

1. BACKGROUND INFORMATION

Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome HIV/AIDS pandemic is one of the most serious socioeconomic and health problems facing Nigeria. From the first officially reported case in 1986, the pandemic continues to spread at an alarming rate. The adult HIV prevalence has increased from 1.8% in 1991 to 4.5% in 1996 and 5.8% in 2001, with a slight drop to 5.0 % in 2003. The segment of the population affected most are the youths and people within the productive age bracket most of whom constitutes the Nation's workforce. Response to the HIV/AIDS pandemic within the workplace is crucial if progress is to be made in the prevention, impact mitigation and the provision of care and support for People Living with HIV/AIDS (PLWHA) and People affected by HIV/AIDS (PABA). Increasingly, a multi-sectoral approach is being utilized, with the Federal Ministry of Labour and Productivity (FML&P) and other major stakeholders such as the employers and workers and the informal sector having a major role to play. Stigmatization of people living with HIV/AIDS is rife both within the workplace and the community. Awareness of the existence of HIV/AIDS is relatively high but the knowledge of employers and the workers about prevention, care and support is low. Myths and misconceptions on HIV/AIDS are common. Uptake of Voluntary Confidential Counseling and Testing (VCCT) is low; even when tests are carried out, they are frequently done without the consent of workers and without any pre-test and post-test counseling. Rights of individual workers are often infringed upon. Though no known cure for HIV/AIDS presently exists, there has been a tremendous improvement in the options available for care and treatment of PLWHA. The importance of preventive efforts having been realized, there is need to provide information, preventive education, quality care and support for the Nigerian worker and his/her family.

The impact of HIV/AIDS in the workplace includes reduction in labour supply among classes of workers, increased absenteeism, and increased medical expenditure. The HIV/AIDS pandemic has challenged our traditional social support system with attendant increase in orphans and vulnerable children, disruption in economic performance and reduction in productivity of both the formal and informal sectors. The pandemic is challenging the hitherto inadequate medical support systems in place for workers.

The FML&P in collaboration with other stakeholders in the labour sector including other tiers of government, employers, workers, and the Civil Society Organizations among others, is now set to responsibly address the issue of HIV/AIDS in the workplace. They have jointly identified the need to develop a National Workplace Policy on HIV/AIDS as one of the crucial steps in the efforts aimed at HIV prevention, protection of rights of workers infected/affected by the pandemic and provision of care and support for them. With this Policy in place, the stage is set for a renewed effort aimed at improving access of workers to HIV/AIDS education, prevention, impact mitigation, care and support.

This policy is being developed and presented in a renewed effort to harness, evolve and implement policies, strategies and programs on HIV/AIDS in the workplace. A rights-based and participatory approach was used to develop this policy. Appropriate references to the National Policy on HIV/AIDS launched by President Olusegun Obasanjo, GCFR, in August 2003 and the ILO Code of Practice on HIV/AIDS and the world of work to which Nigeria is a signatory were made.

2. GOAL

The overall goal of the National Workplace Policy on HIV/AIDS is to provide guidelines to government, employers, workers and other stakeholders and identify strategies and programs for:

- Promoting and protecting the rights and dignity of workers infected and affected by HIV and AIDS
- Providing workers' access to HIV/AIDS information and services to enable them take appropriate actions to protect themselves
- Management and mitigation of the impact of HIV/AIDS within the workplace
- Elimination of stigma and discrimination based on real or perceived HIV status.

3. OBJECTIVES

The objectives of this policy are to provide guidelines and policies to:

1. Facilitate the establishment of workplace responses to HIV/AIDS in all workplaces in the formal and informal sectors
2. Create an enabling environment and provide guidelines and strategies for technical support for HIV/AIDS interventions in the workplace

3. Improve the knowledge of workers on HIV and AIDS
4. Protect the rights of those infected with or affected by HIV and AIDS and sensitize them to options for redress
5. Build the capacity of workplace management and workers in handling HIV and AIDS issues in the workplace
6. Facilitate the review and enactment of appropriate laws and statutes to incorporate HIV/AIDS issues.

