Chelugui,
Cabinet Secretary,

MINISTRY OF WATER AND SANITATION

ACKNOWLEDGEMENT

This policy is an affirmation of The Ministry of Water and Sanitation commitment to intensify its response to HIV and AIDS. The ultimate goal of this policy is to have a healthy, productive and cost effective workforce that will provide adequate and quality services

The Policy has been developed through a participatory and consultative process. I wish to commend the Ministerial Aids Control Unit committee members and the stakeholders for their effort and commitment in the development of this policy.

Lastly, I would like to acknowledge with gratitude the contribution and support of the Principal Secretary, the National AIDs Control Council (NACC), Directorate of Public Service Management (DPSM) and the Water, Environment and Natural Resources ACU Sector towards the development and production of this policy

Winnie Guchu
Chief Administrative Secretary
MINISTRY OF WATER AND SANITATION

PREFACE

Since the first case of HIV and AIDS was diagnosed, the country has witnessed enormous devastation and erosion of socio-economic gains that have taken years to achieve. Like other public and private organizations, service delivery at the Ministry of Water and Sanitation has also suffered from the effects of the epidemic.

The Policy is majorly informed by the Public Sector Workplace Policy on HIV and AIDS 2010. It is also informed by the Kenya National AIDS Strategic Plan (KNASP) and the Education Sector Policy on HIV and AIDS. By implementing this policy, THE Ministry of Water and Sanitation will have substantially mitigated the impact of HIV and AIDS at the workplace.

The policy developed herein will be a handy reference to handle the challenges that are brought by the effects of HIV and AIDS and related issues within the occupational settings in the Ministry. It will guide in the development of workplace programmes to facilitate effective and planned response to the management and prevention of HIV and AIDS. Further, the policy is a re-affirmation of the Ministry's commitment to intensify its campaign against the spread of HIV.

This policy envisages a safe and healthy work environment and fair labour practices. In addition, it lays down the institutional framework for implementation, monitoring and evaluation. It focuses on improving productivity, reducing stigma and discrimination as well as enhancing the quality of lives of employees. Ultimately, a healthy workforce will result to better provision of services to the citizens.

This policy will be reviewed occasionally to guarantee its relevance to the needs of the Ministry and the national goals regarding HIV and AIDS interventions. Institutions under the Ministry are expected to mainstream this policy and align it to their specific mandates and programmes. By implementing this policy, the Ministry will minimize the impact of the epidemic within its workforce.

Joseph Irungu, CBS,
Principal Secretary,
MINISTRY OF WATER AND SANITATION

CHAPTER ONE

1.0 INTRODUCTION

1.1 Ministry of Water and Sanitation

The Ministry of Water and Sanitation (MWS) was established by the “Organization of the Government, Executive Order No. 1 of 2018 issued in June, 2018 by the presidency.

The Ministry is guided by key policies as provided by the Kenya Vision 2030, the Third Medium Term Plan (MTP III) 2018-2022 and Big Four Agenda Plan, Constitution of Kenya 2010, Sustainable Development Goals (SDGs) and Agenda 2063. These policies emphasize the need for efficiency and better management in the utilization of natural resources to enable the government achieve its strategic goals of economic growth, poverty reduction and social stability.

The Ministry is committed to formulation of policies, legal and regulatory frameworks for promoting sustainability in water resources management, improvement of water services and sanitation while at the same time mitigating and adapting to the effects of climate change. However, the Ministry faces a huge task in ensuring that it continues to increasingly support and contribute to the country’s socio-economic development and at the same time meet the national obligations within the Kenya Vision 2030 Policy.

The present structure of the Ministry provides for Cabinet Secretary who is responsible for the overall policy direction and supervision of the Ministry; principal advisor to the President and the National Assembly on matters relating to policy as well as coordination of overall governance and programmes to meet the objectives of the Ministry. The Ministry has a Principal Secretary who has the primary responsibility for policy, finance and general administration of the Ministry. The Ministry also has a Chief Administrative Secretary who assists the Cabinet Secretary in the day to day management of the Ministry’s affairs. The mandate of the Ministry is Management and Development of Water Resources, Water and Sanitation Services. This mandate of the Ministry is vested in the Headquarters and Sixteen (16) Water Sector Institutions (WSIs).

The full details of the mandate of the Ministry are outlined in the Executive Order. These are: Water Resources Management Policy, Water Catchment Area Conservation, Control and Protection, Water and Sewerage Services Management Policy, Waste water treatment and disposal policy, Water Quality and Pollution Control, Sanitation Management, Management of public water schemes and community water projects, Domestic water storage and development, Land Reclamation/dam and dykes and Water storage and flood control

1.2 Background

The HIV and AIDS epidemic is a national disaster and constitutes one of the most formidable challenges to development and social-economic progress. The epidemic has adversely affected national development by destabilizing families.

The mission of the Ministry of Water and Sanitation (MWS) is to facilitate good governance in the protection, restoration, conservation, development and management of water resources for equitable and sustainable development. The achievement of this mission is threatened by the epidemic since HIV affects the human resource which is the backbone of the Ministry. As a result of the negative impact of HIV and AIDS in the workplace, MWS, has the obligation to provide a policy framework for the prevention, treatment, care and support of the infected and affected members of staff and their families

This policy addresses the challenges posed by the epidemic and defines strategies to mitigate its impact. It aims at providing guidance in the management of employees who are infected and affected by HIV and AIDS, and prevention of further infections. The policy also defines Ministry's position and practices in response to HIV and AIDS. In addition, it provides institutional framework for its implementation.

