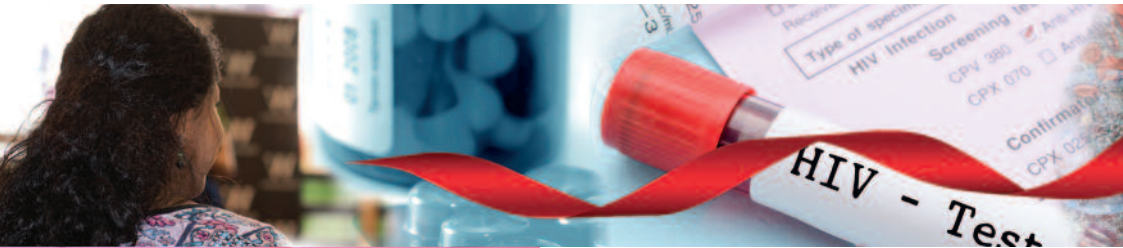




# HIV in the workplace



**A UCU GUIDE  
FOR AWARENESS  
AND ACTION**

This resource presents current (2018) information about HIV and AIDS. The resource provides information and advice to UCU reps about HIV and how conditions in the workplace can best support people concerned about and/or living or working with HIV.

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# 1 HIV is...

## A. HUMAN IMMUNODEFICIENCY VIRUS

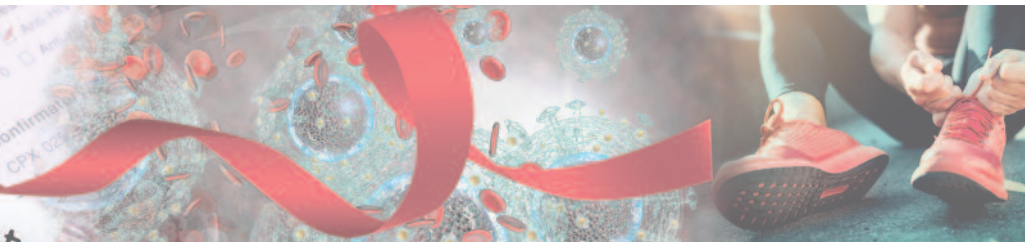
HIV stands for human immunodeficiency virus.

When HIV enters the blood it attacks the immune system. This is why HIV is identified through blood tests. There are a variety of tests available including self-test, rapid finger prick test, and clinical blood tests. The self test and rapid test look for antibodies; the full clinical test checks for antibodies/antigens.

Antibodies are produced by the immune system's response to infection. Antigens trigger the immune system. Antigens are detected earlier than antibodies. The current window period between risk and what is considered a reliable result using the full clinical test is four weeks, for the other tests it is three months.

The stage between initial infection and when antibodies can be detected is known as seroconversion. During seroconversion people may experience illness associated with how the immune system responds to infection.

Stress may be experienced both during seroconversion and after diagnosis.



## **B. A CHRONIC ILLNESS COVERED BY DISABILITY LEGISLATION**

HIV is now counted as a chronic disease, alongside conditions for which there are effective treatments such as asthma and diabetes. HIV is one of three named conditions which are covered by disability legislation from the point of diagnosis. The other two are multiple sclerosis and cancer. A condition is regarded as a disability if there is 'substantial' and 'long-term' negative effect on your ability to do normal daily activities.

Like other chronic conditions, HIV should be included in negotiations for disability equality. This guide looks at legislation (as part of section 3) and negotiations (section 4).

## **C. TREATABLE**

Since 1996 HIV has been a treatable condition. With advances the treatments have become easier to manage and increasingly more effective. HIV is now listed alongside other treatable chronic health conditions, and covered by disability discrimination law.

When treatments were first released in the UK in the late 1990s, there was a very tough regime involving many different drugs taken at specific times of the day and/or night. There were also substantial side effects. Work remained impossible for many people living with HIV despite HIV no longer being necessarily life-threatening.