4.0 SCOPE

4.1 Target Audience

This policy applies to:

- All Employers
- All employees and prospective employees
- All workplaces and contracts of employment
- All human resource policies and practices of any organization
- All self employed persons and workers in the informal sector.

4.2 Thematic areas

This policy covers the following key areas of action:

- Prevention of HIV infection
- Management and impact mitigation, care and support of workers infected or affected by HIV and AIDS
- Elimination of stigma and discrimination on the basis of real or perceived HIV status
- Technical support issues
- Protection of workers rights
- Grievance procedure
- Strategies for workplace response to HIV/AIDS and
- Gender equality

5 POLICY APPLICATION

This policy provides guidelines, which should be used to:

- Develop and guide the implementation of workplace responses at the enterprise (formal and informal), community, states and national levels, including both private and government workplaces;
- Promote social dialogue, consultations, negotiations and all forms of cooperation between governments, employers and workers, civil society organizations and all relevant stakeholders;

- Develop each enterprise's workplace policies and action plans on HIV and AIDS and
- Give effect to its content in national laws, legislations, policies and programmes of action and enterprise/workplace agreements.

6.0. GUIDING PRINCIPLES

The Honourable Minister FML&P, the Nigerian Employers Consultative Association (NECA), and the Nigerian Labour Congress (NLC), Nigerian workers in the public and private sectors and all stakeholders affirm that:

- The key principles of this policy are premised upon the ILO Code of Practice on HIV/AIDS and the World of Work
- The National HIV/AIDS Workplace Policy is complementary to the Constitution of the Federal Republic of Nigeria, the National Policy on HIV/AIDS, the National Health Policy, all Labour Laws and other policies and laws pertaining to the rights and dignity of workers, development and corporate existence of Nigeria
- The policy is based on the principles of human rights, social justice and equity
- The social partners fully support the implementation of the policy
- The tripartite constituents will support appropriate legislations that complement the provisions of this policy.

7.0 GENERAL RIGHTS AND RESPONSIBILITIES

7.1 Role of Government: It shall be the duty of government to facilitate, monitor, review and enforce this policy through the FML&P in collaboration with social partners and other stakeholders.

7.1.1 Social Protection: Government shall ensure that benefits under the National laws and regulations apply to workers living with HIV and AIDS no less favourably than to workers with other chronic illnesses.

7.1.2 Coherence: The FML&P shall work in concert with the Presidential Council on AIDS and the National Action Committee on HIV/AIDS (NACA) as well as other relevant stakeholders to ensure that the workplace is recognized and integrated in the National HIV/AIDS strategy and programmes.

7.1.3 Multi-sectoral participation: The FML&P shall mobilize and support broad partnership for protection and prevention, including public agencies, the private sector, workers and employers' organizations, Civil Society Organizations (e.g. NGOs, CBOs) and all relevant stakeholders to enlist the greatest number of partners in the workplace.

7.1.4 Coordination: The coordination of the National multisectoral response to the HIV/AIDS pandemic is the statutory responsibility of the National Action Committee on AIDS. The FML&P shall support the coordination of workplace response in collaboration with other relevant stakeholders. Coordination shall build on measures and support services already in existence consistent with the provisions of this policy.

7.1.5 Prevention and Health Promotion: The FML&P shall work in partnership with other social partners to promote awareness and organize HIV/AIDS prevention programmes particularly in the workplace.

7.1.6 Research: Government, the social partners, stakeholders and research institutions shall facilitate the implementation of research into HIV issues in the workplace.

7.1.7 Legislation: The FML&P shall liaise with key stakeholder to facilitate the enactment or review of laws that pertain to stigmatization and discrimination against People Living with and affected by HIV/AIDS in the workplace.

7.2. Employers and their Organizations.

7.2.1 Role of Employers: Employers shall consult with workers and their representatives to develop and implement an appropriate policy for their workplace consistent with the national workplace policy.

7.2.2 Workplace /Enterprise Agreements: Employers shall adhere to the provisions of this policy in relation to negotiating terms and conditions of employment about HIV and AIDS issues with workers and their representatives and endeavour to include provisions on HIV/AIDS protection and prevention in workplace enterprise agreements.

