



# **KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (KNCHR)**

## **HIV AND AIDS WORKPLACE POLICY**

**Enhancing The Realisation of Your Rights**

## **Abbreviations**

<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>ART</b>	Antiretroviral Therapy
<b>DPM</b>	Directorate of Personnel Management
<b>FKE</b>	Federation of Kenya Employers
<b>GIPA</b>	Greater Involvement of PLWHA
<b>HIV</b>	Human Immune Deficiency Virus
<b>IEC</b>	Information, Education and Communication
<b>PLWHAS</b>	People Living with HIV and AIDS
<b>PMTCT</b>	Prevention of Mother to Child Transmission
<b>STIs</b>	Sexually Transmitted Infections
<b>VCT</b>	Voluntary Counseling and Testing
<b>KNCHR</b>	Kenya National Commission on Human Rights

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## **Forward**

HIV has spread rapidly in Kenya since 1980s and significant steps have been taken in response thereto. Latest statistics reported in the Kenya AIDS Indicator Survey of 2007 (KAIS 2007) indicate that nationally, 7.4% of adults aged 15-64 years are HIV positive - equivalent to 1.3 million Kenyans - with no significant difference from the 2003 estimates. The decline in prevalence appeared to be stalled.

The Government's new development strategy paper, the Vision 2030, recognizes that HIV and AIDS is a key developmental issue, thus the need to mainstream it in all development programmes.

The Kenya National Commission on Human Rights (KNCHR) has undertaken to contribute to the national efforts aimed at reducing the rates of HIV infection and mitigating its impact to the nation. The Commission recognizes its employees as its most important asset if it has to realize its goals and in this regard, is committed to protection and promotion of its employee's rights in respect of HIV and AIDS at the workplace.

Through this policy, the Commission will provide effective leadership in the national response to mitigating the impact of HIV and AIDS among the Kenyan workers.

**Florence Simbiri-Jaoko**



**Chair Person, Kenya National Commission on Human Rights**

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# **INTRODUCTION**

The Kenya National Commission on Human Rights (KNCHR) is an independent governmental body formed in July 2003 following the publication of the Kenya National Commission on Human Rights Act 2002. Broadly the mandate of the Commission include the protection, promotion and enhancing the respect and realization of human rights in Kenya. The Commission comprises of 9 Commissioners as policy makers and a secretariat led by a Secretary. The Commission has a central office in Nairobi and in addition has set up two regional offices, one at Wajir and the other in Kitale. With an approximate staff level of 46 evenly distributed on gender balance, the majority of staff are located in Nairobi.

## **B. POLICY STATEMENT**

KNCHR recognizes that HIV and AIDS pose serious challenges at the workplace warranting urgent attention both at policy and programme levels. The Commission further recognizes that HIV and AIDS is a major national problem with social-economic and human rights implications. As one of the implementing partners in the Multi-Sectoral Approach undertaken by Kenya under the coordination of the National AIDS Control Council (NACC), the Commission undertakes through this policy to contribute to the reduction of HIV infection and the mitigation of HIV and AIDS impact in collaboration with other key stakeholders in the public and private sectors.

Specifically, this policy intends to:

- Align KNCHR workplace response to the broader HIV and AIDS legal framework in Kenya and globally.
- Promote the respect and protection of human rights in HIV and AIDS prevention, treatment, care and support at workplace.
- Develop an institutional HIV and AIDS practice

In this regard, this policy has made efforts to be consistent to international treaties and conventions, national laws, policy guidelines and regulations. These include; the International Labour Organizations (ILO) Codes of Practice on HIV & AIDS that promotes protection of the rights and the dignity of workers and persons living with HIV & AIDS, Federation of Kenya Employers (FKE) Code of Conduct on HIV & AIDS in the workplace, HIV and AIDS Prevention and Control Act, 2006; Sexual Offences Act, 2006 and the Public Sector Workplace Policy on HIV and AIDS.

The lack of respect of human rights or its violations fuels the spread of and exacerbates the impact of HIV. To this end the policy will aim to uphold the twin principle of equality and non-discrimination at all time. The policy will aim to ensure non-discrimination between employees with HIV infection and those without and HIV and AIDS and other comparable health conditions. This document will serve as reference document during implementation of this workplace policy.

## **C. JUSTIFICATION FOR THE POLICY**

The Kenya AIDS Indicator Survey of 2007 (KAIS 2007) did indicate that 7.4% of Kenyans aged 15-64 years are infected with HIV. This means that about 1.4 Million adults are living with HIV with more women (8.7%) compared to Men (5.6%). The KAIS 2007 findings provide strategic information that calls for intensified prevention efforts, with care and treatment scale up.

Therefore recognizing this reality, KNCHR undertook to develop this HIV and AIDS workplace policy to help prevent and mitigate the impact of its employees and their families.

## **D. SCOPE**

The workplace policy covers the area of rights and responsibilities of both the employer and the employee, job security, occupational benefits, confidentiality, non discrimination, HIV testing, education and training, management of AIDS illness, protection against victimization and stigmatization, risk reduction strategies, mainstreaming HIV at workplace as well as policy implementation and coordination.

