



GUIDELINES

FOR THE
IMPLEMENTATION
OF THE
NATIONAL WORKPLACE POLICY
ON
HIV/AIDS



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CHAPTER ONE

1.0. BACKGROUND

The impact of HIV/AIDS in the workplace has been given considerable documentation over the past two decades of the discovery of the virus in Nigeria. In general, absenteeism, loss of skills, stigma and discrimination, low productivity, etc, account for the major negative impacts of the scourge in Nigerian workplaces. However, in spite of all the documented facts and figures available, less than 5% of workplaces in Nigeria have policies and programmes on HIV/AIDS. Issues of pre-employment testing, prevention education, discrimination, confidentiality, care and support, etc are therefore mostly at the whims and caprices of employers. The need therefore arose for a framework to protect HIV infected and affected workers in the workplace, prevent workers from getting infected and proactively deal with the likely impact of the epidemic in the workplace. Consequently, stakeholders (Government Agencies, Labour, Employers, the Private Sector,, development partners, NGOs and) People Living with HIV/AIDS (PLWHA))came together with the Federal Ministry of Labour and Productivity as the Lead Government agency on Labour issues to develop the National Workplace Policy on HIV/AIDS for Nigeria through a highly participatory process. This policy was approved by the Federal Executive Council on 20th April 2005.

In order to ensure the implementation of the Policy, a Technical Working Group (TWG) was set up by the National Stakeholders Forum on Workplace HIV/AIDS Response on the 4th of October 2005 to come up with implementation guidelines for stepping down of the policy to enterprise levels.

1.1. Overview of the Workplace Implementation Guidelines

A workplace is any place where one is employed or is working with the objective of earning a wage or living. It is a captive audience with the greatest potential to meet the multiple challenges posed by the HIV/AIDS epidemic. Workplace Response, however, need to be carefully planned and executed to achieve the goal of controlling the HIV/AIDS pandemic.

A National workplace policy is an important instrument to define broad direction. To aid its implementation, locally induced and led action, based on community participation, is a fundamental complement to reducing the spread of HIV/AIDS and its devastating impact on development

1.2. Why was the implementation guidelines produced?

This document has been produced to guide public and private enterprises in the development of Workplace Response to HIV/AIDS. It will also support all workplaces (including the informal sector) with easy-to-use guidelines in developing informed, well-grounded sector-specific strategic response to the epidemic.

1.3. Who needs to use this document?

The document has been developed for focal persons responsible for Workplace Response to HIV/AIDS. It is also for other stakeholders who work at the local level or in partnership with management, community leaders and members, sectoral representatives, members of interest groups, etc.

1.4. How was the document developed?

The document was jointly developed by the TWG representing key stakeholder organisations.

1.5. What is in the document?

The document contains a number of steps for implementing key issues in the National Workplace Policy on HIV/AIDS.

1.6. How to use the Document

The key issues in the policy apply to all workplaces irrespective of size. However, each workplace should adapt it as appropriate within the context of its environment and its operations.

1.7. Format of the Guidelines

Each guideline is in the same format. It starts with a description and purpose. Thereafter there are detailed steps on how to implement the particular key policy issue.

CHAPTER TWO

2.0. Sectoral and Enterprise Level Workplace HIV/AIDS Policy

A Workplace HIV/AIDS Policy is a set of guidelines stating an organisation's position and practices for preventing the transmission of HIV infection and managing HIV/AIDS among its employees, their dependants and the host community. It sets out standards of expected behaviour for management and staff towards reduction of stigma and discrimination against fellow employees living with HIV/AIDS in the workplace. It also guides the implementation of HIV/AIDS programmes in the workplace in particular and the community in general.

2.1. Key Components of a Workplace HIV/AIDS Policy

Any workplace policy shall guarantee the following principles:

- No discrimination based on real or perceived HIV status
- No job determination (recruitment, suspension, demotion, termination, dismissal, etc.) based on HIV Status
- Confidentiality of information with respect to employees' medical records
- Gender equality will be the basis of intervention and coping with HIV/AIDS in the workplace
- No Mandatory testing for HIV (encourage the uptake of voluntary counselling and testing services).
- Prevention programmes
- Care, treatment and support
- Social dialogue

The basic components of a workplace policy are as follows:

- Non-discrimination statement
- No mandatory HIV/AIDS Testing
- No denial of employment
- Reasonable accommodation
- Safe work environment
- Medical confidentiality
- No job determination if fit to work
- Same opportunities and benefits as other employees.

