



KENYA PLANT HEALTH INSPECTORATE SERVICE
WORKPLACE POLICY ON HIV AND AIDS



DECEMBER 2021

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GLOSSARY OF TERMS AND CONCEPTS

AIDS	Acquired Immune Deficiency Syndrome which results from advanced stages of HIV infection and characterised by opportunistic infections.
Anti-retroviral Drugs	Medicines used to inhibit the multiplication of retro-viruses such as HIV.
Behavior change	Any modification of human behavior from risky to safer, which may include abstinence, being faithful and consistent, correct use and disposal of condoms.
Treatment, Care and support	A continuum of services and assistance provided to help PLHIV and may include the provision of HIV testing services, treatment for opportunistic infections, antiretroviral therapy and other relevant employee assistance programmes.
Confidentiality	The right of every person to have his/her medical and other personal information including HIV status kept secret.
Discrimination	Any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment at the workplace.
Employee	Any person employed in KEPHIS on permanent terms of service, contract or unless otherwise stated Employees are persons employed by the KEPHIS to carry out assigned task. This includes permanent, contracted, temporary and casual workers (HRP&PM 2019).
Key stakeholders	Farmers, Seed companies, Seed sellers, Suppliers, Importers and Exporters, Educational institutions, Youth, Women and vulnerable groups, Media among others
Gender	Socially constructed or learnt differences in social roles, responsibilities and relations between men and women, boys and girls.
Harassment	Generalised as insulting and degrading behaviour or statements which could be verbal, physical, deliberate, unsolicited for and unwelcome.
HIV	Human Immunodeficiency Virus that damages the human immune system.

HIV Screening	Direct HIV testing as well as indirect measures such as assessment of risk-taking behaviours or asking questions about tests already taken or about medication.
HIV Testing	A medical test to determine a person's HIV status.
HIV Testing Services	A full range of services that are offered together with HIV testing. These include counselling, linkage to appropriate HIV prevention, care and treatment services and other related clinical support services
Maisha	A slogan standing for prevention and management of HIV and AIDS in Kenya.
Maisha 1	Maisha Certification is implemented in two levels. Maisha 1 level activities focuses on employees and their immediate family members; and Ministries, Departments and Agencies (MDAs) must pass this level before they can move to Maisha 2.
Maisha 2	Maisha 2 focuses on MDAs engagement with their clients and external stakeholders using their corporate competencies and mandates to influence HIV policy and programmes. The MDAs must continue implementing Maisha 1 activities while at this level.
Maisha Certification System	A compliance and accountability mechanism for delivery of the Maisha Performance Contract targets on HIV and AIDS for MDAs in the public sector
Employee	Any person employed by the KEPHIS to carry out assigned task. This includes permanent, contracted, temporary and casual workers
Immediate Family Members	Employee's spouse and children
Peer Educator	A trained employee who undertakes informed and organized educational activities with members of staff or people of equal standing with the goal of imparting knowledge and encouraging colleagues at the workplace to examine and change their risky attitudes, beliefs and behavior.
Performance	The level of ability to expedite the tasks of work to the agreed standards as defined by KEPHIS.

Prevalence of HIV	The number of people with HIV at a particular point in time, often expressed as a percentage of the total population.
Psychosocial Support	Psychological and social support services that are provided to help a person cope with difficult situations and challenges.
Reasonable accommodation	Any change, modification or adjustment to job conditions, working arrangements, equipment, work environment, or the way things are usually done that is reasonably practicable and enables a member of staff living with HIV to have access to, or participate or advance in, employment or effectively perform job functions, or enjoy equal access to benefits available to other staff at the workplace.
Sexual Harassment	Unwelcome sexual advances, requests for sexual favours and other verbal or physical contacts of a sexual nature.
Stigma	A spoilt identity, mark of disgrace or labelling associated with a particular circumstance such as HIV positive status that makes one feel devalued or disrespected.
KEPHIS	Kenya Plant Health Inspectorate Service established under the KEPHIS Act, 2012.
The Management	The Board of Directors, General Managers, Head of Departments, Regional Managers/Officers in Charge.
Workplace	Occupational settings, stations and places where employees spend time for gainful employment. Workplace includes; any land, premises, location, vessel or thing, at, in, upon, or near which, a worker is, in the course of employment (OSH Act No 15 of 2007).

