



A Guidance Note:



International
Labour
Office

How Best to Develop a National Policy on HIV and AIDS and the World of Work



The HIV and AIDS Recommendation, 2010 (No. 200) - referred to as “R.200” - calls on ILO member States to develop, in consultation with organizations of employers and workers, national policies and programmes on HIV and AIDS and the world of work, where these do not already exist. If a national policy and programme has already been developed, member States are invited to consider revising these in light of the adoption of R.200.



Coverage

As indicated in R.200, the national workplace policy should cover a) all workers working under all forms or arrangements, and at all workplaces, including: i) persons in any employment or occupation; ii) those in training, including interns and apprentices; iii) volunteers; iv) jobseekers and job applicants; v) laid-off and suspended workers; b) all sectors of economic activity, including the private and public sectors and the formal and informal economies; and c) armed forces and uniformed services. R.200 also covers migrant workers.



➤ The value of a national policy on HIV and AIDS and the world of work



A national workplace policy provides the framework for coordinated and collaborative action by all concerned actors - government, employers, workers, civil society organizations, including organizations of persons living with HIV - to prevent HIV transmission and mitigate the impact of the epidemic in and through the world of work. A national workplace policy also serves as a framework for the development of policies and programmes on HIV and AIDS for specific sectors of economic activity and at enterprise level. As reflected in R.200, the policy should also address issues relevant to HIV and tuberculosis (TB) in the workplace, depending on national circumstances. The national workplace policy should aim to:



- Align with the national HIV and AIDS policy framework and engage the workplace and world of work actors in the HIV response;
- Provide guidance to all national stakeholders on the role of the workplace and of world of work actors;
- Take cultural and gender concerns into account and promote gender equality and women's empowerment in the context of the national HIV response; and
- Present information in a format that is easily accessible and understandable to its intended audience.



➤ A national policy on HIV and AIDS and the workplace should include:



1. A general policy statement:

The policy should begin with a general policy statement or introductory section. Reference should be made to the particular characteristics of the HIV epidemic in the country, and to the national HIV and AIDS policy framework. It should: **a)** include a commitment to preventing the spread of HIV and mitigating the impact of HIV and AIDS in and through the workplace; **b)** indicate zero tolerance for stigma and discrimination on the basis of real or perceived HIV status; **c)** explain the reason underlying the development and adoption of the policy on HIV and AIDS and the world of work; **d)** link the policy to other national development plans and strategies, highlighting the gender dimensions of HIV and AIDS, noting that while HIV affects both men and women, women and girls are at greater risk and more vulnerable to HIV infection and are disproportionately affected by HIV compared to men as a result of gender inequalities; **e)** refer to national legislation or relevant policies and strategies that may exist on HIV and AIDS; **f)** refer to relevant international standards for guidance, particularly R.200 and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the ILO Code of practice on HIV/AIDS and the world of work (2001).



2. A scope of application

The policy should contain a section defining clearly its scope of coverage, specifying that it applies to all workers - including job applicants. Paragraph 2 of R.200 provides for the broadest possible scope of coverage and its provisions could inform this section of the policy.

3. Key Principles

The policy should set out general principles, rights and obligations, guided by those established in R.200, building upon the ILO Code of practice on HIV/AIDS and the world of work (2001). These are:

- The response to HIV and AIDS contributes to **the realization of human rights, fundamental freedoms and gender equality for all**, including workers, their families and dependants;
- HIV and AIDS are workplace issues and the workplace should be included as **an essential element of the national, regional and international response** with full participation of organizations of employers and workers;
- There should be **no employment-related discrimination against or stigmatization of persons**, including job seekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection. The principle of non-discrimination ensures equality of opportunity and treatment in access to employment and terms and conditions of employment;
- Real or perceived HIV status is **not a cause for termination of employment**. Persons with HIV-related illness should not be denied the possibility of continuing in employment with reasonable accommodation for as long as they are medically fit to do so;
- Prevention of HIV transmission should be **a fundamental priority**;
- Workers, their families and dependants should benefit from HIV prevention, treatment, care and support services and the workplace should play a role in **facilitating access** to these services;
- National policies and programmes on HIV and AIDS should reinforce **social dialogue** and be based on cooperation and trust between government, organizations of employers and workers, and take into account the views of persons living with HIV. Workers should participate and be engaged in the design, implementation and evaluation of national and workplace programmes on HIV and AIDS;
- The working environment should be safe and healthy for all workers and they should benefit from programmes to **prevent risk of occupational exposure to HIV and tuberculosis**;
- Workers, their families and dependants have **the right to privacy**, including confidentiality of their HIV status;
- **No workers should be subjected to mandatory HIV testing or screening** or be required to disclose their or others' HIV status; and
- Measures to address HIV and AIDS in the world of work should be **part of national development plans, policies and programmes**, including those related to labour, education, social protection and health.

Who should be involved in developing the national workplace policy?

R.200 states that the national workplace policies and programmes are to be developed by the “competent authorities” at country level.

ILO tripartite constituents, particularly the Ministry of Labour, may take a lead role in initiating the policy development process, involving the Ministry of Health and other relevant ministries. Governments and organizations of employers and workers should be engaged at all stages of the process. The views of other relevant national actors should also be taken into account, including those of the national labour administration and judicial authorities. The views of:

- civil society organizations, including organizations of persons living with HIV,
- representatives of other relevant sectors, such as the health sector and the education sector,
- and other concerned stakeholders, including United Nations agencies, particularly UNAIDS,

should be taken into account. This inclusiveness helps to ensure that the policy will address relevant needs and concerns and ensures the widest possible “buy-in” from all parties.

