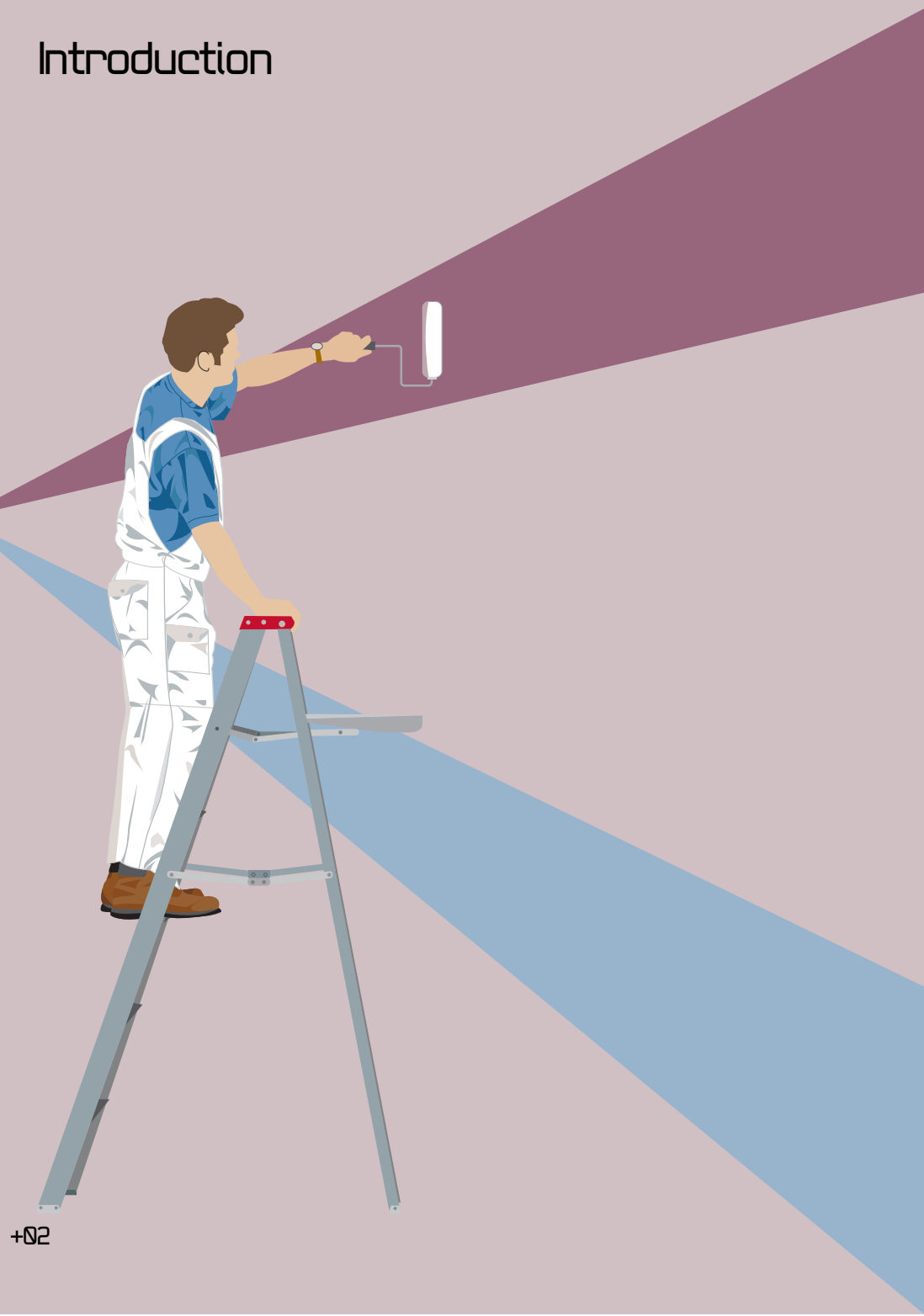


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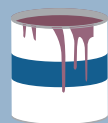
An employer's guide to HIV and other blood borne viruses (BBVs)



Introduction



The majority of people living with HIV and other blood borne viruses (BBVs), such as hepatitis B and C, are of working age. Advances in treatment mean more and more people with HIV and other BBVs will continue to work or want to return to work. Your employee is your most valuable investment, therefore it makes good business sense to make sure that your organisation is equipped to respond to issues surrounding HIV and other BBVs. This leaflet will give you some basic guidance including the simple inexpensive steps that your organisation can take to address HIV and other BBVs, as well as a brief explanation of your legal duties.



Why are HIV and other BBVs a workplace issue?

+ HIV and other BBVs are an issue for workplaces because:

- HIV and other BBVs can affect all of us;
- most people infected with HIV and other BBVs are of working age and therefore may require some specific support at work;
- advances in treatment mean more people with HIV and other BBVs will continue to work or want to return to work;
- employers have legal responsibilities towards people with HIV and other BBVs (see page 8);
- employers have a role in contributing to the prevention of HIV and other BBVs through small practical steps (see page 12).

