

TACKLING

HIV

DISCRIMINATION
WORK

TUC 



There are more than 107,000 people (2013 estimate) living with the Human Immunodeficiency Virus (HIV) in the UK, mostly of working age, of whom a quarter are unaware of their status.

Although most who live with HIV in the UK have normal life expectancy and lead fulfilling working lives, a large minority of people are ignorant of the facts. This means people living with HIV can face prejudice and discrimination in the workplace. Here we give some basic facts to help trade unionists deal with issues that might arise.

What are HIV and AIDS?

HIV weakens the body's immune system and if untreated can progress to Acquired Immune Deficiency Syndrome (AIDS) – a cluster of potentially fatal illnesses.

Although HIV cannot be cured, it can be treated effectively. People can live healthy lives despite this chronic condition. People living with HIV can be productive, self-reliant members of society, who can have children and relationships and play their part in the workplace.

How is HIV spread?

HIV is spread through:

- anal or vaginal sex without a condom (oral sex also presents a risk but this is much lower)
- sharing injecting equipment with someone who is HIV positive (e.g. for drug use)
- an HIV positive mother to her child during pregnancy, childbirth or breast-feeding – however, with appropriate medical interventions the risk of mother to child transmission can be reduced to less than one per cent
- blood transfusion or organ transplantation – cases occur throughout the world but due to screening processes there has been no reported transmission via this route since 2002 in the UK.

In a limited number of jobs, workers may face risk of HIV infection through accidental direct exposure to infected blood (for example, some healthcare workers and laboratory technicians). In almost every known case, exposure at work has resulted from an accident with a needle/syringe. Transmission through this route is very rare and there have been no cases since 1999. Outside of these contexts, normal health and safety precautions protect employees against infection at work (see health and safety procedures below).

HIV cannot be transmitted through normal work or social contact, for example sharing cutlery, sneezing, shaking hands, using the same glass, toilet seats or using a keyboard.

HIV and discrimination

People living with HIV, or who are thought to have HIV, can be subjected to harassment, abuse or discrimination. This may stem from ignorance about how HIV is transmitted or prejudice against the two groups most affected in the UK (gay men and black Africans) by linking HIV with homophobia, racism or anti-immigration sentiment.

Whatever the cause, HIV-related discrimination at work is not only wrong – it is unlawful.

HIV and the law: disability discrimination

The Equality Act 2010, building upon previous disability discrimination protection, now considers all people living with HIV to be disabled regardless of health status. This means that people living with HIV are protected from discrimination in employment, trade union membership and the provision of goods and services, including the letting and selling of property, from the moment of diagnosis.

People living with HIV are protected against unfair dismissal and/or discrimination in recruitment, promotion, training, and benefits. Employers are responsible for their own practice as well as for taking steps to prevent harassment or discrimination by colleagues or others in the workplace. People living with HIV are also entitled to 'reasonable adjustments' in the workplace. This means changing features of the workplace that cause 'substantial disadvantage'. In practice this might mean making changes to the job, negotiating flexible working hours or giving time off for medical appointments. For more information please see the HIV@Work guide for employees published by the National AIDS Trust.

What to expect from employers

Policy

Employers should have a disability policy that covers how they deal with situations where employees disclose that they have a disability. The employer's policy should make clear that HIV is a disability from the point of diagnosis and include:

- a principle of non-discrimination on the grounds of actual or perceived HIV status
- a commitment to confidentiality and privacy
- general prohibition of mandatory HIV testing of employees
- procedures for dealing with the management of an HIV positive current or future employee
- information about instruction and training for employees and managers.

Health and safety

Employers should also have health and safety procedures that minimise the risk of accidental exposure to HIV and other infections where employees are genuinely at risk because of the nature of their job. The procedures should include:

- an assessment of risk of exposure in individual tasks
- procedures for controlling the risk
- reporting and recording procedures for incidents of exposure
- contingency plans for medical treatment and advice for employees who may have been exposed to HIV infection at work (HIV medication is available which, if taken within 72 hours of the exposure incident, can stop infection occurring).

Disclosure

It is illegal for employers to ask questions about HIV status during recruitment until after a job offer has been made (with the exception of the armed forces).

In most cases employees do not have to disclose their HIV status but in cases where reasonable adjustments are requested, disclosure of status will have to be made, perhaps to a line manager or to Human Resources.

Healthcare workers living with HIV who are doing “exposure-prone procedures” (for example surgeons, dentists and midwives) have to disclose their HIV status as they need to be monitored by occupational health to make sure they are taking treatment and have a suppressed viral load (HIV treatment reduces the amount of virus in the blood so that most people on treatment are now non-infectious). Otherwise there is no justification for an employer to ask about someone’s HIV status.

Issues for trade union representatives

Representatives may find it helpful to identify who in their union office can provide further advice and support on HIV issues. Representatives may be required to:

- help fight discrimination and challenge prejudiced attitudes
- support HIV positive members in cases of harassment
- support HIV positive members when requesting ‘reasonable adjustments’ under the Equality Act
- advise members on pension and retirement options, or support those able to return to work after a break as a result of effective HIV treatments.

Sources of further information

This leaflet contains only basic information. For more detailed information about HIV in the workplace, the National AIDS Trust has produced detailed guidance on both recruitment and employment.

Web

www.nat.org.uk

www.lifewithhiv.org.uk

www.hivaware.org.uk

www.tht.org.uk

Phone

NHS National Sexual Health line 0300 123 7123 (24 hours)

Terrence Higgins Trust Helpline 0808 802 1221

Acas Helpline 03000 1231100

For more information on workplace rights and anti-discrimination law

www.worksmart.org.uk

www.equalityhumanrights.com

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020 7636 4030
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