1.3 Rationale

In the Public Service HIV and AIDS has led to high staff turnover, high costs in training and replacement, high health care and employee welfare costs including funeral expenses HIV imposes huge costs on enterprises in the Ministry through declining productivity and earnings, increasing labour costs and loss of skills and experience. The nature of the work of water professionals calls for them work in the remote areas exposes them to the effects of HIV and AIDS. It is against this background that the Ministry developed this workplace Policy on HIV and AIDS as a response to the Government recommendations through the Public Sector Workplace Policy on HIV and AIDS, Revised 2017 which requires MCDAs to develop HIV and AIDS Policies in their workplaces. To this end the Ministry's HIV and AIDS Policy is the starting point for the management of HIV and AIDS in the workplace.

1.4 Policy goal

This policy provides guidelines and sets standards for addressing HIV and AIDS and related issues in the Ministry and her Stakeholders.

1.5 Policy Objectives

The main objective of this policy is to provide a framework to address HIV and AIDS in the Ministry. Specifically, this policy aims at:

- Forging Strategic public private partnerships for the management of HIV and AIDS in the Ministry;
- Mainstreaming HIV and AIDS in the Strategic Plan, Performance Contracts and annual work plans;
- Provide guidelines to the management and employees on their rights and obligations regarding HIV and AIDS and

- Mobilize, facilitate and ensure allocation of resources and their efficient utilization for HIV and AIDS programmes

1.6 Scope of Application

This policy sets standards for managing HIV and AIDS and it applies to all employees in the Ministry and her stakeholders

CHAPTER TWO

2.0 LEGAL AND REGULATORY FRAMEWORK

The policy recognizes and draws from many legal statutes which support HIV and AIDS interventions at the workplace, nationally and internationally. While not all are specific to HIV and AIDS, their interpretation and application create an enabling legal and regulatory environment for the desired impact on HIV and AIDS.

This policy is in compliance with the Constitution of Kenya (2010) Chapter 4 on the Bill of Rights, Article 27, HIV and AIDS Prevention and Control Act 14 of 2006 Part VIII, Section 31; the Sexual Offences Act (2006) Section 26; People with Disabilities Act (2003); Public Officers and Ethics Act (2003); Children and Young Peoples Act, Drugs and Substance Abuse Act; the ILO Code of Practice on HIV and AIDS and World of Work (2001).

This workplace policy on HIV and AIDS will be implemented within the framework of the Constitution of Kenya, the Public Sector HIV and AIDS Policy (revised 2010), the Kenya National AIDS Strategic Plan (KNASP III), the ACU Terms of Reference (TOR) and any other relevant legislation in place or to be enacted later. Such legal frameworks within which this policy will be implemented include, but are not limited to the following:

2.1 The Constitution of Kenya 2010

The Constitution of the Republic of Kenya is the supreme Law of Kenya and lays the foundation for all other national laws. It addresses matters relating to equality, freedom from discrimination and universal access to services as below:

- a) Chapter 4 on the Bill of Rights, Article 27 provides for equality before the law, right to equal protection and equal benefit. The state shall not discriminate directly or indirectly against any person on any grounds, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
- b) Article 31 and 43 provide for the right to privacy, confidentiality and the right to the highest attainable standard of health which includes the right to health care services.
- c) Article 6 (3) provides for national state organs to ensure reasonable access to its services in all parts of the Republic.

This implies that all employees in the Ministry shall be treated equally in accessing HIV related services, and have their rights respected and privacy and confidentiality observed.

2.2 Public Service Commission Act 2017

In line with the Public Service Commission Act 2017, Part IV on Appointment, Confirmation of Appointment and Transfers, Section 36 (1) In selecting candidates for appointment or promotions the Commission or other lawful appointing authority shall have regard to:

- (a) Merit, equity, aptitude and suitability;
- (b) The prescribed qualification for holding in the office;
- (c) The efficiency of the public service;
- (d) The provable experience and demonstrable milestones achieved by the candidate;
and
- (e) The personal integrity of the candidate.

These provisions imply that no employee of the Ministry shall be discriminated against on the basis of his/her actual or perceived HIV status.

2.3 HIV and AIDS Prevention and Control Act (2006)

This Act makes specific reference to HIV and AIDS in relation to provision of education and information at the workplace, discrimination, privacy, confidentiality, and human rights. Specifically the Act provides that:-

- a) Under sections 4 and 7, the employer shall promote employee awareness about the causes, means of transmission, consequences and means of prevention and control of HIV and AIDS through a comprehensive educational and information campaign ensure the provision of basic information and instructions on HIV prevention and control. Section 7 further notes that such information to be provided, shall cover issues of confidentiality and attitudes towards infected employees;
- b) Under section 13, no staff shall compel another to undergo an HIV test save where a person is charged with an offence of a sexual nature under the Sexual Offences Act (2006);
- c) Section 22 prohibits the disclosure of an HIV test result or any related assessment result of another person without his/her written consent; and

In Part VIII, the Act makes it an offence for any person to be discriminated against on the grounds of actual, perceived or suspected HIV status, in relation to employment,

access to education, credit, insurance, healthcare, travel, habitation or seeking public office.