ACRONYMNS AND ABBREVIATIONS

ACU	AIDS Control Unit
ADSA	Alcohol, Drugs and Substance Abuse
AIDS	Acquired Immune Deficiency Syndrome
ARVs	Anti-Retroviral Drugs
BMI	Body Mass Index
COVID-19	Corona Virus Disease - 19
GIPA	Greater Involvement of People Living with HIV
HAPCA	HIV and AIDS Prevention and Control Act 2006
HIV	Human Immunodeficiency Virus
HRP&PM 2019	KEPHIS Human Resource Policy and Procedures Manual 2019
IEC	Information, Education and Communication
ILO	International Labour Organization
KASF	Kenya AIDS Strategic Framework
KenPHIA	Kenya Population based HIV Impact Assessment
KEPHIS	Kenya Plant Health Inspectorate Service
M&E	Monitoring and Evaluation
MD	Managing Director
MDAs	Ministries, Departments and Agencies
MIPA	Meaningful Involvement of People Living with HIV
NACC	National AIDS Control Council
NCDs	Non-Communicable Diseases
NHIF	National Hospital Insurance Fund
OSHA	Occupational Safety and Health Act
PEP	Post Exposure Prophylaxis
PLHIV	People Living with HIV
PrEP	Pre-Exposure Prophylaxis
PWDs	People with Disabilities
SDGs	Sustainable Development Goals
SGBV	Sexual Gender Based Violence
UHC	Universal Health Coverage
UNAIDS	United Nations Joint Team on HIV and AIDS
WIBA	Work Injury Benefits Act

FOREWORD

HIV and AIDS is a public health and development challenge that has adversely affected various sectors in Kenya. It is estimated that approximately 1.5 million Kenyans are living with HIV (Kenya HIV Estimates, 2020). HIV and AIDS continue to negatively impact on productivity and threaten to reverse the socio-economic gains made since independence.

Kenya Plant Health Inspectorate Service (KEPHIS) recognizes the seriousness of the epidemic and its impact at the workplace. In this regard, KEPHIS has mainstreamed HIV Prevention into its Strategic Plan 2017-2022 and Performance Contract. Further, KEPHIS developed the Workplace Policy on HIV and AIDS (2016) in line with the Public Sector Workplace Policy on HIV and AIDS 2017 to provide an institutional framework to address HIV and AIDS at the workplace. The Policy has been further reviewed in line with Public Sector Workplace Policy on HIV and AIDS 2017, KASF II and the emerging issues in the multi sectoral response to HIV and AIDS.

The Policy demonstrates KEPHIS's commitment and support to mitigate against the impact of HIV and AIDS at the workplace and promote the achievement of, KEPHIS strategic objective, Agriculture Sector Development Support programme, the "Big Four Agenda" -Nutrition and Food security pillar and Vision 2030.

The successful implementation of this Policy will ensure service delivery as well as better health for employees and their immediate family members. In this regard, the Board commits to allocate adequate resources and provide support for the full implementation of this Policy.

Hon. Peter Weru Kinyua

BOARD CHAIRMAN

KENYA PLANT HEALTH INSPECTORATE SERVICE

PREFACE

HIV and AIDS may negatively impact on the delivery of KEPHIS strategic goals and objectives. As such, ACU Committee was constituted to spearhead mitigation of socio-economic impacts of HIV and AIDS on the delivery of the core functions. KEPHIS is currently implementing the NACC Maisha 2 certification after successful completion of Maisha 1. During the implementation process, it was noted that a revised policy framework is critical for the HIV programmes targeting employees, immediate family members and key external stake holders.

