

Workplace Policy on HIV/AIDS for the Transport Sector

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Foreword

This policy document for the Transport Sector has been developed out of a need identified by stakeholders and development partners. The transport sector, being crucial and a prime mover for economic development, needs attention vis a vis the spread of HIV/AIDS. This sector has specifically been identified as being most vulnerable because of the nature of the workplace environment involved.

The Transport sector is for workers who travel long distances from their domicile places of work to other locations away from their families or friends. This particular aspect of their lives makes them specifically vulnerable to the HIV infection.

It is also a recognized fact that in their traveling lives they deal with Commercial Sex Workers (CSWs) who are not permanent sex partners. The CSWs are transient and serve any one and all transport workers who may be in transit.

Transport workers, especially those in road transport, do travel distances such as from Cape Town to Eastern African destinations, staying enroute for several weeks before they return to their domicile workplaces or families and friends. The territories they traverse have been referred to as the Southern and Northern corridors, which have also been identified as avenues for the spread of HIV infections in the many countries involved.

In the case of Kenya, the unions in the transport sector, with support from Freidrich Ebert Stiftung (FES) have decided to embark on certain intervention programmes aimed at forestalling the spread of HIV and the management of existing cases of infection among the transport workers in this sector.

This document, therefore, has been produced with this aim in mind. It is hoped that the document will help workers and employers to effectively fight the pandemic in the workplace. The policy statements involved also refer to community linkages especially regarding commercial sex workers who serve as clients for the traveling workers. The aim is to point out the need to address the plight of the commercial sex workers, particularly with a view to encouraging them to engage in safe sex practices when they get involved with the traveling workers or to seek alternative means of earning a living.

We hope that this document will assist in efforts at putting in place measures to deal with the effects of the HIV/AIDS scourge. Users of this document are requested to give the necessary feedback regarding suitability in application so that future editions would be improved with the information obtained.

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1. Introduction

In 1984, the first case of HIV infection was reported in Kenya. It took several years before Kenyans recognized the truth that the country was fast being affected by HIV infections at an alarming rate. In 1999 the Government of Kenya declared HIV/AIDS a national disaster.

The HIV/AIDS pandemic has affected over 42 million people in the world. Sub-Saharan Africa has the largest number of infected persons estimated by the UNAIDS at 29.4 million at the end of December 2002*. This number represents about 70% of the world's population living with HIV and AIDS. This, therefore, means that Africa singly bears the brunt of this pandemic.

According to UNAIDS statistics as of December 2002, Kenya had a population of 2,500,000 adults and children living with HIV and AIDS. According to the International Labour Organization (ILO) an estimated 25% of the infected population in the world could be working persons. By this estimate, one could extrapolate a figure of an estimated 625,000 infected workers. In Kenya today, an estimated 700 adults and children die from AIDS daily.

The transport industry is the most affected among other sectors in Kenya and our East African sub-region, the area usually referred to as the Northern corridor. Transport workers are peculiarly the most vulnerable to HIV infection due to the nature and environment of their mobile workplace. This has resulted in the loss of qualified, experienced and trained manpower for this sector. This sector is also recognized as the prime mover of industry and trade in particular. Industrial goods are moved from one economy to another and within a given economy. The fact that this sector has suffered the brunt of the scourge, therefore, means that trade and economic development will be impacted negatively unless the trend is reversed. The loss of workers in the sector also means that the union membership in the transport industry is progressively declining due to loss of members through death.

The work environment in the transport sector facilitates the increased vulnerability among the workers, especially long distance truck drivers, sailors, pilots, locomotive drivers, drivers in the tourism industry and their support staff who work long hours and away from home and family.

In light of this ITF, in conjunction with COTU (K), and other development partners, has recognized the vulnerability of workers in the sector and the urgent need to put in place measures for the management of the pandemic among the workers who are already infected and affected as

* Source: UNAIDS: AIDS Epidemic Update, December 2002.

they are still employees of the sector. The measures also involves programmes for wellness management, through prevention and education, vis a vis workers who are not infected yet. The employers in this sector equally are involved in the prevention and management of HIV/AIDS in the workplace with support from the ILO, UNDP, NACC and the World Bank through the Federation of Kenya Employers. The union movement in the transport sector will continue to collaborate with employers in the fight against the pandemic in this sector.