2.2. How to Prepare a Workplace Policy

- Do a needs assessment of the particular enterprise looking at vulnerability factors, knowledge and myths, capacity, demographic characteristics and the organisation's functions.
- Set up a committee that is representative of the organisation's population made up of management and workers' representatives.
- Develop a Terms of Reference for the committee.
- Develop a draft within the context of national policies and other relevant policies/legislations on HIV/AIDS.
- Disseminate this draft policy to all stakeholders for their inputs.
- Finalise the draft and forward it to the top management for adoption and approval.
- Disseminate the approved policy to all employees and other stakeholders.

CHAPTER THREE

3.0. Protection from Stigma, Discrimination and Exclusion

Section 8.2 of the National Workplace Policy stipulates that HIV status should not be a basis for the stigma, discrimination and exclusion of persons living with HIV from occupational benefits, employment, etc.

3.1. Stigma is negative thoughts or feelings directed at individuals or groups who are perceived to have some characteristics that make them look different. HIV stigma is directed at individuals or groups, perceived to be living with HIV and AIDS, as well as family members or health care workers who associate with them.

3.2. Discrimination can be defined as "any distinction or restriction based on exclusionary perceptions or attributes that restricts the rights of an individual on the basis of his HIV status" (ILO Convention No. 111).

3.3. Exclusion arises when an employee is denied his/her rights based on HIV status.

In implementing this policy issue:

- No applicant should be refused offer of employment based on HIV status
- No employer should deny an employee access to opportunities for promotion, training or other benefits.
- Employees should not be disengaged from work on account of their HIV status
- All employees should have equal access to facilities in the workplace.
- No employee should be paid a salary less than that of another employee for same work or work of equal value performed based on HIV status except on seniority.
- Where employers and employees agree that there has been adequate information and education provisions for safe work, then disciplinary procedures should apply to persons who refuse to work with an employee with HIV/AIDS.

CHAPTER FOUR

4.0. Gender Equality

In recognition of the differential vulnerabilities of women and men to HIV/AIDS and women's traditional roles in care-giving, workplaces shall ensure that female and male workers are involved at every point in policy formulation, programme planning and implementation so as to capture the aspirations of vulnerable groups.

4.1. To step down this policy issue, workplaces should ensure the following:

- Active involvement of men and women in the HIV/AIDS committee in each workplace.
- An environment that ensures equal respect for men and women in the workplace.
- HIV/AIDS Education of women particularly in the area of prevention of mother to child transmission,
- HIV/AIDS programmes in the workplace that also take into consideration, peculiar issues affecting women.
- Education programmes that will break stereotyped norms about masculine behaviour which may lead to unsafe sex and/or non consensual sex.

CHAPTER FIVE

5.0. Continuation of Employment Relationship

HIV infection or AIDS shall not provide a basis for termination of employment. Where fitness to work is compromised by HIV/AIDS and related illnesses, the employer shall make efforts and make arrangements aimed at providing reasonable accommodation for the individual affected.

5.1. To step down this policy issue, workplaces should ensure that:

- No termination of appointment occurs as a result of HIV positive status.
- Medically certified temporary absence from work does not constitute a valid reason for termination of appointment.
- HIV test shall not be part of pre-employment medical examination.
- HIV test shall not be part of routine medical examination.

5.2. The following conditions must be adhered to with respect to HIV testing in the workplace:

- It must be voluntary with the person's written consent.
- There must be counselling before and after the test.
- The confidentiality of the test result must be maintained and can only be passed to a third party only on the written consent of the worker concerned.

For workers who are HIV positive, the employer should provide "reasonable accommodation" for them to continue to work.

5.3. Reasonable accommodation means any modification or adjustment to a job or to a workplace that is practicable and will enable persons living with HIV/AIDS to have access to or continue to advance in employment.

Examples are:

- Modification of jobs or programme schedules such as allowing flexible time for PLWHA to attend clinic.
- Granting of Compassionate leave.
- Acquiring or modifying equipment devices.

CHAPTER SIX

6.0. Safe and Healthy Work Environment

Employers should ensure a safe and healthy work environment including the application of universal safety precautions and measures such as the provision and maintenance of protective equipment and First Aid.

6.1. To step down this policy issue, the following guidelines should apply:

- Where there is an occupational risk of acquiring or transmitting HIV infection, appropriate precautionary measures should be taken to reduce such risks, including clear and accurate information and training on the hazards and procedures for safe work.
- In case of workplace accidents, employees who are exposed to HIV infection should be assisted to benefit from standard prophylactic procedures.
- Personnel policies should make provisions for employees to move with their families during transfer in the course of their work.
- People who are in an occupation that requires routine travel in the course of their duties should be provided with the means to minimize the risk of infection including information, condoms and adequate accommodation.