This revised Policy incorporates emerging health issues such as of Non communicable diseases and mental health. It further outlines key areas such as; legal and regulatory frameworks, guiding principles, policy statements, employees' rights and obligations, operational guidelines, institutional implementation framework, monitoring and evaluation.

I wish to specially thank the Board of Directors for the visionary leadership and providing an enabling environment for the achievements we have made over the years in mitigating the impacts of HIV and AIDS at the workplace.

The successful implementation of this Policy will require support from the General Managers, Heads of Departments, employees and other key stakeholders.

Therefore, I call for concerted efforts from all to ensure full implementation of this Policy.

Prof. Theophilus M. Mutui, PhD
Managing Director
KENYA PLANT HEALTH INSPECTORATE SERVICE

ACKNOWLEDGEMENT

This Policy has been revised through an inclusive and consultative process involving the KEPHIS Management, employees and key stakeholders. First and foremost, I recognize the visionary oversight of the Managing Director KEPHIS towards the implementation of HIV programmes and the successful review of the Policy.

In the same way, I appreciate the General Managers, Heads of Departments and employees for their commitment and valuable contributions towards making this process a success.

Further, I express my gratitude to the HIV and AIDS Committee members for spearheading the review process. The members are as follows:

1. Catherine Muraguri
2. Winnie K. Ogutu
3. Fredrick M Koome
4. David Odhiambo
5. Daniel Kiptoo
6. Fridah Chelimo
7. Millicent Mburu

Lastly, I wish to acknowledge the National AIDS Control Council (NACC) for technical support towards the finalization of this Policy.

Ms. Catherine Muraguri
Chairperson, HIV and AIDS Committee,
KENYA PLANT HEALTH INSPECTORATE SERVICE

1.0 BACKGROUND

1.1 Establishment

Kenya Plant Health Inspectorate Service (KEPHIS) is a regulatory and enforcement state corporation that was established under the State Corporations Act (CAP 446) pursuant to Legal Notice No. 305 of 18th October 1996 and the KEPHIS Act, 2012 under the Ministry of Agriculture, Livestock, Fisheries and Cooperatives in the State Department of Agriculture.

KEPHIS undertake services in seed quality control, plant protection; quality control on agricultural inputs and produce; and the monitoring of the effect of agricultural activities on the environment with a view to ensuring acceptable plant health standards and sustainable land resource use.

1.2 Mandate

To provide regulatory and advisory services for the protection of plants, seeds and plant varieties, agricultural inputs and produce in Kenya.

1.3 Functions

The functions of KEPHIS as encapsulated in the KEPHIS Act No. 54 of 2012 are to:

- (a). Regulate matters relating to plant protection, seeds and plant varieties;
- (b). Administer and enforce Sanitary and Phytosanitary measures;
- (c). Support the administration and enforcement of food safety measures;
- (d). Establish service laboratories to monitor the quality and levels of toxic residues in agro-inputs, irrigation water, plants, soils and produce;
- (e). Be the principal advisor to the Government on issues relating to seeds and planting material;
- (f). Implement plant variety protection in Kenya, administer plant breeders' rights and maintain the Plant Breeders' Rights Register;
- (g). Undertake plant variety testing and description, seed certification and plant quarantine control;
- (h). Undertake inspection and grading of plants and plant produce at the ports of entry and exit;
- (i). In consultation with other relevant agencies, develop and implement standards for seed and plant materials;
- (j). Implement and enforce national biosafety regulations on the introduction and use of genetically or living modified species of plants, insects and micro-organisms, plant products and other related species;
- (k). Regulate import and export of plants and plant materials;
- (l). In consultation with other relevant agencies, regulate the commercial exploitation of naturally occurring plants and plant-related micro-organisms;

(m). Register and license seed merchants, seed growers, agents and any other person who may be required to be registered under the provisions of this Act or any of the laws specified in the First Schedule;

(n). Enter into association with such other bodies or organizations or authorized persons as the Board may consider desirable or appropriate in furtherance of the purposes for which the Service is established;

(o). Be the liaison office for international conventions relating to plant variety protection, plant protection, seed certification and dealing with endangered species or any other related conventions.