2. Description of HIV and AIDS

1. **HIV** – Human Immune deficiency Virus that weakens the body’s immune system, ultimately causing AIDS. The major mode of transmission of the HIV virus is through unprotected sex involving the exchange of bodily fluids such as semen, vaginal fluids, blood and other secretions.
2. **AIDS** – Acquired Immune Deficiency Syndrome. This is the stage obtaining after the HIV virus has extensively destroyed the immune system of an infected person to the point where the body can no longer effectively ward off infections. At this stage any infections to the body are likely to cause serious illnesses leading to death if not reversed through medical intervention.
3. **STIs and STDs** – Sexually Transmitted Infections and Sexually Transmitted Diseases. STIs and STDs have been identified as a major contributor to the spread of HIV infections. They open wounds in the sexual organs thereby creating points of entry for the virus during sexual activity. It is estimated that when STIs and STDs are effectively treated, HIV infections are kept away 40% of the time.
4. **ARVs** – Antiretroviral Drugs. These are drugs used to boost the immunity of an infected person. It is recommended that ARVs be taken under the direct prescription and administration by a qualified medical practitioner. They are to be taken for a lifetime.
5. **CSWs** – Commercial Sex Workers. These are generally women who engage in sexual activities for pay as a way of economic survival in an effort to address their poverty, for lack of alternative means.

3. Policy Statement:

There is need for a policy to guide interventions for infected workers, affected and uninfected colleagues and families and provide ways of prevention and management to ease the effects of the HIV/AIDS by giving them knowledge through training.

The pandemic cuts down the supply of labour to this sector and it also reduces income for many workers and their dependents through medical care costs and actual loss of breadwinners.

The pandemic also strikes hard at the most vulnerable groups in society including the poorest of the poor, women and children, forcing them to succumb to problems of inadequate social protection, gender inequalities and the proliferation of sexual exploitation and child labour for survival.

Transport workers face a high risk of HIV infection as they are constantly on the road, air or sea and away from their wives, husbands or friends. In the course of duty they interact with commercial sex workers in order to meet their biological needs for sex. In this situation, both the transport workers and the commercial sex workers expose themselves to the risk of HIV infection unless they engage in protected sex or abstention from sex altogether.

There is a real need to create awareness on HIV/AIDS, knowledge on the nature of HIV and modes of transmission, including providing protective materials such as condoms for the workers and families in this sector. It is also imperative to provide curative measures such as making available the necessary antiretroviral drugs (ARVs).

Through this policy, it is envisaged that employers will take the necessary measures for wellness management by promoting the use of condoms and making them available both at the domicile workplace and workplace away from home for the mobile workers. In addition, the employer in collaboration with the union, are encouraged to maintain health and safety standards, that would assist in the prevention of any accidental exposure of uninfected workers in the workplace. This would include availability of First AID equipment at the domicile workplace and workplace away from home.

Several factors in the transport sector support or militate against the workplace-based fight on the HIV/AIDS pandemic. In many ways, than not, there are strengths, weaknesses and opportunities in this sector.

The fact that both employers and workers in this sector are responding positively to the reality and dangers of HIV and AIDS is in itself a strength that requires to be exploited now. This is an opportunity that would facilitate behaviour change among the workers of the sector and their families as well. A determined trade union movement in this sector is also a qualifying element that requires to be supported by all stakeholders. International development partners are also willing and available to provide the necessary support to the fight.

A few weaknesses need to be pointed out with a view to changing them into opportunities. These include the fact that the majority of the workers in the transport sector have a problem of ignorance to deal with. The employers also have a problem of denial and lack of concern for the plight of their workforce. Also the workers in this sector are generally mobile as they travel long distances even across national borders. There is the challenge for programme coordination involving activities across borders and different cultural and religious belief among the countries traveled by workers in this sector.

Opportunities that exist would include the fact that there are willing development partners who would support the fight against HIV/AIDS in this sector. The Kenya Government and other governments in the region recognize the importance of the sector for trade and economic development. They are, therefore, willing to support the fight against the pandemic in this sector. Employers have also awakened to the fact that the pandemic is impacting their productivity and profitability and are ready to join in the fight alongside the trade unions in this sector.

A real threat to the fight is increasing poverty among Commercial Sex Workers (CSWs), their transient nature and the high cost of ARVs. The question of effective programme coordination in the Southern and Northern corridors, which create the workplace for this sector, is a challenge.

4. Education and Training at the Workplace

This policy envisages several strategies for fighting the pandemic in this sector. Continuous education programmes should be encouraged if the spread of HIV is to be contained. This would include sensitization and provision of Information Communication and Education materials (IECs) to the workers.

The management of HIV/AIDS, as a strategy, must be in place in order to assist infected workers

to live longer quality lives and be able to make their contribution in the workplace and family. The strategy should include the administration of ARVs and educating infected workers on the value of using clean and affordable balanced diet and natural herbs in the management of their health.

Cultural and religious issues that stay in the way of effective implementation of prevention and management interventions need to be identified. Workers will need to be given relevant information to enable them to deal with the issues. Some of these issues would include wife inheritance, circumcision under unhygienic conditions involving the use of a clan knife and sexual activity for boys before they graduate from seclusion. Addressing religious issues involving the use or non-use of condoms for protection against STIs/STDs and HIV infections.