CHAPTER SEVEN

7.0. Protection of the Rights of Job Seekers and Employment Prospects

7.1. HIV/AIDS is not just a health issue but also a social justice issue. Since every one is entitled to fundamental human rights without discrimination, people living with HIV/AIDS have the same rights as those who are HIV-negative. These rights include right to education, employment, health, travel, marriage, procreation, social security and occupational benefits. Protection of human rights empowers individuals and communities to respond to HIV infection, reduce vulnerability to infections as well as lessen the impact of the epidemic on those affected.

7.2. 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.
- When an employee becomes too ill to perform his/her agreed functions, standard procedures for termination of service for comparable life-threatening conditions should apply without discrimination.

7.3. Steps to protecting the human rights and employment prospects of job seekers and employees including PLWHA:

- Education of stakeholders on HIV/AIDS issues in the workplace
- Advocacy visits to employers of labour.
- Providing employees access (information, referral or service provision) to VCT under confidential cover
- Employees and prospective employees' personal health records should be kept confidential.
- There should be no compulsion by the employer to force an employee to reveal HIV related information.
- There should be neither direct nor 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.

CHAPTER EIGHT

8.0. Workplace Testing and Confidentiality

- 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 an approved facility with informed consent of the employee in accordance with normal medical ethical rules and with pre- and post-test counselling.
- Persons with HIV/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.
- 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 other personnel who obtain such information in ways permitted by the law from the employee concerned.

CHAPTER NINE

9.0. Occupational Benefits

- 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.
- 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 other aspects of the employment contract or relationship.
- 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.

CHAPTER TEN

10.0. Prevention through Education and Information

10.1. HIV is preventable. Prevention of all means of transmission by the known routes can be achieved through education and information in the workplace.

- Information, education and prevention programmes should be developed jointly by employers and employees and should be accessible to all at the workplace.
- Education on HIV/AIDS should, where possible, incorporate employees' families.
- Essential components of prevention programmes are information provision, education, prevention and management of sexually transmitted infections (STI's), condom promotion and distribution and counselling on high risk behaviour.
- Effective workplace HIV/AIDS prevention education shall be provided to all persons in the workplace during working hours.
- Culturally sensitive education programmes in the workplace should include basic facts on HIV/AIDS, care and support and voluntary counselling and testing.
- All workers including management staff must be made to be part of the programme.
- Workplaces should extend these programmes to workers' families and surrounding communities.
- Education programmes should give workers the opportunity to express and discuss their reactions and emotions caused by HIV/AIDS.
- Education programmes should promote hygiene and proper nutrition; give special emphasis to the vulnerability of women to HIV and prevention strategies that can lessen this vulnerability.
- Provide education about the prevention and management of sexually transmitted infections and tuberculosis.
- Explain the long term effect of the virus and the need for all workers to be empathic and non-discriminatory towards workers with HIV/AIDS.

- Promote safer sex practices, including instructions on the use of male and female condoms.
- Encourage peer education and informal education activities.

HIV/AIDS should be an issue for social dialogue during the implementation of the National Policy on HIV/AIDS which may include a research component.

11.1. Social Dialogue involves all types of negotiations, consultation or simply exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to issues of economic and social policy especially with HIV/AIDS issues.

11.1. Social dialogue is important in all issues relating to HIV/AIDS because it will lead to ownership of the process and gender sustainability in government and support in management.

11.2. The issues of HIV/AIDS in the workplace are the following conditions are applicable:

- Direct and indirect management representatives and workers should involve
- Exchange of information between a committee of both management and workers
- Research should be based on what to do
- Where there is a conflict, a representative of the Honourable Minister should be invited to conduct

CHAPTER ELEVEN

11.0. Social Dialogue

HIV/AIDS should be an issue for social dialogue using the instrument of joint consultation which may culminate in a consensus / agreement.

11.1. Social Dialogue involves all types of negotiations, consultation or simply exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to issues of economic and social policy especially with HIV/AIDS issues.

11.2. Social dialogue is important in all issues relating to HIV/AIDS because it will lead to ownership of the process and engender sustainability in prevention, care and support and impact mitigation.