1.4 Strategic Objectives

KEPHIS has identified the following strategic objectives for implementation for successful achievement of its mandate, mission and vision:

1. To protect plants from pests, weeds and invasive species
2. To establish a robust, facilitative policy, legal and regulatory framework for KEPHIS
3. To contribute towards improved levels of agricultural productivity while responding to climate change Strategies:
4. To Support Food safety, Market access and Compliance Strategies:
5. To build staff, stakeholders, and infrastructural capacity to facilitate efficient and effective delivery of the KEPHIS mandate.
6. To mobilize adequate financial resources and ensure optimal allocation and utilization for full implementation of programmes and activities
7. To enhance synergies through collaboration and linkages with stakeholders and partners
8. To enhance the visibility and corporate image of KEPHIS

1.5 Vision

Healthy plants, safe trade and sustainable agro-environment for a prosperous Kenya.

1.6 Mission

To provide a science based regulatory service by assuring plant health, quality of agricultural inputs and produce for food security, globally competitive agriculture and sustainable development.

1.7 Core Values

1. Customer focus
2. Professionalism and Integrity
3. Teamwork
4. Results oriented
5. Innovation and Creativity
6. Corporate social sustainability

1.8 Employees Population

The employees' population of KEPHIS is 370.

1.9 Key External Stakeholders

The key external stakeholders to be targeted under Maisha 2 are as follows:

1. Farmers,
2. Seed companies
3. Seed sellers,
4. Suppliers,
5. Importers and Exporters,
6. Educational institutions,
7. Youth, Women and vulnerable groups,
8. Media among others

2.0 INTRODUCTION

2.1 HIV Situation in Kenya

HIV and AIDS have eroded development gains achieved over decades, undermining economies, threatening security and destabilizing societies. In Kenya, it continues to have a negative socio-economic impact and exert immense pressure on households, communities, workplaces, businesses and enterprises. Stigma and discrimination related to HIV also leads to frequent violations of fundamental human rights at the workplace.

The impact of HIV and AIDS manifest in increased labour costs and loss of skilled and experienced employees due to absenteeism, presenteeism, bereavement, sick leave, increased medical costs, employee turnover, reduced performance, increased stress, low employee morale, increased need for training and mentorship which results to poor service delivery.

After HIV was declared a national disaster in 1999, remarkable achievements have been made through a multi-sectoral response to HIV and AIDS in Kenya. According to Kenya Population-based HIV Impact Assessment (KenPHIA 2018), HIV prevalence was 4.9% and this dropped to 4.3% in 2020 (Kenya HIV Estimates 2020) which translates to approximately 1.5 million Kenyans living with HIV.

Despite the achievements made, Kenya still ranks the fourth country in the world with the highest number of people living with HIV (PLHIV) where women are more affected (5.5%) than men (2.5 %). Adolescents and young people bear the brunt of the epidemic with 42% contribution to adult new infections. Adolescents aged 10-19 contributed 5,294 new infections and young adults aged 15-24 contributed 11,229 new infections in 2020 (Kenya HIV Estimates 2020)

Whereas HIV Progress report 2018 shows that significant progress has been made, United Nations Joint Team on AIDS (UNAIDS) Report 2019 warns that this achievement does not match the Country's target of ending new HIV infections, AIDS related deaths, stigma and discrimination by 2030. At a prevalence rate of 4.3% and HIV incidence of 32,027 in 2020 (Kenya HIV Estimates 2020), the public sector risks losing out significantly if they fail to take action. This calls for policy and strategic actions in order to meet the country's HIV response goals and objectives.