# 1

# 1

Hospital-based check-ups for HIV positive people can range from about once every two weeks in the early stages of diagnosis and/or starting treatments, to about every six months. These are usually tests to check viral load and also how the immune system is doing. The tests monitor whether the treatments are working effectively. It is important that treatments are ongoing even when HIV is undetectable as otherwise HIV can multiply and possibly be rather more drug resistant. Time off for check-ups is important for health and wellbeing and should be treated as any other time off for medical appointments or part of disability leave.

**There are two HIV-related treatment programmes that may affect people in the workplace but are not covered by the Equality Act 2010**

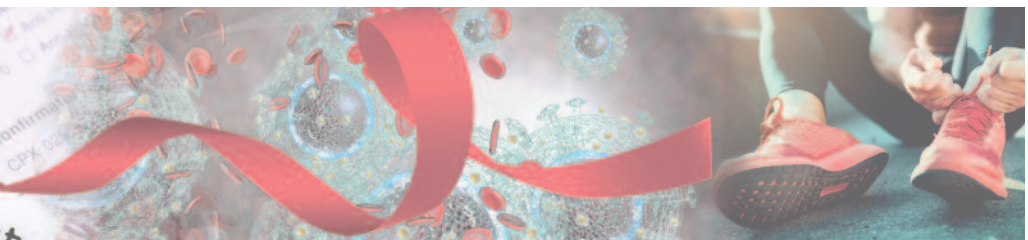
### **Post-exposure prophylaxis (PEP)**

Post-exposure prophylaxis (PEP) is available through sexual health clinics within 72 hours of possible exposure to HIV. This is a month long course of anti-HIV drugs prescribed with the aim of preventing HIV from entering the cells in the body. PEP is a very strong drug regime with common side effects.

### **Pre-exposure prophylaxis (PrEP)**

In 2017 there was a limited release of PrEP. PrEP involves taking one of the common HIV-treating drugs in order to build up resistance to HIV and prevent transmission. Whilst it is quite a strong drug and there are some side effects the regime is not as strong as that for HIV or PEP.

PEP and PrEP are not covered by disability discrimination legislation.



# What HIV is not

# 2

## **HIV IS NOT AIDS**

AIDS stands for 'acquired immune deficiency syndrome'. AIDS happens when HIV has attacked the body's immune system to such an extent that it easily breaks down when attacked by infections including bacterial infections (eg syphilis), malignancies (eg lymphoma), viral (eg hepatitis) and neurological (eg dementia).

Prior to the arrival of treatments in the late 1990, AIDS was much more commonly experienced by HIV positive people living in the UK.

## **HIV IS NOT EASILY TRANSMITTED**

Transmission is by intake of blood products directly from an infected person. Even then the virus has to infect host cells in order to establish itself. There is no guarantee that anyone who has had one or more occasions of receiving infected blood may get HIV. It is possible for treatments to make HIV undetectable in a person who is living with HIV. Current understanding is that when a person has an undetectable viral load, transmission of HIV is not possible.



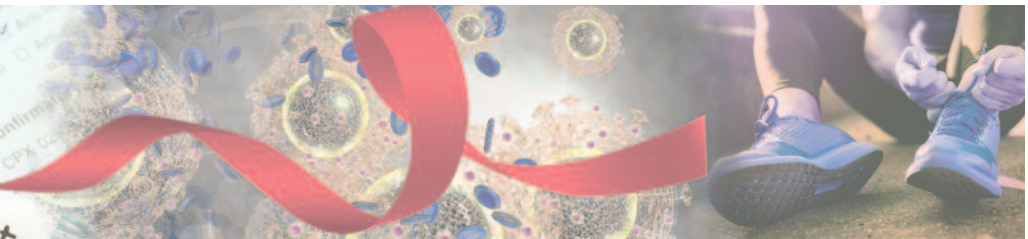
# 2

## **HIV CANNOT LIVE OUTSIDE THE BODY**

It is NOT possible to get HIV from toilet seats, sharing crockery, or shaking hands. If it is found that these beliefs are still pervasive, training on HIV should be delivered with the aim of busting these myths.