7.2.3 Education and Training: Employers in consultation with workers and their representatives shall initiate and support programmes at their

workplaces to inform, educate and train workers about HIV prevention, care and support, and the enterprise's policy on HIV/AIDS, including measures to reduce discrimination against people infected or affected by HIV/AIDS.

7.2.4 Personnel Policies: Employers shall not engage in or permit any personnel policy or practice that discriminates against workers infected with or affected by HIV/AIDS.

7.2.5 Safe and Healthy Work Environment: Employers shall ensure a safe and healthy work environment including the application of universal precautions and measures such as the provision and maintenance of protective equipment and First Aid.

7.2.6 Employers in the Informal Sector: Employers in the informal sector shall form partnerships and develop appropriate prevention and care programmes for their workers consistent with the guidelines provided in this policy. Government, NGOs and other stakeholders should endeavour to assist the informal sector to create such partnerships.

7.3 Workers and their organizations

7.3.1 Role of Workers: It shall be the duty of workers and workers' organizations to educate their members on the provision of the policy and to ensure the proper implementation and compliance with the policy. Workers and their organizations shall ensure that they access information and services provided for as part of the workplace response to HIV/AIDS. Workers will participate actively in the design and implementation of intervention programs for the HIV/AIDS prevention, care and support.

7.3.2. Workplace Policy: Workers and their representatives should consult with their employers on the implementation of an appropriate policy for their workplaces, designed to prevent the spread of the infection, mitigate the impact and protect all workers from stigmatization and discrimination related to HIV/AIDS.

7.3.3. Workplace/Enterprise Agreements. Workers and their organizations shall adhere to national laws and practices when negotiating terms and conditions of employment relating to HIV/AIDS issues, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and workplace/enterprise agreements.

7.3.4. Information and Education: Workers and their organizations should use existing union structures and other structures and facilities to provide information on HIV and AIDS issues in the workplace, and develop educational materials and activities appropriate for workers and their families, including regularly updated information on workers' rights and benefits.

7.3.5 Risk Reduction and Management: Workers and their organizations should advocate for, and cooperate with employers to maintain a safe and healthy work environment, including the correct application and maintenance of protective equipment and first aid. Workers and their organizations should assess the vulnerability of the working environment and promote tailored programmes for workers as appropriate.

7.3.6. Support for Voluntary Confidential Counseling and Testing: Workers and their organizations should work with employers to encourage and support access to confidential voluntary counseling and testing.

7.3.7. Confidentiality: Workers should have the right to access their own personal medical files. Workers organizations should not have access to personal data relating to a worker's HIV status. In all cases, when carrying out trade union activities and functions, the rules of confidentiality set out in the ILO Code of Practice on HIV/AIDS in the world of work should apply.

7.3.8 Workers in the Informal Sector: Workers and their organizations should extend their activities to these workers in partnership with all other relevant stakeholders, where appropriate, and support new initiatives which help to prevent the spread of HIV and mitigate its impact.

7.3.9 Role of Workers Living with HIV/AIDS: It shall be the duty of workers living with HIV/AIDS to mobilize their peers to form support groups and encourage positive living. They should also be involved in peer counseling, advocacy and resource mobilization for the workplace response.

8.0 POLICIES

8.1 Sectoral and Enterprise Level HIV/AIDS Workplace Policy

The FML&P in collaboration with representatives of employers and workers will ensure that individual workplace policies are put in place. Such policies shall be consistent with this national policy and copies made available to the office of the Honourable Minister of Labour and Productivity. The policy shall define the role of the organization in relation to HIV and AIDS, and provide the basis for prevention, care, support and solidarity with PLWHA in the workplace and by extension, around the communities of the enterprise.