“Raising awareness and increasing our staff’s knowledge of HIV has changed mindsets and improved understanding.”

(Employer)



Definitions

+ What are Blood Borne Viruses (BBVs)?

BBVs are mainly found in blood or bodily fluids. The main BBVs are human immunodeficiency (HIV), hepatitis B and hepatitis C.

Human Immunodeficiency Virus (HIV)

HIV, the virus which can cause Acquired Immune Deficiency Syndrome (AIDS), is nearly always transmitted through unprotected vaginal or anal sex, through sharing injecting drug equipment or from mother to baby. There is also a risk from needle stick injuries and from blood transfusions received in resource poor countries. HIV is transmitted through bodily fluids, in particular blood, semen, vaginal secretions and breastmilk. It is NOT transmitted through casual contact, coughing, sneezing, by sharing a toilet or by using eating utensils, consuming food and beverages handled or prepared by someone with HIV. Therefore somebody living with HIV in your workplace is NOT a risk to others.



Hepatitis

Hepatitis means inflammation of the liver. Viruses can cause this by infecting the liver. There are a number of different hepatitis viruses – two of the most common are hepatitis B and C.

Hepatitis B and C are easily transmitted through contaminated blood. Most people do not know if they are infected. They may feel OK for many years with a proportion progressing over 20 to 30 years to develop severe liver disease. Some people will however recover completely. A small proportion may develop liver cancer.

- *Hepatitis B* is mainly transmitted through blood, semen, vaginal fluid and breastmilk. There is an effective vaccination against hepatitis B.
- *Hepatitis C* is mainly transmitted through blood with a low risk of transmission through semen and vaginal fluid. There is no vaccine against hepatitis C.

Your legal duties explained

***“I’m good at my job,
I enjoy my job,
I’m HIV positive.”***

(Employee)



+ The following legislation covers HIV and other BBVs in the workplace.

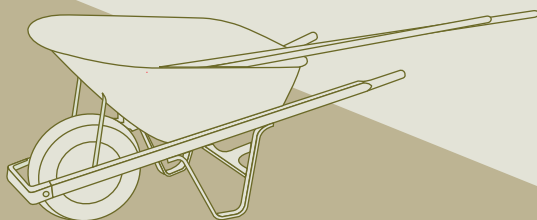
Health and Safety at Work etc. Act 1974

The basis of health and safety law is the Health and Safety at Work etc. Act 1974. Employers have a legal duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of their employees.

The Management of Health and Safety at Work Regulations 1999

Employers must assess the risks to ALL employees and make arrangements for their health and safety. Therefore employers should ensure that:

- a risk assessment of the organisation is carried out for occupational health and safety to protect the health of all employees and this should include HIV and other BBVs. (See the Health & Safety Executive's *Five Steps to Risk Assessment* in further reading on page 19);
- all first aid training covers HIV and other BBVs.



Disability Discrimination Act 1996

Under the Disability Discrimination Act (DDA) 1996, it is unlawful for employers to treat people with disabilities less favourably because of their disability. The DDA came into force in 1996 and currently only applies to employers with more than 15 employees but this is set to change in the very near future. From 2004 the DDA will apply to all employers regardless of size. The DDA includes 'progressive' conditions such as HIV as long as there is 'some' impact on normal day-to-day activities.

According to the DDA, the employer has to make 'reasonable adjustments' if a disabled job applicant or employee is at a disadvantage in relation to others. The duty applies to both physical features of the employer's premises, e.g. fittings and equipment and to all other aspects of employment including recruitment, training and retention.

If a person with HIV has grounds to believe they have been discriminated against by their employer, they can take the organisation to an employment tribunal.

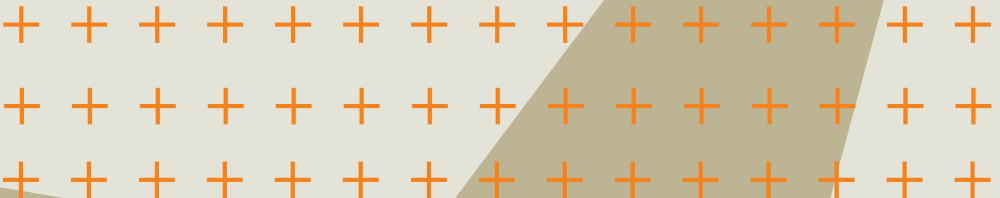


It would be unfair to dismiss someone for being HIV positive unless there was some job-related consequence, which is likely to be rare. However, unfair dismissal requires one-year service.

However, there may be issues concerning other employees' attitudes and behaviour and the employer should handle situations carefully to avoid harassment or bullying as this could trigger legal liabilities. The employer is vicariously liable* for the actions of his/her employees acting in the course of employment. This definition has been generously interpreted in recent years and damages in such cases can be extensive.

Employers have a duty of care to look after their employee's health. This can lead to claims of breach of contract which can include psychiatric damages.