2.2 Rationale

The impact of HIV and AIDS manifests in increased labour costs and loss of skilled and experienced employees which negatively affects productivity and service delivery. To realise the aspirations of the Sustainable Development Goals, Medium Term Plan III of Kenya's Vision 2030 and "The Big Four Agenda", the economic impact of HIV and AIDS at the workplace must be strategically addressed. The workplace can contribute to prevention of new HIV infections and is an appropriate setting for mitigation of the associated socio-economic impact of HIV and AIDS.

KEPHIS recognizes that HIV and AIDS is a workplace issue that impacts negatively on the achievement of its key strategic objectives. Subsequently, vibrant HIV programmes have been put in place targeting employees and their immediate family members. A policy framework was developed in 2016 and has been guiding the implementation of HIV programmes at KEPHIS. However, due to emerging issues and dynamism of HIV and AIDS, the Policy has been reviewed in 2021 in line with the Public Sector Workplace Policy on HIV AND AIDS (2017) and the Kenya AIDS Strategic Framework 2020/21- 2024/25 (KASF II).

3.0 POLICY GOAL, OBJECTIVES AND SCOPE

3.1 Policy Goal

This Policy provides a framework and sets out standards for addressing HIV and AIDS at KEPHIS.

3.2 Policy Objectives

The objectives of this Policy are to;

- i) Define KEPHIS's position on HIV and AIDS,
- ii) Guide the management and employees on workplace rights and obligations regarding HIV and AIDS,
- iii) Create a conducive environment, establish structures and rights-based approaches for responding to HIV and AIDS and;
- iv) Contribute to the delivery of Kenya AIDS Strategic Framework 2020/21- 2024/25 (KASF II) results and targets.

3.3 Policy Scope

The Policy applies to KEPHIS management and the employees.

4.0 LEGAL AND REGULATORY FRAMEWORK

Kenya has several legal statutes which support the implementation of HIV interventions at the workplace. While not all are specific to HIV, their interpretation and application create an enabling legal and regulatory environment for the desired impact on HIV and AIDS. These are as outlined below:

4.1 KENYA LAWS

This Policy is anchored on the following laws:

4.1.1 The Constitution of Kenya

The Constitution of the Republic of Kenya is the Supreme Law of the land and lays the foundation for all other laws.

- a) Article 10 of the Constitution provides for the National Values and Principles of Governance that binds all State organs, State officers, public officers and all persons

whenever any of them;

- i) Applies or interprets the Constitution,
 - ii) Enacts, applies or interprets any law; or
 - iii) Makes or implements public policy decisions.
- b) The National Values and Principles of Governance include;
- i) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people.
 - ii) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.
 - iii) Good governance, integrity, transparency and accountability.
 - iv) Sustainable development
- c) The following Articles of the Constitution of Kenya will be relevant in the implementation of this Policy;
- i) Article 6- Devolution and access to services in all parts of the Republic, so far as it is appropriate to do so having regard to the nature of the service;
 - ii) Article 27- Equality and freedom from discrimination;
 - iii) Article 31- Every person has the right to privacy;
 - iv) Article 43- Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
 - v) Article 232- Values and principles of public service which include high standards of professional ethics and accountability for administrative acts and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of; men and women; members of all ethnic groups and persons living with disabilities.

4.1.2 HIV and AIDS Prevention and Control Act (2006)

This Act makes specific reference to HIV and AIDS in relation to provision of education and information at the workplace, discrimination, privacy, confidentiality and human rights. Specifically, the Act provides that: -

- i) Under sections 4 and 7, the Government shall promote public awareness about the causes, means of transmission, consequences and means of prevention and control of HIV and AIDS through comprehensive nationwide educational and information campaign at all places of work and ensures the provision of basic information and instructions on HIV prevention and control to all public employees. Section 7 further notes that such information to be provided, shall cover issues of confidentiality at the workplace and attitudes towards infected employees;
- ii) Under section 13, no person shall compel another to undergo a HIV test save where a person is charged with an offence of a sexual nature under the Sexual Offences Act (2006);
Section 22 prohibits the disclosure of a HIV test result or any related assessment