8.2 Protection from Stigma, Discrimination and Exclusion

- There shall be no obligation placed on the employee to reveal his or her HIV/AIDS status to the employer
- Persons at work who are infected or affected by HIV/AIDS shall not be stigmatized or discriminated against by co-workers, union members, employers, clients, care providers, health professionals, state officials and establishments
- Employees living with HIV/AIDS shall not be denied access to statutory benefits and occupationally related welfare schemes
- Health insurance coverage shall be available to employees regardless of HIV sero-status and no HIV test shall be imposed as a condition to access any health insurance scheme
- No Assurance Company shall deny workers access to any insurance coverage on the basis of his or her status
- The National Health Insurance Scheme shall not exclude any person or persons on the basis of his or her HIV status
- Any employee disengaged from work on the basis of HIV sero-status shall notify the Honourable Minister of Labour and Productivity, for appropriate action
- Deliberate exclusion of PLWHA in workplace activities and decision-making shall receive appropriate sanctions according to law
- The FML&P, working with other partners including workers' and employers' organizations, political structures such as national and state houses of assembly and civil society organizations shall cause a

review of and where appropriate, enactment of laws on HIV/AIDS in relation to the workplace to protect the rights of PLWHA among others.

8.3 Gender Equality

In recognition of the differential vulnerabilities of women and men to HIV/AIDS and women's traditional roles in care-giving, workplaces shall ensure that female and male workers are involved at every point in policy formulation, programme planning and implementation so as to capture the aspirations of vulnerable groups.

8.4 Continuation of Employment Relationship

HIV infection or AIDS shall not provide a basis for termination of employment. Where fitness to work is compromised by HIV/AIDS and related illnesses, the employer shall make efforts and make arrangements aimed at providing reasonable accommodation for the individual affected.

As far as possible, there shall be a deliberate policy that favours flexibility of working hours so that women and men living with or affected by HIV/AIDS can access counseling, treatment and care services during working hours and provide care for a sick spouse or child whenever necessary and as far as this can be accommodated. As the case may arise, there may be need to extend sick leave. This shall be handled on a case by case basis and as adjudged necessary by individual establishments.

8.5 Protection of the Rights of Job Seekers and Employment Prospects

- The only medical criterion for entry to employment is fitness to work. HIV infection does not in itself constitute a lack of fitness to work and nothing in the pre-employment examination shall oblige or require any candidate to declare his or her HIV status
- HIV screening shall not be required of job applicants or persons in employment
- Confidential pre- and post-test counseling services shall be made available to workers and their family members who voluntarily request for an HIV test
- For job placement in a country outside Nigeria, which requires HIV testing for placement and residence, the requirement must appear in the vacancy announcement or advertisement for appropriate action by the FML&P and the Ministry of Foreign Affairs.

8.6 Prevention and Control of HIV and AIDS through Education and Information

HIV is preventable. Prevention of all means of transmission by the known routes can be achieved through a variety of strategies, which are appropriately adapted to national, local, and workplace conditions and which are culturally sensitive. Prevention can be enhanced through changes in behaviour, knowledge, treatment and the creation of a non-discriminatory work environment. The social partners are in a unique position to promote prevention efforts in relation to changing attitudes and behaviours through provision of information and education, and in addressing socio-economic factors. The Workplace provides an excellent opportunity for the prevention of HIV/AIDS. To achieve this:

- Effective workplace HIV/ AIDS prevention education shall be provided to all persons in the workplace to enhance the capability of workers to protect themselves and their families from HIV infection
- Workplace HIV/AIDS prevention education will include education, care and treatment and eliminating stigmatization and discrimination
- HIV/AIDS educational programmes shall, to the extent possible, be developed in collaboration with government, employers, workers representatives, NGOs, Community Based Organizations and other stakeholders
- The context and content of HIV/ AIDS information and education shall show cultural, gender and age sensitivities and enlist fullest participation of all persons in and around the workplace
- Consideration shall be given to implementing educational programmes during paid working hours and integrating HIV/AIDS prevention education into the curriculum of the normal workplace capacity development programmes
- Stakeholders shall be encouraged to undertake regular community mobilization drive to bring to the fore the challenges of HIV and AIDS in the workplace

8.7 Social Dialogue

HIV/AIDS should be an issue for social dialogue using the instrument of joint consultation which may culminate in a consensus / agreement.