The Ministry shall observe the provisions of this Act in mainstreaming HIV and AIDS.

2.4 Counsellors and psychologists Act (2014)

The Counsellors and Psychologists Act 2014 outlines the qualifications of a professional counselor and regulates the counseling practice in line with set standards and code of ethics. Under this provision, counselors providing counseling services to infected and affected HIV clients in the Ministry must meet the set standards.

2.5 Persons with Disability Act; CAP 133 revised edition 2012(2003)

The Disability Act Section 15(1) prohibits employers from discriminating against people with disability in terms of employment, determination of benefits, and training among others.

2.6 National Labour Laws and Regulations

These are in conformity with the International Labour Standards, ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), HIV and AIDS Recommendation, 2010 (No. 200) and other ILO Conventions to which Kenya is a signatory. These are as follows

(a) The Employment Act, 2007

The Employment Act sets out the minimum standards applicable for conditions of employment, relating to wages, leave, health and contracts of service including termination of the contract. Under this Act, no employer shall discriminate directly or indirectly against an employee on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status. The Ministry shall facilitate for proper healthcare for employees during serious illness on notification. The Act implies that there should be no discrimination on the grounds of HIV and AIDS status, and states in Section 46 (g) that HIV and AIDS does not constitute a fair reason for dismissal or for imposition of disciplinary penalty on an employee.

(b) The Labour Relations Act No. 14 (2007)

The Act protects the employee and prospective employee from discrimination based on their real or perceived HIV status (Part II Section 5a) ensuring equal rights to opportunities for the infected and affected in training, employment, promotions and other employment benefits.

(c) The Labour Institutions Act, No.12 (2007)

The Act provides for workplace interventions by appropriating the responsibility of providing these services on the employer while the employee is charged with the responsibility of accessing them (Part V Section 37a).

(d) Work Injury Benefits Act, No. 13 (2007)

Part VII of the Act, section 45 (1) provides for workplace equipment and service for first aid to employees in case of accidents. In Section 38 (i), it provides for compensation to employees for work related injuries and diseases contracted in the course of their employment. The interpretation of this section provides for Post-Exposure Prophylaxis (PEP) to those who, in line of duty, accidentally come into contact with potentially infectious HIV contaminated material and also sets grounds for reasonable compensation for those who get infected in this way.

(e) Occupational Safety and Health Act No 15 (2007)

The Act provides for the safety, health and welfare of public servants and all persons lawfully present at workplaces and for matters connected therewith. It charges the employers with ensuring a safe and healthy work environment by ensuring all health risks and their associated hazards are closely monitored and managed. Section 16 (1) prohibits persons from engaging in any improper activity or behaviour at the workplace, which might create or constitute a hazard to that person or any other person. The implication of this Act, with regard to HIV, is that the employer must ensure the safety of the workplace so that employees are not at risk of infection at the workplace. This is in recognition that HIV is a workplace occupational hazard.

(f) Alcoholic Drinks Control Act No. 4 of 2010, Revised Edition 2012

The Act addresses the harm reduction strategies related to alcohol and its role in HIV transmission and management. This is addressed in the Act in Part VIII on education and information (Section 65 – 67).

2.7 Human Resource Policies and Procedures Manual for the Public Service (2016)

The Human Resource Policies and Procedures Manual for the Public Service (2016):

- (a) Section B.5 states that recruitment will be undertaken on the basis of fair, competition and merit; representation of Kenyans diverse communities; adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.
- (b) Section B.22 (1) states that the Government shall promote equality of opportunity in employment and will not discriminate directly or indirectly against an employee on any grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion ,

conscience, belief, culture, dress, language or birth. The recruitment, selection, appointment, promotion and transfer of a public officer shall take into account only the merit, ability, seniority, experience and official qualifications of the candidate,

- (c) Section B.25 (1) Promotions in the Public Service will be based on qualification and other requirements for appointment as stipulated in the Career Guidelines.

These provisions imply that no employee of the Ministry shall be discriminated against on the basis of his/her actual or perceived HIV status in recruitment, employment, promotion, and transfer.

CHAPTER THREE

3.0 GUIDING PRINCIPLES

The Principles that guide this policy are in accordance with International conventions, national laws, policies, guidelines and regulations. These principles include:

3.1 Recognition of HIV and AIDS as a workplace issue

HIV and AIDS is a workplace issue and should be treated like any other serious illness/condition in the workplace. This is necessary because it affects the workplace which being part of the local community, has a role to play in the wider struggle to limit effects of the epidemic.

3.2 Non-Discrimination

There shall be no discrimination and/or stigmatisation of workers on the basis of real or perceived HIV status. Discrimination and stigmatisation of the infected and affected inhibits efforts aimed at promoting HIV prevention.

3.3 Gender Responsiveness

Gender dimensions of HIV and AIDS shall be recognised. Equal gender relations and empowerment is vital to the successful HIV and AIDS interventions.. Application of this Policy shall be responsive to their different and specific needs through gender sensitive, responsive and transformative HIV programmes targeting men, women, boys, and girls including promotion of equal gender relations and generation of gender disaggregated data.