- result of another person without his/her written consent;
- iii) In Part VIII, the Act makes it an offence for any person to be discriminated against on the grounds of actual, perceived or suspected HIV status, in relation to employment, access to education, credit, insurance, healthcare, travel, habitation or seeking public office; and
 - iv) Section 25 makes provision for establishment and functioning of the HIV Tribunal with jurisdiction to examine cases of HIV-related discrimination thereby implementing the fundamental rights of persons living with or affected by HIV.

4.1.3 The Employment Act (2007)

The Act defines the fundamental rights of employees and the basic conditions of employment. It addresses issues on discrimination (Part II Section 5) and sexual harassment (Part II Section 6). The Act implies that there shall be no discrimination on the grounds of HIV status, and states in Section 46 (g) that HIV and AIDS does not constitute a fair reason for dismissal or for imposition of disciplinary penalty on an employee.

4.1.4 Occupational Safety and Health Act No 15 of 2007 (OSHA)

The Act provides for the safety, health and welfare of public servants and all persons lawfully present at workplaces and for matters connected therewith. It charges the employers with the responsibility of guaranteeing a safe and healthy work environment by ensuring all health risks and their associated hazards are closely monitored and managed.

Section 16 (1) prohibits persons from engaging in any improper activity or behavior at the workplace, which might create or constitute a hazard to that person or any other person. The implication of this Act, with regards to HIV, is that the employer must ensure the safety of the workplace so that employees are not at risk of infection at the workplace.

4.1.5 Work Injury Benefits Act No. 13 of 2007 (WIBA)

The relevant provisions of WIBA are as follows:

- i) Part VII, Section 45 (1) provides for workplace equipment and service for first aid to employees in case of accidents.
- ii) In Section 38 (i), it provides for compensation to employees for work related injuries and diseases contracted in the course of their employment. The interpretation of this section provides for post-exposure prophylaxis (PEP) to those who, in line of duty, accidentally come into contact with potentially infectious HIV contaminated materials.

4.1.6 Sexual Offences Act No. 3 (2006)

The Sexual Offences Act No. 3 of 2006 makes provisions on sexual offences, their definition, prevention and protection of all persons from harm from unlawful sexual acts

9.0 MONITORING, EVALUATION, ACCOUNTABILITY AND COMPLIANCE

9.1 Monitoring and Evaluation

Monitoring the implementation of this Policy shall be conducted continuously through primary and secondary data collection and record keeping tools. Mid-term and end-term evaluation shall be conducted as may be appropriate. KEPHIS shall generate and maintain a database on the implementation of this Policy.

9.2 Accountability and Compliance

Online annual work plans and quarterly reports on the implementation of this Policy shall be submitted to NACC through the NACC Maisha Online Reporting Portal. Compliance and accountability shall be through commitment of the Board to deliver on the strategic objectives and the Performance Contracting mechanism.

10.0 POLICY COMMUNICATION AND DISSEMINATION

The Policy shall be communicated and disseminated to employees through the website or any other relevant platform. The Policy shall be distributed to employees and a popular version shall be printed and displayed at strategic points at KEPHIS offices.

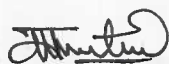
11.0 POLICY REVIEW

This Policy shall be reviewed after every five years or as need may arise to ensure it remains relevant to the needs of KEPHIS and in line with the current Public Sector Workplace Policy on HIV and AIDS, Kenya AIDS Strategic Framework and Agriculture, Rural and Urban Development Sector HIV Plan.

12.0 POLICY EFFECTIVE DATE

This Policy comes into effect on this^{9th}..... day ofDecember.....2022.

Signature-----



Prof. Theophilus M. Mutui, PhD

Managing Director

KENYA PLANT HEALTH INSPECTORATE SERVICE