The policy seeks to encourage employers to recognize the fundamental human rights and dignity of infected workers as spelled out in the FKE Code of Conduct on HIV/AIDS in the Workplace and the ILO Code of Best Practice on HIV/AIDS in the World of Work as a measure of actively participating in the fight against the pandemic. This would involve the implementation of non-discriminatory gender-based policies.

This policy seeks to encourage employers and unions to engage in workplace sensitization and other education programmes in order to bring the knowledge on prevention and management to the workers in this sector. Employers are to train facilitators who would work with union officials and peer educators in the fight against HIV/AIDS.

Safety and Health programmes in the workplace would need to be implemented by employers with support from unions. This would help minimize on accidental exposure to infection and, in general, assist workers to observe other safety and health concerns in the workplace.

5. Screening for HIV in the Workplace

This policy statement recognizes the importance of workers knowing their sero-positive status as a measure of assisting in the fight against HIV and AIDS and particularly addressing the issue of personal health through prevention and management of HIV and AIDS. Employers, however, should only encourage the workers, and not demand for their testing for any reason other than those spelled out in the provisions of the FKE and ILO Codes of Conduct, to go for VCT in order to establish their status.

Other policy measures to be observed regarding testing workers are as follows:

- (a). **Screening for recruitment:** Screening prospective employees or applicants should be discouraged in respect of determining HIV/AIDS status of the applicants/prospective employees.
- (b). **Screening for promotion:** Employers should not undertake screening of employees for the purposes of promotion.
- (c). **Screening for medical cover:** All employees should be treated equally at the workplace for the purposes of comprehensive medical cover. In this respect no screening should be undertaken to determine eligibility for medical cover.
- (d). **Sentinel surveillance testing:** Employers may carry out this exercise provided that medical personnel keep the information confidential and anonymous.

6. Confidentiality and Disclosure

The issue of confidentiality is critical to the effective fight against HIV/AIDS in the workplace. In all situations this policy seeks to discourage disclosure of a workers HIV status by any official who happens to have access to such information for reason of their position with the employer. The policy seeks to advise employers to observe the provisions of the FKE Code of Conduct on HIV/AIDS in the Workplace and the ILO Code of Best Practice in the World of Work. These codes may be read and or downloaded from the FKE and ILO websites and are available in Kiswahili in both sites.

Employers are specifically encouraged to observe the ILO Convention Number 111 of 1958 (revised in 1988) on its provisions regarding the human rights and dignity of infected workers.

The following issues need to be observed carefully with a view to supporting the fight against HIV/AIDS:

(a). **The rule of confidentiality:**

Employees and management should be encouraged to uphold the rules of confidentiality on sero-positive status of the employees. However, for increasing awareness and support of victims of HIV/AIDS, the employer should provide and increase support for those infected workers who voluntarily choose to disclose their status with a view to encouraging the others infected to disclose their status as well as a strategy for fighting HIV/AIDS.

(b). The rights of the infected worker:

The employer should recognize the right of the infected worker as not to reveal their sero-positive status unless the worker gives written permission with explanation on reason for disclosure. The employer should also eliminate any forms of discrimination involving employment, placement, promotion and other welfare and benefits for infected workers in the workplace.

(c). Penalty for breach of confidentiality:

Employers should take necessary disciplinary action against managers, health officials, union office bearers and other employees disclosing the sero-positivity of colleagues or discriminating and stigmatizing those who are infected.

(d). Use of statistical data:

Management may collect, process and maintain statistical data relating to the workforce and especially those infected with the concurrence of union officials. The data should be disseminated to all employees with a view to enhancing sensitization, education and training. The information should be simple enough to be understood by all workers.

7. Care and Support for infected Workers

This policy seeks to emphasize the need for care and support for infected workers in the transport sector as a strategy in order to fight the HIV/AIDS pandemic. Care and support would be expected to raise the morale and motivation of workers, both infected and not infected, to rise up and participate in bringing the pandemic to a halt.

It is in recognition of this position that the policy advocates for the following to be observed by both the employers and workers unions in the sector:

(a). Counseling Services for Employees and the Family:

Employers should offer counseling services and unlimited support to the infected workers and their families. Where this is not practical or feasible, employers should endeavour to refer the affected workers to Government-supported programmes in their localities. In any case they should give workers sufficient time-off to attend counseling services outside of the workplace. They may also arrange to have Training of Trainers (T.O.T) counseling programmes at the workplace in order to have workplace-based services in place.

(b). Non-discriminatory Medical Cover:

Employers should offer equal provision of medical care to all workers irrespective of their terminal ailments. The employers and all stakeholders, therefore, are encouraged to provide ARVs to infected workers in order to assist them lead quality lives, continue to participate in the production and productivity improvement process in the workplace and to continue to give financial assistance to their dependent members of the family.