Measures shall be taken in or through the Ministry to reduce the transmission of HIV and alleviate its impact by:

- a) Ensuring gender equality and the empowerment ; and
- b) Ensuring actions to prevent and prohibit sexual harassment, abuse, exploitation, and violence in the workplace.

Involvement in these vices shall be treated as gross misconduct and where proven, shall lead to disciplinary action as stipulated in existing Laws and Service regulations.

3.4 Safe and Healthy Work Environment

The work environment should be healthy, safe and adaptable to the state of health and capabilities of workers. All managers have a responsibility to minimize the risk of HIV transmission by taking the appropriate First Aid/Universal infection control precautions standards at the workplace.

3.5 Social Dialogue

A successful HIV and AIDS policy implementation requires co-operation, willingness and trust among employer, staff and stakeholders. This is cultivated through communication, open discussions, and dialogue and as such in the Ministry, efforts shall be made to promote dialogue, consultations, and negotiations on wellness and HIV related matters.

3.6 HIV Testing or Screening for purpose of Employment

HIV testing or screening shall not be a requirement for recruitment, appointment, continuation of employment or promotion and no employee shall be compelled to undergo an HIV test for any of the above. However, the Ministry will promote and facilitate access to HIV testing voluntarily for all employees in line with the HIV and AIDS Prevention and Control Act 2006.

3.7 Fair Labour Practices

Every person in the Ministry has the right to fair labour practices in terms of recruitment, appointment, and continued enjoyment of employment, promotion, training, and any other workplace benefits. Real or perceived HIV status shall not be a cause for termination of employment. All employees with HIV-related illness shall be allowed to work for as long as they are fit to , with reasonable flexibility if needed, to enable them to carry out the tasks of their job. When an individual's condition progresses and he/she becomes unable to perform their current job, alternative work arrangements shall be considered to allow them to remain in employment for as long as possible. The employee with AIDS can be encouraged to consider voluntary retirement for the employee's own benefit and the management shall observe all the procedural safeguards required in the circumstances in line with prevailing Service Regulations

3.8 Confidentiality

Access to personal data relating to a worker's HIV status shall be bound by the rules of confidentiality consistent with existing ILO code of practice on HIV and AIDS and the World of Work, the Counselling and Guidance Policy (2008), medical ethics, ILO Code of Practice on the Protection of Workers' Personal Data (1997), the Counseling Code Ethics and other relevant regulations

3.9 Prevention of New HIV Infections

HIV infection is preventable through awareness creation and information sharing on comprehensive HIV and AIDS knowledge and attitudes, behaviour change, prevention of SGBV , treatment and creation of a stigma-free and non-discriminatory environment. The Ministry shall put in place vibrant HIV prevention programmes targeting staff, their immediate family members and stakeholders in line with the Kenya AIDS Strategic

Framework (KASF) 2014/15-2018/19 and the Public Sector Workplace Policy on HIV and AIDS (2017).

3.10 Treatment, Care and Support for Employees Living with HIV

HIV prevention without treatment, care and support for staff and family members living with HIV is only partially effective. Positive dignity and health programmes and HIV treatment is a more holistic and effective approach in management. The Ministry shall facilitate employees' access to affordable treatment, care and support services and related Employees Assistance Programmes (EAPs) through prevailing provisions of medical insurance, referrals, psychosocial support, income generating activities and other viable options. Reasonable accommodation shall be accorded to staff living with HIV to enable them to adapt to their work environment.

3.11 Strategic Partnerships

The Ministry shall forge strategic partnerships, networking, bench-making and collaboration initiatives with relevant service providers and other actors for effective HIV and AIDS management and service delivery. The Ministry and water sector institutions shall be encouraged to benchmark outside the country on HIV through programmes coordinated by DPSM.

3.12 Meaningful Involvement of People Living with HIV and AIDS (MIPA)

The Ministry shall promote the involvement of People Living with HIV in decision making, formulation and implementation of this Policy and programmes in line with Greater Involvement of People Living with HIV and AIDS (GIPA) principles as spelt out in GIPA Guidelines. In addition, the Ministry shall implement positive health and dignity enhancement programmes and forge strategic partnerships with networks and communities of PLHIV in the implementation of this Policy.

CHAPTER FOUR

4.0 SPECIFIC POLICY PROVISIONS AND STRATEGIES

Human Resource is the most important factor in achieving the Ministry's mission to promote, conserve, protect and sustainably manage the Environment, Water and Natural Resources for national development. According to ILO, HIV and AIDS is a major threat to the world of work because it affects the most productive segment of the labour force. HIV is increasing labour cost, loss of skills and experience, high staff turnover, costs in training and replacement, health care and employee welfare costs including funeral expenses.

The Ministry shall in various ways support staff, who confidentially disclose their HIV status, with an aim of improving quality of life of the infected and affected and consequently improve productivity.

The policy addresses the following Human Resource Management issues as follows:

4.1 Recruitment and Promotion

Real or perceived HIV status shall not be used as a basis for discrimination in recruitment, appointment, deployment, promotion, continued employment, or pursuit of equal opportunities in the Ministry. However, while fulfilling the requirement that all newly appointed persons undergo a medical examination.

4.2 Sick Leave

Sick leave will be provided for as stipulated in the relevant service regulations. However, additional sick leave days will be decided by the employer on case-by-case basis as part of reasonable accommodation.