## **HIV IS NOT VISIBLE**

With the availability and advance of treatments, symptoms of AIDS or side effects of treatments are no longer as visibly evident. It is simply not possible to tell that a person is HIV positive by looking at them or at a reflection of yourself.



# HIV in the workplace

# 3

## EQUALITY ACT 2010

The 2010 Equality Act brought in public duties to eliminate discrimination, advance equality of opportunity and foster good relations across nine protected characteristics including disability.

Disability is defined as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. This includes work.

A test of whether something counts as a disability is whether it meets these requirements and whether it has lasted or is likely to last at least 12 months. As HIV is a condition that is incurable and regarded as likely to cause adverse effect on the individual if untreated, it is covered by this equality legislation.

Under the Equality Act the employer has a duty to take reasonable steps to avoid disadvantage to people covered by the Act.





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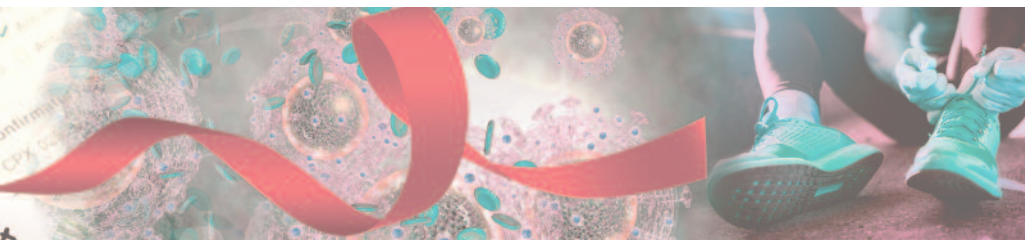
The Equality Act provides legislative requirements for the employer to protect workers against harassment. Harassment is defined as unwanted behaviour related to a person's disability which either violates that person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This can include verbal conduct, graffiti, physical gestures or prank/jokes related to the person's disability. The employer is responsible both for their own conduct and for that of other staff and for FE/HE students too. The employer is responsible for the protection of employees from harassment in the workplace and other functions related to employment such as social events outside the office. The employer can be held responsible for not protecting staff from harassment if they do not act appropriately to stop it.

## **ELIMINATE DISCRIMINATION**

Direct, indirect, perceived and associated discrimination toward people with HIV is unlawful. The *UCU Guide to Challenging Bullying and Harassment* provides more information about different types of discrimination. The guide is available online.<sup>1</sup>

## **MAKE REASONABLE ADJUSTMENTS**

An employer may be obliged to make reasonable adjustments to support a person living with HIV. Reasonable adjustments may be particularly needed at times when a person is



## 3

adversely affected by HIV whether this be caused by the virus or drugs taken to treat it. UCU has guidance on reasonable adjustments.<sup>2</sup>

Flexible working can support people living with HIV in terms of, for example, attending hospital appointments necessary to maintain treatment of HIV. Flexible working could be a reasonable adjustment covered by the Equality Act 2010. Since 2014 everyone has the right to request flexible working. The Children and Families Act extended the right to request flexible working to include everyone. The UCU guidance *Caring for Carers*<sup>3</sup> provides more information about forms of flexible working.

## DISCLOSURE

Issues of disclosure are similar to any invisible disability and it is important to maintain confidentiality. There is still a high amount of stigma about HIV in general society. In fact stigma may well now be one of the biggest problems encountered by people living with HIV. As with other invisible disabilities that have a degree of stigma attached, disclosing in the workplace may be difficult.