How to Develop the National Workplace Policy: A Step-by-Step Approach

Step 1: Take the Initiative

- ✓ The government, either on its own initiative or after being approached by organizations of employers and workers, civil society organizations or other stakeholders, decides to take action to develop a national policy on HIV and AIDS and the workplace.

Step 2: Consult

- ✓ The government consults the most representative organizations of employers and workers to confirm their interest and reach consensus on the development of a policy.
- ✓ Bilateral discussions take place between the Ministry of Labour and relevant ministries like the ministries of Health, Transport, Tourism, Women/Gender, Youth, etc., and the national AIDS authorities.
- ✓ A national workshop is organized involving all stakeholders to discuss and agree on the process to be followed. In federal states, workshops at the state or province level could also be organized.

Step 3: Establish a committee/group

- ✓ A committee or working group is established with clear terms of reference for developing the policy. The committee/group will encourage the involvement of persons living with HIV in the policy development process.

Step 4: Assess the national situation

- ✓ The national workplace policy is informed by an assessment of the national situation which takes into account the status of the epidemic at the country level, its gender equality aspects, the status of the national AIDS response and availability of relevant services, including public and private health services.
- ✓ The policy also takes into account national legislation and policy, reviewing labour law and policy on HIV and AIDS, general discrimination legislation and other relevant legislation at the national level.
- ✓ The policy is informed by both national and international research that is available. It should make provision for further participatory research at workplaces as part of evidence-informed implementation measures.

Step 5: Draft the workplace policy

- ✓ The workplace policy is drafted by the committee/working group or in consultation with a resource person experienced in workplace issues.
- ✓ The definitions provided in the policy are informed by those set out in paragraph 1 of R.200, particularly with regard to the broad definitions of “workplace” and “worker”. UNAIDS Terminology Guidelines (2011) also inform the drafting process.
- ✓ The draft policy sets out: the scope of the policy, the key principles, the roles of the different stakeholders, giving special emphasis to the proposed mechanisms for implementation and periodic monitoring of the policy.
- ✓ The draft policy primarily takes account of R.200, as well as of the ILO Code of practice, the national HIV and AIDS policy framework, other relevant ILO instruments and other international guidelines.

Step 6: Circulate the draft and continue discussion if needed

- ✓ The draft policy arising out of the consultations is circulated widely for comment, revised and agreed upon. The policy is drafted in clear and accessible language and format. It is submitted for approval and adoption to the competent national authorities.

Step 7: Approve and adopt

- ✓ The policy is approved and adopted by the competent national authorities.

Step 8: Disseminate

- ✓ Where applicable, the policy should be translated into other national languages for wider dissemination. Governments should disseminate information on the national policy and programme on HIV and AIDS as widely as possible. The policy and programme should also be disseminated and promoted through organizations of employers and workers, other relevant HIV and AIDS bodies such as national AIDS authorities, and public information channels.

Step 9: Implement

- ✓ The competent authorities could organize a tripartite workshop to discuss a national strategy or action plan for implementation of the policy in both the formal and informal economies. At this workshop, a National Tripartite Implementation Committee could be established to follow up on implementation, monitoring and evaluation.
- ✓ The policy should provide for easily accessible dispute resolution procedures in the event of an alleged violation of the rights established, as well as disciplinary measures. It could also be linked to national mechanisms for enforcement of human rights and rights at work.
- ✓ Adequate training at the workplace on the content of the policy will greatly facilitate implementation.
- ✓ Policies for individual workplaces are developed on the basis of the national workplace policy.
- ✓ The workplace policy on HIV and AIDS is accompanied by an action plan with clear timetables, a budget and clear assignment of responsibilities for implementation, monitoring and evaluation.
- ✓ The action plan is evidence-informed to ensure that it targets the key groups of women and men workers at higher risk of exposure to HIV - in the best and most efficient manner to deliver the message of HIV prevention.

Step 10: Monitor and Evaluate

- ✓ The action plan is monitored and evaluated periodically and necessary adaptations are made.
- ✓ Monitoring and evaluation could be undertaken by the labour inspectorate, who would undergo training on aspects of policy implementation on HIV and TB.

A Checklist for Planning and Implementation

- Has a national tripartite-plus workshop taken place? Has a committee/working group been set up to draft the policy?
- Have consultations been held between the Ministry of Labour and the Ministry of Health and/or the national AIDS authority? Have attempts been made to engage with a wide range of stakeholders, including most representative employers' and workers' organizations, civil society organizations, including organizations of persons living with HIV and other relevant actors?
- Has an assessment of the national HIV situation and response and of the existing national HIV policy framework been carried out? (This would include an assessment of information and services such as voluntary counselling and testing, services for diagnosis of TB and other sexually-transmitted infections, particularly those services accessible to women and men workers.)
- Does the draft policy take the issues of gender equality and women's empowerment into account?
- Does the draft policy ensure the empowerment of all workers, regardless of sexual orientation and ensure the prevention of gender-based violence and harassment in the workplace?
- Once the draft policy has been formulated, has the draft text been circulated for comment, then revised and agreed upon accordingly?
- Does the draft policy take into account the key principles of R.200, the ILO Code of practice and other relevant ILO instruments?
- Does the draft policy follow the framework of the national HIV and AIDS policy?
- Has the draft policy been shared with a larger audience and has the necessary consensus been built?
- Does the draft policy provide for its effective implementation?
- Does the draft policy provide for an adequate review and monitoring mechanism?
- Has the draft policy been submitted to the competent authority for approval and adoption?

Additional resources - Additional guidance and examples of national workplace policies on HIV and AIDS may be obtained from the ILO at: www.ilo.org/aids