4.3 Working Hours

Official working hours will continue to apply for all, as stipulated in the relevant service regulations. However, a reasonable accommodation in the form of flexible working hours for employees infected or affected by HIV will be applied based on voluntary confidential disclosure. The employees' voluntary disclosure of HIV status will be kept strictly confidential.

4.4 Guidance and Counselling Services

The Government in recognition of psychological challenges facing public servants has provided the Public Service Guidance and Counselling Policy 2008 Revised 2017. The Ministry will ensure that it has a pool of skilled counsellors and peer educators trained from among the staff to provide counselling and referral services.

4.5 Termination of Employment

The policies and procedures pertaining to termination of services will apply to all employees. No employee shall be dismissed or have employment terminated based solely on perceived or actual HIV status.

4.6 Medical Benefits

The Government has established a comprehensive Medical Insurance cover to provide medical benefits for public servants, their spouses, and dependant children.

The normal provision of medical benefits will continue to apply to all Ministry staff. Ministry staff living with HIV shall enjoy the benefits of comprehensive medical insurance like any other staff.

4.7 Deployment and Transfers

The Ministry shall base deployments and transfers on the existing Government policies, codes, deployment and transfer practices of employees. In particular, the Ministry shall ensure that:

- Where possible, partners and spouses who are living with HIV and have disclosed, shall not be separated to minimise vulnerability and enhance support and care;
- Staff requiring access to family support or medical care due to HIV status are deployed appropriately; and
- Where fitness to work is impaired by HIV related illness, reasonable alternative working arrangements shall be made.

4.8 Relief Services

The Ministry shall introduce relief workforce programme to offer relief services in essential sections. Where an employee is temporarily unable to perform essential duties, reasonable alternatives through employee relief services shall be made on need basis.

4.9 Housing and Accommodation

The prevailing Government policy on housing will continue to apply. Suitable accommodation for employees requiring institutional housing will be provided, where applicable.

4.10 Training and Development

The Ministry will:

- Educate and sensitize all its employees on HIV and AIDS and related issues;
- Integrate HIV and related information in staff seminars and induction;
- Monitor and evaluate human resource dynamics so that there is adequate supply of appropriate skills and competencies to meet service delivery needs
- Ensure there is appropriate recognition of HIV and AIDS related training and development of career paths that encourage staff to work and remain in HIV and AIDS related fields; and

Ensure HIV and AIDS-related training is integrated in training plans and projections

4.11 Sexual Harassment, Abuse and Exploitation

There shall be no tolerance to sexual harassment, abuse and exploitation in the workplace. Involvement in these vices shall be treated as gross misconduct and where proven, shall lead to disciplinary action.

4.12 Gender Responsiveness

HIV and AIDS affects and impacts on women and men differently due to their biological, social, cultural and economic circumstances and as such this policy shall be gender responsive.

5.13 Occupational Safety and Health

The working environment should be safe and healthy. In order to prevent transmission of HIV at the workplace, safety and health measures to prevent employees exposure to HIV shall be observed. These include universal precautions, accident and hazard prevention measures, work practice controls, personal protective equipment, environmental control measures, post exposure prophylaxis, pre exposure prophylaxis and other safety measures to minimize the risk of contracting HIV. The Ministry shall take measures to ensure that prevention, safety and health are provided for in accordance with relevant standards. Concrete steps shall be taken to minimise occupational HIV infection, appropriate first-aid equipment will be readily available to deal with spilt blood or any other body fluids and staff shall be trained on safety steps to be taken following an accident. Occupational health and safety services and workplace mechanisms shall address HIV and AIDS. However, the presence of a Person Living with HIV shall not be considered a workplace hazard.

4.14 Retirement on Medical Grounds

HIV and AIDS is not a cause for termination of employment. As with many other illnesses, persons with HIV-related illnesses should be able to work as long as medically fit for available appropriate work or until declared unfit to work by a Medical Board. Where an employee is medically unfit to continue working, the Ministry will hasten the retirement process for the benefit of the employee and with due regard to the relevant service regulations.

4.15 Terminal Benefits

The service regulations on payment of terminal benefits shall continue to apply. The Ministry will facilitate speedy processing of terminal benefits and both the employer and employees shall ensure the next of kin records are updated regularly.

4.16 Testing, Confidentiality and Disclosure

The Ministry does not accept HIV testing as a prerequisite for recruitment, access to training and promotion. However, the Ministry will initiate, promote and facilitate access

to voluntary confidential HIV testing and counseling for all employees. All HIV Testing services(HTS) programmes shall be in line with the HIV and AIDS Prevention Act, 2006. HIV and AIDS is a complex and sensitive issue and disclosure of HIV status shall be on a voluntary basis. Such disclosure shall be handled in a discreet, private and confidential manner and in line with the prevailing legislation. However, employees shall be encouraged to be open about their HIV status and the ministry shall endeavour to create a work environment in which employees will feel safe to disclose their HIV status. The Ministry shall not take responsibility for personal disclosure to other members of the public and employees shall not draw unnecessary inferences on perceived or suspected HIV status of colleagues.