It is important to note that the person disclosing has a right to say who they wish to know about their HIV status. The Data Protection Act, 2018 covers how disclosed information is handled. If it is agreed that reasonable adjustments will be made, the information may need to be shared with a third



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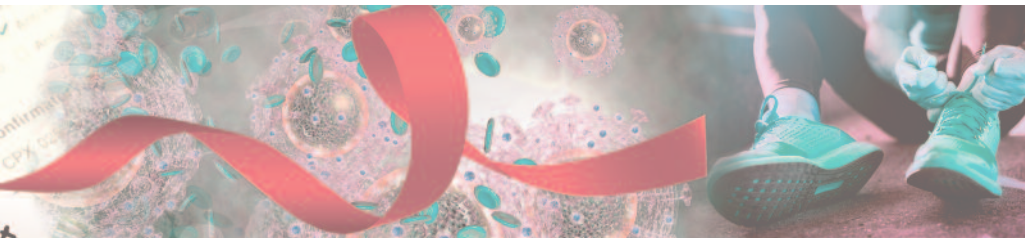
party in order to organise the adjustments. The HR manager, or appropriate HR team member, is usually the person to disclose to. It may also be useful/desirable to disclose to the person in charge of ensuring that reasonable adjustments are implemented, such as a line manager. Occupational health and a senior manager are also options for disclosure.

Non-disclosure is an issue as if HIV or treatments cause significant issues the person may not be able to claim the same level of disability rights as they would have done had they disclosed. For example, non-disclosure may make it very difficult to ask for reasonable adjustments that could make it easier for you to carry out your role while managing the condition. One reason why it may be useful to disclose to the employer is that if there are changes to treatment which cause side effects it may be easier to manage with some support from the employer. Ensuring people feel able to disclose HIV and any other condition covered by disability legislation is an important part of negotiating for disability equality.

## HEALTH AND SAFETY

Employers should have health and safety procedures aimed at minimising the risk of accidental exposure to HIV among other infections where the nature of work means there is a genuine risk. Procedures should include:

- an assessment of the risk of exposure in individual tasks



## 3

- methods for controlling the risk
- reporting and recording incidents of exposure
- contingency plans for medical treatment and advice for employees who may have been exposed to HIV infection at work.

UCU has resources for health and safety. You can see factsheets and links to other pages on <https://www.ucu.org.uk/hsfacts>

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<sup>1</sup> [https://www.ucu.org.uk/media/8365/Challenging-bullying-and-harassment---equality-guide-for-branches-and-reps/pdf/Challenging\\_Bullying\\_and\\_Harassment\\_-\\_An\\_Equality\\_Guide\\_for\\_branches\\_and\\_reps\\_Oct16.pdf](https://www.ucu.org.uk/media/8365/Challenging-bullying-and-harassment---equality-guide-for-branches-and-reps/pdf/Challenging_Bullying_and_Harassment_-_An_Equality_Guide_for_branches_and_reps_Oct16.pdf)

<sup>2</sup> [https://www.ucu.org.uk/media/6091/Reasonable-adjustments---removing-barriers-to-disabled-people-at-work-UCU-guidance/pdf/Reasonable\\_adjustments.pdf](https://www.ucu.org.uk/media/6091/Reasonable-adjustments---removing-barriers-to-disabled-people-at-work-UCU-guidance/pdf/Reasonable_adjustments.pdf)

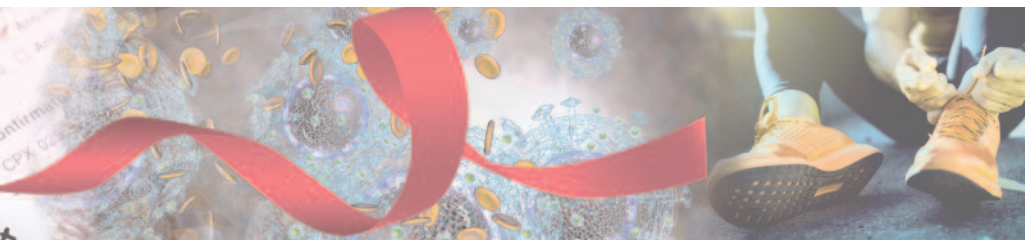
<sup>3</sup> [https://www.ucu.org.uk/media/8180/Caring-for-the-carers-a-UCU-guide--4-Rights-at-work/pdf/4\\_-\\_Rights\\_at\\_Work.pdf](https://www.ucu.org.uk/media/8180/Caring-for-the-carers-a-UCU-guide--4-Rights-at-work/pdf/4_-_Rights_at_Work.pdf)