9.0 STRATEGIES

A right based and participatory approach was used in developing this policy. All stakeholders will be actively involved in planning and implementation.

Strategies and activities will focus on:

- **Prevention**
- **Impact Mitigation**
- **Care and Support; and**
- **Technical and Operational issues**

9.1 Prevention

- The FML&P will provide technical support for HIV/AIDS policy formulation and implementation in each workplace by setting up Workplace HIV/AIDS response Technical Task Teams. The Task Team will provide technical support and guidance for program formulation and implementation including training, HIV and AIDS education and service provision in the work place.
- Strategies for work place HIV/AIDS education using various methods such as the training of peer educators and counselors in the work place shall be put in place. Print and electronic IEC/BCC communication materials and organizational policies shall be produced to address specific issues, which will be identified through formative research. These will include the HIV/AIDS workplace education resource kit.
- Communication for behaviour change programs shall be undertaken in the workplace with a view to improving health-seeking behaviour, increasing VCCT uptake and reducing the negative attitude to PLWHA –stigma reduction, increase in protective behaviours such as consistent and correct use of condoms. Peer educators shall be trained at various levels including management, senior staff/executive cadre and junior staff / general work force. The FML&P will facilitate this process, ensuring that each organization has HIV/AIDS policy which is supportive and non discriminatory.

9.2 Impact Mitigation

- The FML&P working with stakeholders including employers, employees, workers infected and affected by HIV/AIDS, and families affected by HIV/AIDS shall create a strategic framework for mitigation of the social, economic and other impacts of HIV and AIDS. Employers should work out proper retirement strategies in a non-discriminatory manner with adequate support being provided for workers living with HIV and AIDS. This would be done in consultation with other stakeholders.
- A proper 'exit'/retirement strategy will be worked with adequate support being provided for Workers living with HIV and AIDS in and out of work in a nondiscriminatory and non-judgmental manner.
- Mechanisms shall be put in place to ensure that workers shall not be laid off on account of their sero-status rather, such workers will be encouraged and supported to continue to work and where situation dictates an adequate continuous support mechanism and exit strategies will be put in place. Alternative livelihood skills development coupled with micro credit for caregivers selected by the PLWHA are possible areas worth looking into.
- Provision of ART and other care should be adequately planned and provided for in the work place.

9.3 Care and Support

- A comprehensive program of Care and Support for workers living with HIV and AIDS shall be implemented integrating treatment, hospital/clinical based care, home based care and support. Adequate attention should be given to educating and encouraging workers living with HIV and AIDS to stay healthy. Access to ART (in line with the National Guidelines produced by the Federal Ministry of Health) and treatment of tuberculosis and other opportunistic infections will be improved on by forming linkages with healthcare delivery systems such as Federal Ministry of Health, tertiary, secondary and primary healthcare institutions including the private sector.

- Employers, including both government and private sector, are expected to have a budget line for Care and Support.
- Where possible large corporations or organizations shall be encouraged to establish HIV/AIDS programs and where feasible, support HIV/AIDS programs and VCT units in the neighborhood or alternatively pool resources together.
- To mitigate the impact of the HIV/AIDS pandemic in the workplace, organizations should endeavour to provide counseling and other forms of social support to workers infected and affected by HIV / AIDS.
- The workplace response in each situation should be situated or placed within the context of the peculiarity of each enterprise, situation or workplace. The workplace should therefore take a decision on the best option available to it within its own context. Different situations occur in the workplace with respect to their health care delivery. While some provide healthcare services within their establishments, others either patronize private health care providers or rely on public health care services. Another category just pays a lump sum to each staff in lieu of their healthcare. Some however use health insurance schemes. Where available and in use, no worker shall be denied health insurance based on real or perceived HIV sero-status. Where healthcare services exist in the workplace, appropriate treatment shall be provided. Where these services are not possible, workers shall be informed about the location of available outside services. Referrals shall be made as appropriate. Such external services will include support groups, counseling services, clinical services including access to ART as well as VCT.
- Mechanisms shall be put in place for financial mitigation of the impact of HIV /AIDS, to include financial assistance for cost of treatment and other care. Linkages should reach beyond the worker to cover their families in particular their spouses and children.
- Each workplace should identify and harness various opportunities that exist within the Civil Society Organizations -NGOs/CBOs, international donor agencies, and government. The Federal Ministry

of Labour and Productivity will provide technical support and coordinate such efforts.