4.17 Stigma, Discrimination and Rights

The Ministry understands that stigma and discrimination undermines employees' welfare, safe healthy work environment and HIV prevention efforts, which depend on openness, trust and respect for basic rights. Employees Living with HIV shall be protected against stigma, discrimination, victimisation or harassment. It is an offence for any person to discriminate against another on the basis of actual, perceived or suspected HIV status. Employees shall not refuse to work or interact with fellow colleagues on basis of their actual, perceived or suspected HIV status and such refusal shall constitute misconduct. The Ministry regulations on disciplinary and grievance procedures shall apply equally to all employees except for where reasonable accommodation is required.

4.18 Grievances, Concerns, and Recourse

The Principal Secretary shall establish and maintain communication channels and fora for staff to raise grievances and concerns. Ministry's staff shall be sensitised on functions of the HIV Tribunal and encouraged to report cases of stigma and discrimination to the Tribunal.

CHAPTER FIVE

5.0 INTERVENTIONS FOR PREVENTION OF HIV AND AIDS

This section is aligned to the Maisha Performance Contract Guidelines for MCDAs and Maisha Certification System. The proposed interventions for Ministry HIV and AIDS include:

- a) Adoption and implementation of this workplace Policy on HIV and AIDS;
- b) Promotion of male and female condoms, distribution and training on use and disposal;
- c) Creation of comprehensive HIV and AIDS knowledge among employees, their immediate family members and clients including peer education and establishing functional HIV information shelf at the workplace. This will include education and training on the modes of HIV transmission, the use of condoms and on the importance of confidentiality and maintaining a stigma and discrimination free workplace to support a culture of HIV prevention;
- d) Conduct a periodic surveys on staff knowledge level on HIV and AIDS and implement the survey recommendations;
- e) Facilitation of employees, their immediate family members and clients to access HIV Testing Counselling services;
- f) Sensitization of staff and clients to reduce stigma and discrimination towards PLHIV;
- g) HIV treatment literacy and promotion of positive health and dignity at the workplace;
- h) Putting in place non-discriminatory workplace benefits such as comprehensive medical insurance cover for all employees;
- i) Referrals for facility based HIV services such as Pre Exposure Prophylaxis (PREP), Post Exposure Prophylaxis (PEP), Voluntary Medical Male Circumcision (VMMC), Antiretroviral therapy (ART), Prevention of Mother to Child Transmission of HIV(PMTCT) and HIV Testing and Counselling (HTC);
- j) Linkages for staff wellness and psycho-social assistance for HIV and AIDS, Gender Based Violence (GBV),Mental Health, Substance Use Disorders (SUDs), nutrition, physical exercise and other health related aspects including glucose, cholesterol, blood pressure and BMI checks;
- k) Putting in place non-discriminatory mechanisms on gender equality, empowerment of women & men and prohibition of Sexual and Gender Based Violence (SGBV) at the workplace;

- l) Utilization of corporate mandates to influence HIV and AIDS policies and programmes; and
- m) Creating Private Public Partnerships and Networking in Management of HIV and AIDS.

CHAPTER SIX

6.0 FUNCTIONS, ROLES AND RESPONSIBILITIES

The Cabinet Secretary and the Principal Secretary are responsible and accountable for implementing this Policy and development of appropriate HIV and AIDS programmes and practices in the workplace. They shall also take immediate and appropriate corrective action when provisions of this Policy are violated. Successful implementation of this Policy highly depends on high level support and strict adherence to the functions, roles and responsibilities below:

6.1 The Role of Cabinet Secretary(CS)

The CS shall:

- Provide policy direction

6.2 The Role of Principal Secretary(PS)

The PS shall:

- Constitute Ministry AIDS Control Committee in line with NACC guidelines;
- Mobilise and ensure adequate allocation of resources and , ring fence the funds
- Facilitate the development, approval, implementation and review of this HIV and AIDS workplace policy;
- Ensure HIV and AIDS workplace policy is integrated into the human resource policies programmes;
- Take immediate and appropriate corrective action when provisions of this Policy are violated.
- Put in place structures to facilitate the implementation of this Policy
- Advocate for HIV and AIDS issues in decision making at all levels; and
- Support partnerships with and across Ministries, development partners and stakeholders

6.3 The Role of Directorate of Public Service Management (DPSM)

The DPSM shall:

- Build capacity in implementation of this policy
- Monitor and evaluate the implementation of this policy

6.4 National AIDS Control Council(NACC)

The NACC shall:

- Develop Sectoral HIV mainstreaming reporting tool to be used to Monitor HIV and AIDS programmes.
- Receive HIV and AIDS quarterly reports submitted by the Principal Secretary.
- Conduct regular verification of data as contained in the Submitted quarterly reports.

6.5 Directors/Managers

The Heads of Departments (HODs) shall be responsible for and committed to responding to HIV and AIDS at the workplace. Further to this, the HODs shall:

- Support the implementation of this Policy including integration of its implementation in their relevant activities;
- Provide leadership as part of the national campaign to address HIV and AIDS;
- Be educated and informed about HIV and AIDS and continuously support the dissemination of information about HIV and AIDS to the staff under them; and
- Facilitate the development of the appropriate capacities to respond to HIV issues at the workplace.
- Aligning HIV and AIDS interventions programmes in the Ministry's strategic plan and other operational documents.

Encourage effective uptake of HIV prevention, treatment, care and support services for the staff under them.