11.3. For all issues of HIV/AIDS in the workplace, the following conditions are applicable:

- Discussion between management representatives and workers representatives.
- Exchange of information between a committee of both management and employees.
- A consensus must be reached on what to do.
- Where there is a conflict, a representative of the Honourable Minister should be invited to conciliate.

CHAPTER TWELVE

12.0. Care and Support

12.1. The workplace response in each situation should be situated or placed within the context of the peculiarity of each enterprise, situation or workplace. Solidarity, care and support should guide HIV/AIDS issues in the workplace

12.2. Every workplace shall provide the following in terms of care and support for employees living with the virus:

- Use its best endeavour to provide such employee with medical attention and medicines including treatment of opportunistic infections.
- Educate workers on positive living.
- Provide counselling, medical and psychological assistance.
- Facilitate the provision of anti retroviral drugs in line with national guidelines.
- Have a budget line for Care and Support.
- Make information on care and support services available to all employees, i.e. VCT centres, referral centres etc.
- Facilitate the provision of counselling and other forms of social support to workers infected and affected by HIV/AIDS.
- Provide where feasible, financial assistance for cost of treatment and other care.
- Linkages should reach beyond the worker to cover their families in particular their spouses and children.
- Employees with HIV related illness should have access to medical treatment and should be entitled, without discrimination, to agreed existing sick leave provisions.
- 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.

CHAPTER THIRTEEN

13.0. Grievance Procedure

13.1. Employers shall put in place procedures that would enable workers seek redress for offences against the principles of this policy. To achieve this:

- Employers shall ensure that the rights of employees with regard to HIV and AIDS, and remedies available to them in the event of breach of such rights become integrated into grievance procedures.
- Employers should create an awareness and understanding of the grievance procedures and how employees can utilize them.
- Employers should develop special measures to ensure confidentiality of the complainant during such proceedings including ensuring that such proceedings are held in private.

Appendix 1

Checklist For Institutionalizing Workplace HIV/AIDS Response

- HIV/AIDS committee is set up with representatives from top management, supervisors, workers, trade unions, human resources, occupational safety and health committee, industrial relations unit, people living with HIV/AIDS, if they agree.
- Do a needs assessment of the workplace.
- The managing Director or Chief accounting officer should be the chairperson of the committee.
- Committee is given a Terms of Reference.
- Roles and responsibilities of members are clearly defined with a focal person as a desk officer.
- A budget line for HIV/AIDS in the workplace.
- A work plan for HIV/AIDS activities.
- A monitoring and evaluation plan exists in the workplace.

Appendix 2

NEEDS ASSESMENT INVOLVES: Assessing the Risks and Impact of HIV and AIDS on the organization.

A number of behavioral characteristic, social and economic conditions increase the likelihood of becoming infected with HIV.

The nature of work that employees are engaged in may also put them at risk. There are a number of questions that have been asked in order to assess the risk HIV poses in companies and to the employee.

- Does your company employ workers who live without or away from their spouses and families?
- Do sex workers operate around the camping communities of your workers?
- Does the company run long-distant transportation? Do the drivers spend several days on the road?
- Are workers well paid in an area of high unemployment and poverty?
- Do workers in the company travel alone often and stay away for several days?
- Do workers frequent areas where sex workers operate? Do they engage in sexual relationship with these women?

Assessing company risk:

A "yes" answer to any **five** of the above question may be accepted for possible HIV risk. Measuring the impact of HIV in a company depends on a number of factors.

- Having a large workforce.
- The lengths of time workers stay away from their homes and families.
- The HIV prevalence in the surrounding community.
- The prevalence of treatable STIs (Gonorrhea, Syphilis, Chlamydia, herpes, etc) among the workforce and the communities around.
- The general health of the employees?

Direct economic impact of HIV on Households

- It is an expensive disease for households and creates numerous problems that affect work quality and performance.
- Family incomes fall by 40% to 60% as the bulk of earnings is spent on medical care.
- It results in prolonged absence from work due to ill health causing a reduction in income.
- Family members who are not sick tend to spend time caring for the sick instead of going to work.
- Family assets are sold to care for the sick.
- Funeral expenses rise tremendously as monies are spent on funerals.
- Children are absent from school because they act in some situations as caregivers and heads in homes.

Direct economic impact of HIV on business

- Increases the cost of providing medical assistance
- Increases the cost of health, life insurance coverage etc.
- The amount payable to workers as death benefits increases.
- Increased cost of recruitment and training.
- Increased absenteeism, decline in morale and production results in a fall in profit.
- Increased loss of technical skills and experienced staff and turnover of inexperienced ones.