9.4 Technical and operational issues

9.4.1. Workplace HIV/AIDS Response Forum

The national HIV Workplace Response Forum (which includes the social partners, public and private sector representatives, development agencies and service providers) shall be strengthened to engender effective public-private partnerships. The Forum shall also provide opportunity for joint planning, implementation, advocacy and conflict resolution, among others.

9.4.2 Rights Based Participatory Approach The rights based approach will ensure active participation of all stakeholders including persons living with HIV and AIDS, employers, employees etc, in all the processes involved such as information gathering, prioritization of issues, planning and implementation.

9.4.3 Capacity Building

The need for capacity building for prevention, impact mitigation, care and support is recognized. In workplaces, Training of Trainers, work based training, capacity -building programmes should be undertaken. The Federal Ministry of Labour and Productivity in collaboration with NACA, will establish a mechanism for institutionalizing this process.

9.4.4 Support Groups

The establishment of community based support groups shall be encouraged. Existing ones should be supported financially, technically and with material resources by the workplace HIV/AIDS Response programme, government at various levels and development partners.

9.4.5 Research

Government, Employers, Workers, other stakeholders and research institutions shall facilitate the implementation of research into HIV/AIDS issues in the workplace. A database on HIV/AIDS workplace programmes and researches shall be established by the Federal Ministry of Labour and Productivity to provide information on HIV/AIDS to aid implementation of HIV/AIDS workplace programmes.

9.4.6 Policy Issues

Formulation and implementation of a work place policy on HIV/AIDS at various levels-National, State, Local Government and Organizational /Enterprise levels shall be promoted, facilitated and monitored appropriately by Federal Ministry of Labour and Productivity.

9.4.7 On-going Programs

This policy recognizes that there are on-going workplace based HIV/AIDS programs. Best practices should be identified with a view to replicating them. In addition such programs should link up with the National workplace response to HIV and AIDS.

9.4.8 Participatory Monitoring and Evaluation

The FML&P in collaboration with stakeholders will develop tools for monitoring and evaluation of workplace responses to HIV and AIDS in the light of this policy. As a way of integrating the workplace response in the national strategy, indicators appropriate to the workplace response will be developed or identified within the Nigerian National Response Information Management System (NNRIMS).

9.4.9. Work Plan

Based on the strategies identified above, specific activities, which will be undertaken, should be worked out at each level.

10. GRIEVANCE PROCEDURE

Employers shall put in place procedures that would enable workers seek redress for offences against the principles of this policy. To achieve this:

- Employers shall ensure that the rights of employees with regard to HIV and AIDS, and remedies available to them in the event of breach of such rights become integrated into grievance procedures.
- Employers should create an awareness and understanding of the grievance procedures and how employees can utilize them.
- Employers should develop special measures to ensure confidentiality of the complainant during such proceedings including ensuring that such proceedings are held in private.

11.0 POLICY REVIEW

11.1. Policy Review

The FML&P in collaboration with the social partners shall review this policy every 3 (three) years and whenever substantial scientific and developmental concerns so dictate. Enterprises are also expected to undertake a review within the same time frame and conditions.

12. CONCLUSION

The National Workplace Policy on HIV/AIDS provides opportunity for government, employers and workers to take action on HIV and AIDS issues as it affects various aspects of the workplace. It is hoped that the overall goal of improving access to HIV and AIDS information and services; as well as HIV and AIDS prevention, impact mitigation, care and support will be achieved with the collective participation of all stakeholders in the implementation of this policy. It will in addition provide excellent reference material for workplaces in the development of their organization's workplace policies on HIV/AIDS. The strategies contained therein will be useful in designing workplace response programs at the enterprise, sectoral and national levels. In conclusion, we recommend that this policy should be translated into programmes of action, implemented and monitored in a sustainable manner.