6.6 The Role of ACU

The ACU shall be responsible to the PS for implementation of this policy. The functions of the ACU shall be to:

- Ensure that HIV and AIDS is mainstreamed into the core functions of the Ministry;
- Provide information necessary for planning and budgeting for HIV and AIDS programmes;
- Ensure that a work place policy on HIV and AIDS is developed, reviewed and implemented within the Ministry;

- Develop and adopt guidelines for the use of allocated resources for HIV and AIDS activities;
- Make proposals for resource mobilization to enhance HIV and AIDS Policy implementation;
- Make proposals for enhancing HIV and AIDS policy;
- Develop and implement a costed Work plan for HIV and AIDS activities;
- Conduct periodical surveys and present results for use by the Ministry;
- Liaise with NACC, DPSM, other ACUs and stakeholders for best practices sharing and implementation;
- Introduce new services or models of service delivery to deal with the dynamics of HIV and AIDS;
- Advocate for legislation to protect the infected and affected from discrimination and encourage effective roles in prevention and care by all relevant stakeholders;
- Develop and disseminate Information, Education and Communication (IEC) materials;
- Encourage effective uptake of HIV prevention, treatment, care and support services
- Create linkages, partnerships and networks;
- Carry out Monitoring and evaluation of the implementation of programmes in line KASF monitoring Framework;
- Ensure that HIV and AIDS issues are aligned to the Ministry's corporate mandate;
- Ensure Meaningful Involvement of People Living with HIV and AIDS in ACU's operations;
- Establish and maintain HIV and AIDS data base and
- Ensure confidentiality concerning all ACU matters.

6.7 Responsibility of Ministry's staff

All staff will be sensitized continuously on HIV and AIDS to protect themselves, their families, and others from HIV infections and impact of HIV and AIDS. It is an obligation to staff to comply with this Policy. In addition, all staff are required to:

- a. Attend, lend support to and participate in all HIV and AIDS activities,;
- b. Know their HIV status and act responsibly to maintain their status;
- c. Take appropriate action on being educated about HIV and AIDS, to protect oneself, others and the family and seek guidance and counseling ;
- d. Maintain their preferred level of disclosure when HIV positive;
- e. Take moral responsibility of caring for themselves and others to avoid infection, re-infection and infecting others;
- f. Maintain acceptable behaviour that will promote prevention, enhance health and reduce stigma and discrimination;

- g. Consider voluntary confidential disclosure of his or her HIV status in the context of a request for a workplace reasonable accommodation and
- h. Report to HIV Tribunal any matter considered to be unfair treatment based on ones' HIV status as described in this Policy.

6.8 The Responsibility of stakeholders

It is an obligation to stakeholders to comply with this Policy. In addition, all stakeholders are expected to:

- Provide IEC materials on HIV and AIDS to Ministry's ACU;
- Obtain HIV and AIDS IEC materials from the ACU ;
- Provide capacity building in HIV and AIDS programmes for the staff
- Provide counselling services for the staff ;
- Support the Ministry in HIV testing services and other HIV activities;
- Provide statistical data to the ACU for use in the Ministry's HIV and AIDS programmes.
- Network with ACU for sharing of best practises and lessons learnt
- Facilitate the Funding of HIV and AIDS programmes in the Ministry.

CHAPTER SEVEN

7.0 MINIMUM INTERNAL REQUIREMENTS

The internal aspects of the HIV and AIDS will be built upon the foundation of Minimum Internal Requirements (MIR) to be implemented by the Ministry. The HIV and AIDS prevention interventions is anchored on the following Minimum Internal Requirements (MIR) outlined below to be put in place : The implementation on the key areas outlined in the Minimum Internal Requirements below :

