

**SHAPING ATTITUDES  
CHALLENGING INJUSTICE  
CHANGING LIVES**

**TRANSFORMING  
THE UK'S  
RESPONSE  
TO HIV**



**Living Well, Employability Theme Day: 13 May 2009**





# **HIV and employment**

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# Current situation

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-  London study of people living with HIV showed 47% of respondents were employed
  -  Employment has benefits - linked to improved self esteem and better mental health
  -  Employment helps maintain income and living conditions (financial worries linked to poor treatment adherence)
  -  Government focusing on getting people back to work (benefits reform, ESA etc)
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# Experiences in work

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-  NAT study of 1840 gay men living with HIV in employment
-  Wide range of professions
-  Over 50% had no problems relating to their HIV status at work
-  Main concerns around tiredness, stress and anxiety
-  40% has disclosed their status at work
-  Discrimination not common

# Legal framework

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-  **Disability Discrimination Act (DDA) 1995** prohibits disability discrimination in employment and access to goods, services, education and housing
-  **Disability Discrimination Act 2005** extended the definition of disability to cover HIV positive people from the point of diagnosis




DDA 2005 Section 18(3)

“a person who has cancer, HIV infection or multiple sclerosis is to be deemed to have a disability, and hence to be a disabled person”

## What does this means?

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-  People living with HIV are protected against unfair dismissal and/or discrimination in recruitment, promotion, training and benefits
-  Employers should take steps to prevent harassment or discrimination by colleagues or others in the workplace
-  People living with HIV are entitled to reasonable adjustments

## What are reasonable adjustments?

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Employers have to make 'reasonable adjustments' to alter features of their workplace that put people living with HIV (or other disabilities) at a disadvantage

Examples include:

- Offering flexible working hours
- Time off for treatment
- Ensuring employees have the facilities and privacy to take medication

## What is reasonable?

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Things that are considered when deciding whether an adjustment is reasonable include:

-  The cost of making an adjustment
-  Size of the business

What is 'reasonable' for a Government Department is very different from what is 'reasonable' for a small business

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## Exploring barriers

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### Group discussions:

What concerns do you have about getting back to work?



## Barriers to employment

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### Concerns about discrimination

- Fear of discrimination can be a barrier to entering employment
- BUT discrimination is illegal

### Discrimination case examples:

- General Social Care Council
  - Armani
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## Barriers to employment

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### Concerns about confidentiality

- Fear that your employer will tell others about your HIV status can be a barrier to entering employment

### BUT legal protection

- The Data Protection Act 1998 protects all personal sensitive data disclosed by a job applicant or employee
- Explicit consent is needed for personal sensitive information about employees' health to be processed

## Confidentiality – work colleagues

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- Work colleagues are not bound by the same rules of confidentiality as employers
- There are probably fewer reasons to disclose your status to them
- Colleagues may pass on information about your HIV status to others and there is little your employer can do to prevent this
- **However, you have legal rights if your employer knows colleagues are discriminating against you and does nothing to prevent this**

## Barriers to employment

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Want to go back to work but concerned about how to account for **gaps on your CV** during interviews?

Options include:

- Talk about gaps in your employment in terms of personal development you might have undertaken during these times
- Explain that it is as a result of a disability covered by the DDA 2005 – a condition that is now well managed
- Disclose your HIV status emphasising your current good health and try to address any questions they may have

## Whether to disclose?

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### Why disclose?

- Protections from legislation (DDA 2005) only come into effect if an employee discloses to their employer
- You can't access reasonable adjustments if you don't disclose
- **However**, think carefully about how you disclose and seek guidance and support before doing so
- Unless you're working in certain healthcare professions there's no requirement to tell your employer you're HIV positive

## Where to get more advice

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EHRC helpline [www.equalityhumanrights.com](http://www.equalityhumanrights.com) 08457 622 633

NAT website [www.nat.org.uk](http://www.nat.org.uk) 020 7814 6755

THT Direct [www.tht.org.uk](http://www.tht.org.uk) 020 7564 2180

ILO [www.ilo.org](http://www.ilo.org)

TUC [www.tuc.org.uk](http://www.tuc.org.uk) 0870 600 4882

Information Commissioner's Office [www.ico.gov.uk](http://www.ico.gov.uk) 08456 30 60 60

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[www.nat.org.uk](http://www.nat.org.uk)

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