(c). Reasonable Arrangements for Infected Workers:

This policy seeks to inform employers and workers of the spirit of compassion for infected workers and their spouses. All infected workers should be accorded reasonable changes in working arrangements as a demonstration of solidarity with them in their time of need.

HIV infection should not be used as the reason for termination of an employee as it cannot be associated with any limitation in fitness to work. However, when fitness to work gets limited by the infection, then reasonable arrangements should be made to accommodate the employee in order to ensure their right to continuation of employment. This should be done in line with their health status. Employee welfare such as remuneration, medical and housing benefits should remain unchanged subject to the provisions of the current Collective Bargaining Agreement (CBA).

(d). Establishing Partnerships for Care and Support:

Employers are strongly encouraged to establish partnerships through collaboration and networking with support groups such as unions and the National Aids Control Council (NACC) and Non-Governmental Organizations (NGOs) with a view to sourcing for funding for technical back up on matters relating to care and support programmes for workers.

(e). Employee welfare Issues:

It is stipulated that both the employers and workers should establish welfare funds or foundations for orphans for purposes of enhancing the campaign against HIV/AIDS and improving the welfare of the workers and their families.

8. Gender and Discrimination

It is the aim of this policy to encourage employers to practice gender equality in all its aspects and more so in the way it relates to the spread of HIV infections among workers.

According to the FKE Code of Conduct on HIV/AIDS in the Workplace, employers have been advised to adopt policies aimed at discouraging sexual harassment especially aimed at blackmailing female employees to grant sexual favours to their male superiors who may be sero-positive.

The code further encourages employers to promote equal treatment of men and women in the workplace in respect of employment, remuneration, training and promotional opportunities in order to discourage risky behaviour amongst women workers who may be disadvantaged by any form of social exclusion. Equally unions, as employers, are advised to follow the above-referred provisions of the FKE Code of Conduct on HIV/AIDS in the Workplace and the ILO Code of Best Practice on HIV/AIDS in the World of Work.

Both men and women should be educated on their roles in the prevention and management of HIV/AIDS. In this connection, there is a need to develop special education programmes on HIV/AIDS and gender to sensitize both men and women on the facts about HIV/AIDS pandemic, in particular, issues of sexual harassment at the workplace and family and the vulnerability of women in HIV infection.

9. Solidarity and Social Dialogue

The key tenet of this policy is to seek partnerships among social partners and other stakeholders in the general fight against HIV/AIDS in the workplace and community. This policy, therefore, seeks to encourage the establishment of programmes and strategic linkages among unions, employers organizations, individual employers, Government (through the National AIDS Control Council, NGOs and development partners) for purposes of effective fight against HIV/AIDS. This is in recognition of the fact that HIV/AIDS has no specific boundaries.

Unions are encouraged to dialogue with bodies dealing with statutory contributions from workers, such as NSSF, NHIF and others, to provide benevolent funds to assist workers and their immediate family, living with HIV/AIDS and seek to support AIDS orphans of workers.

Unions and employers should arrange for benevolent funds to assist in purchasing drugs during ailment and cater for burial expenses.

Individual workers should exercise utmost care and take responsibility for their health, their

co-workers and families. They should personally and collectively be involved in curtailing the spread of HIV and to be involved in the management of HIV/AIDS both at the personal and community levels. They should co-operate with their co-workers and community in fighting to halt the HIV/AIDS pandemic in the workplace and community in general. **“Both Men and Women can Make a Difference”** in the fight against HIV/AIDS.

Employers are encouraged to provide social and recreational facilities for their workers and use these fora for dissemination of information on HIV/AIDS.

The employers and unions should provide for consultative fora to decide on criteria of dealing with workers living with HIV/AIDS regarding performance, incapacity and retirement. The two social partners should continuously negotiate all matters affecting the welfare of workers living with HIV/AIDS through the collective bargaining process.

10. A Call to Action

It is hoped that the policies proposed here will assist in dealing with HIV/AIDS impact within the transport sector. ITF and its member unions in Kenya will strive for the adoption and adherence by all in the transport sector. The policies here should also be used as a guide in future CBA negotiations.

11. Sources of further Information:

International Transport Workers' Federation

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Email: itf@kenyaonline.com

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Federation of Kenya Employers

P.O. Box 48311

Nairobi

Email: fke@hivaidsproject.org / fke@wananchi.com

Website: www.fkehivaid.org

International Labour Organisation

Geneva

Website: www.ilo.org

Central Organization of Trade Unions (Kenya)

P.O. Box 13000

Nairobi

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Website: www.cotu-kenya.org

Railway Workers Union (K)

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Dock Workers Union

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Seafarers Union of Kenya

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