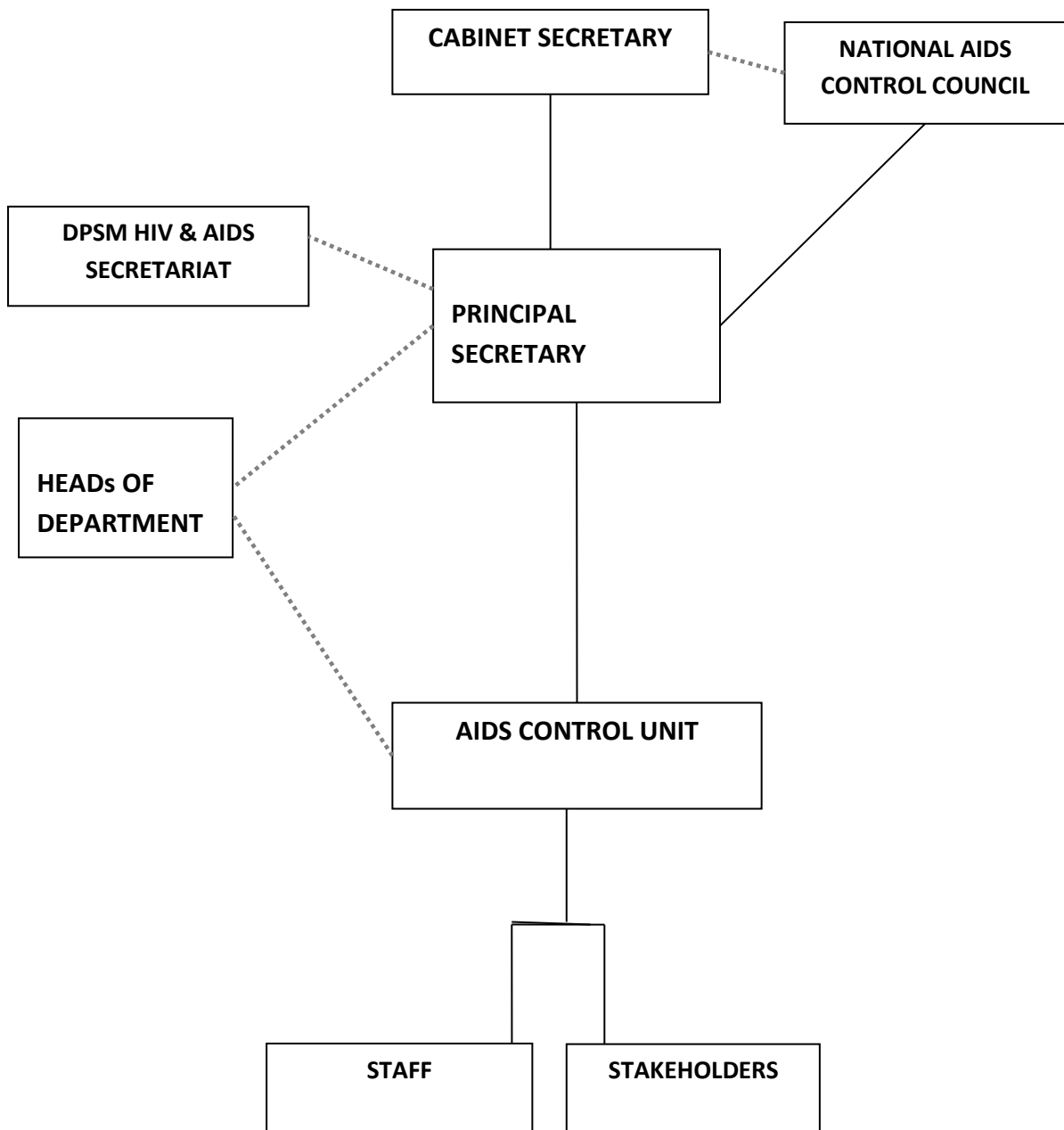
- a) Provision of staff education and training on modes of transmission and measures to prevent exposure and infection including personal protective equipment and referral;
- b) AIDS Control Unit Committee constituted and operational with at least 5 members and with 40% membership drawn from senior and middle level management;
- c) Annual work plans for the implementation of HIV and AIDS interventions targeting staff, their immediate family members and clients developed and submitted to NACC at the beginning of each financial year;
- d) Involve the ACU in the budget process and Allocate a budget through MTEF for the HIV activities targeting staff, their family members and clients
- e) Submit quarterly reports to NACC using Maisha Certification Guidelines or online reporting tools.
- f) Create mechanisms within the Ministry to encourage acceptance, care and support for employees living with HIV;
- g) Designate an officer/ officers with adequate skills, seniority and support to implement provisions of this policy and ensure that the officer(s) so designated is/are held accountable by means of performance indicators in the implementation of this policy; including the ACU Head signing a Performance Contract with the PS;

- h) Form partnerships with other organizations and individuals who are able to assist with health promotion programmes;
- i) Ensure that all HIV and AIDS programmes include an effective internal communication strategy;
- j) Assign a professional to Provide guidance and counselling services;

CHAPTER EIGHT

8.0 POLICY IMPLEMENTATION AND INSTITUTIONAL FRAMEWORK

Provision shall be made for the participation of Ministry staff in designing, implementing, monitoring and evaluation of this Policy. This inclusion will ensure that the staff's needs and concerns are fully addressed in order to help create a culture of prevention at the work place. The Institutional framework for the implementation of this Policy is as illustrated herein.



9.0 POLICY PLANNING, RESOURCE MOBILIZATION AND FINANCING

The Ministry shall build a strong framework to guide planning, resource mobilization, ensure budget allocation, and ring fenced funds for HIV and AIDS programmes. Also the Ministry shall promote effective and efficient use of resources in the implementation of this policy. The funding of the programs will mainly come from the Government of Kenya through the exchequer releases, Development Partners, and Public Private Partnerships (PPPs) collaboration.

10.0 MONITORING, EVALUATION, RESEARCH AND REPORTING

Monitoring and evaluation is an integral part of this policy. The Ministry will put in place a monitoring and evaluation system to ensure that planned HIV and AIDS activities are implemented, and setbacks and variations are addressed as they arise. This will generate information on staff welfare and service delivery through monitoring and evaluation, reporting, and managing of the Ministry's response to HIV and AIDS. The Ministry shall generate and maintain a database of information on the implementation of this Policy including undertaking knowledge, attitudes, behaviour, practices and surveys to establish data, regular risks, vulnerabilities and impact for evidence-based programming. All surveys will be carried out in line with prevailing regulations on research methodologies and ethical considerations. Manual or online quarterly reports shall be submitted to NACC using the *Maisha I/ II manual and/or online reporting tool*. Accountability shall be ensured through performance contracting mechanism and the NACC Maisha Certification System.

11.0 POLICY REVIEW AND DEVELOPMENT

This Policy will be reviewed after every five years or as need may arise to ensure it remains relevant to emerging HIV trends and the needs of the Ministry.