# 4 Negotiating

## **SOME QUESTIONS THAT CAN BE ASKED TO HELP ENSURE HIV-RELATED EQUALITY**

- Does your institution have an equality policy which is compliant with the Equality Act 2010?
- If there is such a policy is it effective in achieving the three general duties of:
  - eliminating discrimination?
  - advancing equality of opportunity?
  - fostering good relations?
- Is your institution working to eliminate discrimination and harassment?
- Does your institution ensure that all staff have a clear understanding of harassment, ie through training and easily accessed printed and/or online material?
- Is there a disability policy and does it include information about the provision of reasonable adjustments?



## 4

- Does the disability policy or broader equality policy specifically mention of HIV and make clear how people living with HIV can get support/request reasonable adjustments?
- Is there a flexible working policy or process that can be accessed by all staff?
- What guidance is there for disclosing HIV status or disabilities more generally? Are the processes supportive and confidential?
- Has data protection information been communicated in line with the Data Protection Act 2018 so that staff are aware of how their personal data is being handled?
- Is data being handled in a way that complies with the Data Protection Act 2018?
- Does the health and safety policy/guidance contain any information about what to do in cases where there may be accidental exposure to HIV?



# 5 Further information

## UCU ONLINE GUIDES

### **Caring for the Carers**

[https://www.ucu.org.uk/media/8170/Caring-for-the-carers-a-UCU-guide-May-16/pdf/Caring\\_for\\_the\\_Carers\\_-\\_full.pdf](https://www.ucu.org.uk/media/8170/Caring-for-the-carers-a-UCU-guide-May-16/pdf/Caring_for_the_Carers_-_full.pdf)

### **Challenging Bullying and Harassment at Work**

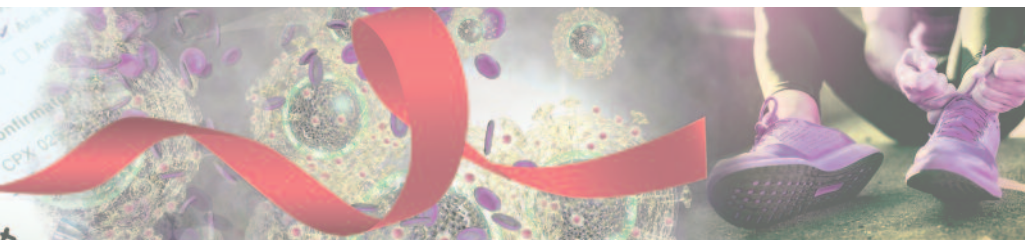
[https://www.ucu.org.uk/media/8365/Challenging-bullying-and-harassment---equality-guide-for-branches-and-reps/pdf/Challenging\\_Bullying\\_and\\_Harassment\\_-\\_An\\_Equality\\_Guide\\_for\\_branches\\_and\\_reps\\_Oct16.pdf](https://www.ucu.org.uk/media/8365/Challenging-bullying-and-harassment---equality-guide-for-branches-and-reps/pdf/Challenging_Bullying_and_Harassment_-_An_Equality_Guide_for_branches_and_reps_Oct16.pdf)

### **Enabling Not Disabling**

[http://www.ucu.org.uk/media/pdf/4/8/ucu\\_enablingnotdisabling\\_1.pdf](http://www.ucu.org.uk/media/pdf/4/8/ucu_enablingnotdisabling_1.pdf)