** Vicarious Liability: When one person is liable for the negligent actions of another person, even though the first person was not directly responsible for the injury. For instance, a parent sometimes can be vicariously liable for the harmful acts of a child and an employer sometimes can be vicariously liable for the acts of a worker.*



Simple inexpensive steps
you can take



- + Train all staff, including senior management (guarding against vicarious liability) on HIV and other BBVs and their respective roles within the policy context. You may be able to access free training from your local health board or other agencies listed at the end of this leaflet. World AIDS Day is a good opportunity to introduce the subject into the workplace.
- + Make sure your organisation complies with relevant legislation (see page 8).
- + Make accessible information on sources of advice, support and information, both within and outwith your workplace. These can be displayed on staff noticeboards and/or in toilets. Again, you will find sources of further information and advice at the end of this leaflet.
- + Integrate HIV and other BBVs with existing policies, e.g. equal opportunities, health and safety.
- + Respect the confidentiality of employees' personal and medical information, avoiding any unnecessary and damaging disclosures. People with HIV or BBVs may need to be reassured about the confidentiality they are entitled to by your organisation.
- + If your workplace has anti-discriminatory policies, you should consider adding in specific references to HIV and other BBVs.
- + If part of your employees' job may involve travel outside the UK, particularly to an area of high incidence of HIV and AIDS, you should provide employees with advice about healthcare. A good source of information on this issue is Health Scotland's *Information for Travellers on HIV and Sexual Health* (2002), (see page 19).

These could be formulated within a formal written policy.

Remember you do not need to know the HIV status of your employee to protect the health and safety of all employees.

Best practice



+ Developing a HIV and BBV policy

Ideally you should develop a policy that sets clear guidelines for all which would incorporate all the steps outlined on page 13. A good policy will also set out how these can be applied consistently, leading to the fair management of HIV and other BBVs in the workplace. The policy should be based on consultation with all relevant stakeholders, e.g. Trade Union representative, staff, senior management, occupational health and be communicated to all employees.

See Health Scotland's *How to Write and Implement a Health Policy: A simple guide* (2001) for more information on developing health policies in the workplace (see page 19).

“The best thing that employers can do is to make sure that there’s a flexible and supportive policy for anyone who is ill. If HIV is specified in their policies, it gives the right message to people whether or not they are HIV positive.”

(An employee with HIV)

Further information and support

+ **Safe and Healthy Working**

Safe and Healthy Working is a new service in Scotland to support employers and employees in Small and Medium Enterprises (SMEs). The service gives all SME employers and their workers equal access to free and confidential advice, information and support on occupational health and safety in the workplace.

For free information and advice phone 0800 019 2211 or visit www.safeandhealthyworking.com

+ **ACAS**

The Advisory, Conciliation and Arbitration Service provides confidential help on all employment matters. Telephone the Acas Helpline on 08457 47 47 47 or visit www.acas.org.uk

+ **Scotland's Health at Work (SHAW)**

SHAW is a national award scheme (Bronze, Silver and Gold Awards) that rewards employers who demonstrate commitment to improving the health and ultimately the performance of their workforce. For more information or to contact your local SHAW advisor, telephone 01224 551444 or visit www.shaw.uk.com

+ **British Liver Trust**

Provides support and information on adult liver disease, including Hepatitis. Telephone 01473 276 328 or visit www.britishlivertrust.org.uk

+ **Scottish Centre for Infection and Environmental Health**

Undertakes surveillance of HIV and other BBVs and provides expert operational support on them to NHS boards and local authorities in Scotland. Visit www.show.scot.nhs.uk/scieh

+ **HIV Scotland**

National HIV agency for the voluntary sector in Scotland.
Visit www.hivscotland.com

+ **Waverley Care Solas**

Waverley Care Solas provides up to date information on HIV to agencies and individuals alike as well as providing a support service for people living with HIV. Visit www.waverleycare.org or telephone 0131 661 0982.

+ **National AIDS Trust (NAT)**

The UK's leading HIV and AIDS policy development and advocacy organisation. Visit www.nat.org.uk



Further reading



HIV and Employers Pack
National AIDS Trust (NAT)

Available at **www.nat.org.uk** (priced £15)

How to Write and Implement a Health Policy: A simple guide
Health Scotland, 2001

Available at **www.safeandhealthyworking.com**

Information for Travellers on HIV and Sexual Health
Health Scotland, 2002

Available from local health board health promotion departments
and at **www.healthscotland.com**

Five Steps to Risk Assessment
Health & Safety Executive, 1998

Available at **www.hse.gov.uk**

*Blood Borne Viruses in the Workplace: Guidance for employers
and employees*

Health & Safety Executive, 2001

Available at **www.hse.gov.uk**

Acknowledgements

Health Scotland would like to thank all the professional and voluntary organisations who gave their time and expertise to the development of this leaflet. Particular thanks to Lynne Davidson from NHS Greater Glasgow who was involved in the writing of this publication and to the employers who gave their time to comment in detail during the pre-test.

Published by Health Scotland,
Woodburn House, Canaan Lane,
Edinburgh EH10 4SG.

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ISBN: 1-84485-027-7

www.healthscotland.com