## **E. GUIDING PRINCIPLES**

### **1. HIV and AIDS is a human rights issue**

Human rights are inseparable<sup>1</sup>[6] to the spread and impact of HIV&AIDS on individuals and communities. Lack of respect for human rights fuels the spread and exacerbates the impact of the disease. The Commission undertakes to treat employees with HIV –related illness, including AIDS in the similar manner with other life threatening illness

### **2. Non-discrimination**

The policy appreciates the coming into force of the HIV and AIDS Prevention and Control Act 2006 that prohibits discrimination based solely on one’s perceived or real HIV status. In the spirit of respect of rights and dignity of individuals, all KNCHR members (Commissioners and staff), including those infected and affected with HIV and AIDS will not be discriminated against on the basis of real or perceived HIV status. They all are equally entitled to affordable health services and to benefits from statutory and occupational schemes. These include the health insurance scheme.

### **3. Recognition of HIV and AIDS as a workplace Issue**

The Commission recognizes HIV and AIDS as a work place issue and that it affects performance. The Commission will treat the workplace

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1 [6] UNAIDS, 2006 Global Report on the AIDS Epidemic [www.unaids](http://www.unaids)

as existing within the local community with a role to play in the wider struggle to limit the spread and effects of the pandemic. It will provide an enabling environment to enhance continuous teaching on prevention and management of HIV and AIDS. HIV will be treated like any other serious illness.

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

HIV/AIDS screening should not be a requirement for job applicants or for employees in employment. Testing for HIV should not be carried out at the workplace except as specified in the National HIV and AIDS policy on testing or in accordance with the law. Self testing in terms of the HIV and AIDS prevention and Control Act 2006 is highly recommended.

#### **5. Confidentiality**

Access to personal information relating to a Commissioner's or members of staff's HIV status shall be bound by the rules of confidentiality consistent with the law, existing ILO Code of Practice on HIV and AIDS and medical ethics. No employee shall be obliged to reveal such personal information about fellow workers.

#### **6. Continuation of employment relationship**

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

## **7. Prevention**

KNCHR is aware that HIV infection is preventable both at workplace and at community levels. Through behaviour change, knowledge, treatment and creation of a non discriminatory environment all means of transmission can be prevented. A working environment, like one provided by KNCHR is instrumental in promoting social partners who are in a unique position to promote prevention efforts, particularly in relation to changing attitudes and behaviours. These changes shall be achieved through provision of information and education and in addressing economic, social and cultural factors that make employees vulnerable to HIV infection at workplace.

## **8. Greater and meaningful involvement of People Living with HIV and AIDS (PLWHAs)**

Recognizing the key role played by PLWHA in prevention and advancing coping mechanisms through support group therapy, the Commission in preventing new infections will seek to actively involve them at the planning, implementation, monitoring and evaluation of all interventions that address the plight of PLWHA.

## **F. POLICY FRAMEWORK**

The overall objective of this policy is to protect the rights of the employees promoting a safe working environment for the Commission. This is a strategy to contribute to the national objective of reducing national HIV infection rates and mitigating the socio-economic impact

on the infected and affected members of the society. To achieve these, the following specific objectives will be pursued:

**a) Provide Information, education and communication**

KNCHR has a duty to educate and inform all its employees about HIV and AIDS. Appropriate information on HIV transmission, prevention, treatment care and support methods will be made accessible to all Commissioners and members of staff. These include providing HIV and AIDS materials including pamphlets, magazines, videos, CD ROMs, posters and leaflets through the resource center.

**b) Promote HIV testing**

The HIV workplace programme will encourage and facilitate the use of voluntary counseling and testing services.

**c) Advocate for HIV and AIDS prevention**

All members of staff working at KNCHR the Commission have an individual responsibility to protect themselves against HIV infection and any further re-infection. KNCHR will ensure that both male and female condoms are available to all members of the Commission.

**d) Provide treatment, care and support**

The Commission shall treat HIV and AIDS like any other medical condition for purposes of medical cover and the granting of sick leaves.

**e) Confidentiality**

Members of staff are not obliged to disclose their HIV status to the employer. The Commission should encourage them through counseling

to disclose their HIV status to those who have important reasons to know, for example, a spouse or a partner.

### **g) Mainstreaming HIV and AIDS at the workplace**

The Commission is committed to the implementation of this workplace policy through commitment by management and staff participation in programme development and implementation and efforts to fight discrimination and stigma at all levels

### **h) Policy Implementation**

Implementation of the policy will be consistent with the internal implementation of other policies of the commission. There shall be established the workplace committee to oversee the implementation of this policy. The committee will also deal with other related issues that may arise needing employer/employee attention. There shall also be a focal HIV and AIDS person appointed by the Commission Secretary who will be the Secretariat to the committee and who will on a day to day basis undertake programmatic work related to HIV and AIDS in collaboration with departmental heads and in partnership with other relevant stakeholders.

## **G. MONITORING AND EVALUATION**

The Commission will measure the effectiveness and impact of this policy through monitoring, evaluation and research for planning, decision-making, resource allocation and managing the response to HIV and AIDS. The implementation of this policy

will be monitored through a range of instruments with the needs assessment results forming the baseline indicators of the policy.