### **Equality Toolkit**

[https://www.ucu.org.uk/media/5234/UCU-Equality-Toolkit/pdf/Equality\\_Toolkit.pdf](https://www.ucu.org.uk/media/5234/UCU-Equality-Toolkit/pdf/Equality_Toolkit.pdf)



## 5

**Reasonable Adjustments: Removing barriers to disabled people at work**

[https://www.ucu.org.uk/media/6091/Reasonable-adjustments---removing-barriers-to-disabled-people-at-work-UCU-guidance/pdf/Reasonable\\_adjustments.pdf](https://www.ucu.org.uk/media/6091/Reasonable-adjustments---removing-barriers-to-disabled-people-at-work-UCU-guidance/pdf/Reasonable_adjustments.pdf)

**NATIONAL AIDS TRUST ONLINE GUIDES****HIV at Work: Advice for employers**

[https://www.nat.org.uk/sites/default/files/publications/Jul\\_2012\\_HIV%40Work\\_Advice\\_for\\_employers\\_0.pdf](https://www.nat.org.uk/sites/default/files/publications/Jul_2012_HIV%40Work_Advice_for_employers_0.pdf)

**HIV and Recruitment: Advice for employers**

[https://www.nat.org.uk/sites/default/files/publications/Jul\\_2012\\_HIV\\_and\\_recruitment\\_Advice\\_for\\_employers.pdf](https://www.nat.org.uk/sites/default/files/publications/Jul_2012_HIV_and_recruitment_Advice_for_employers.pdf)

**HIV at Work: Advice for employees living with HIV**

[https://www.nat.org.uk/sites/default/files/publications/Jul\\_2012\\_HIV%40Work\\_advice\\_for\\_employees\\_living\\_with\\_HIV-1\\_0.pdf](https://www.nat.org.uk/sites/default/files/publications/Jul_2012_HIV%40Work_advice_for_employees_living_with_HIV-1_0.pdf)

**TUC / NAT Tackling Discrimination at Work**

<https://www.tuc.org.uk/sites/default/files/tacklingHIVdiscriminationwork.pdf>





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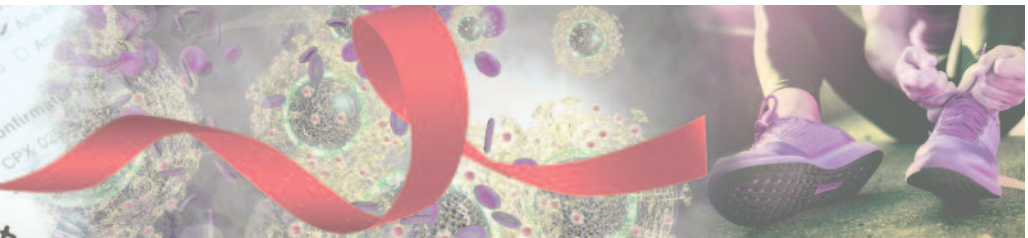
**ORGANISATIONS ONLINE****NATIONAL****National AIDS Trust** <https://www.nat.org.uk>**Naz Project, London** <http://www.naz.org.uk>**Terrence Higgins Trust** [www.tht.org.uk](http://www.tht.org.uk)**ON THE PHONE****National Sexual Health Helpline** 0300 123 7123**Naz Helpline** 020 8741 1879**Terrence Higgins Trust Helpline** 0845 1221200**FOR ISSUES IN THE WORKPLACE****ACAS Helpline** 0845 7474747

More information and resources can be found through the UCU equality web page: <https://www.ucu.org.uk/equality>

Online database of HIV specialist organisations including some helplines:

[https://helplines.org/helplines/?fwp\\_topics=hiv-and-aids](https://helplines.org/helplines/?fwp_topics=hiv-and-aids)

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